Mayor Infeld called the special meeting of Council to order at 7:00 p.m.

Roll Call: Present: Ms. Frankie Goldberg  
Mr. Thomas A. Cozzens  
Mrs. Susan D. Pardee  
Mr. Steven Sims (arrived 7:10 p.m.)  
Mr. Phillip Ertel  
Mrs. Pamela Cameron

Absent: Mrs. Adele H. Zucker

Also Present: Mayor Susan K. Infeld  
Law Director Kenneth J. Fisher  
Assistant Clerk of Council Janice A. Giles  
Finance Director Larry Heiser  
Building Commissioner David Menn  
Police Chief Steve Hammett

MOTION BY VICE MAYOR GOLDBERG, SECONDED BY MRS. PARDEE to excuse the absence of Mrs. Zucker and Mr. Sims. Mr. Sims arrived subsequently. On roll call, all voted “aye”.

Agenda Items:

A. Motion to consider the request from McDonald’s restaurant to extend hours of operation until 11:00 p.m. for dine-in and until midnight for carry-out

Mayor Infeld explained that at a special Council meeting there is generally no time given for public comment. However, she felt in the interest of fairness to the residents present, audience comment should be allowed.

MOTION BY MRS. PARDEE, SECONDED BY MR. COZZENS to allow public comments at this special meeting. On roll call, all voted “aye”.

Mrs. Annie Rawlinson, 3949 Bushnell Rd., stated her concern about traffic turning right from McDonald’s restaurant onto Bushnell Rd., a residential street. Although she is not in favor of ticketing drivers turning right, Mrs. Rawlinson thought police presence would be a deterrent. She had no objection to the longer hours. Her main complaint was too much traffic on Bushnell Rd. She also asked if the City had an ordinance, like other cities, that prohibited eating in cars.

Mayor Infeld thought the Police Chief could address the question of police presence at McDonald’s. She said an ordinance against eating in the parking lot could be considered. The Mayor introduced Mr. David Stiles, the owner of the McDonald’s restaurant.

Mr. Stiles remarked about the earlier concerns of residents with light, noise, traffic, trash and becoming a hangout when the hours of the restaurant were set from 6:00 a.m. to 10:00 p.m. With regard to trash, Mr. Stiles said that employees do go down Lansdale and Bushnell twice a day to pick up trash. The employees pick up trash once in the morning and once in afternoon after the junior high students have left.

The two halogen lights that were in place to light the back of the building have been replaced with softer LED lights. The 30 arborvitae are being replaced. Some of the bushes near the corral have been removed. A robbery was attempted where the robber hid in the bushes, got in the back door, which was opened against the rules, saw the people in the store and left without incident.
Mr. Stiles asked for the longer hours because there is business at that time of night, especially customers from John Carroll University. Extra business means extra employees which means a greater payroll and helps the City. The lights, the noise, the trash, the hangout problems have not materialized, he said. The complaints he got regarding lights and trash were in the early weeks of the business and have been addressed. He is in regular contact with the Mayor, and neither he nor the Mayor have received negative feedback from residents.

Councilman Ertel asked if there were security issues at the restaurant why were the brighter halogen lights replaced by the LED lights. Mr. Stiles said he was asked by residents to remove the lights as the halogen lights were too bright. There are more LED lights but they are less bright and on lower poles which keeps down the light pollution.

Vice Mayor Goldberg said she was pleasantly surprised to have received very few complaints about the change in hours. Mr. Stiles stated business is good, especially at night. Between 9 and 10 the restaurant is busy, especially when the University is in session. Mr. Stiles said closing directly at 10:00 p.m. required him to turn away business.

Vice Mayor Goldberg asked Mr. Stiles if he foresaw returning to Council in a year’s time to ask for more extended hours. Mr. Stiles said the McDonald’s corporation favors keeping their restaurants open 24 hours. But he has noticed that in University Heights the traffic drops after midnight. He does not anticipate any longer hours.

Councilman Ertel wondered when the signs go off, if the store closes at midnight. Mr. Stiles replied the signs go off at midnight and two LED lights remain on all night in the parking lot.

Mayor Infeld stated residents and commercial businesses on streets around Warrensville Center Rd. and around the restaurant were notified about the change in hours in the same way they were notified about the project since its inception.

Mr. Sims commented about the trash cleanup. Mr. Stiles said it is a McDonald’s policy to police the area around the store for about a block, not just the parking lot. Because of residents’ concerns, his employees go down both Lansdale Rd. and Bushnell Rd. to Washington Blvd. to pick up trash twice a day. Asked the number of employees, Mr. Stiles stated he has 76, full and part time employees.

Mr. Sims questioned Mr. Stiles if he had had any feedback from neighbors in the community in regards to McDonald’s service and operations. Mr. Stiles responded that the drive-thru wait times are getting better. There are a lot of capacity issues because this McDonald’s did not have an operator involved from the beginning of the project. One of the issues is not having an overflow shed for dry stock goods (which most McDonald’s have). In terms of residential concerns, Mr. Stiles was only aware of two neighbors who stopped in during the first two weeks of the opening. One resident complained rubbish was still being deposited on her lawn. She has not complained since mid March. A second resident complained about cars turning right onto Bushnell Rd. Mr. Stiles reported that he has not seen her since, except as a guest of McDonald’s.

Mr. Sims asked if the construction on Lansdale Rd. is affecting his business. Mr. Stiles said the construction has affected his driving pattern, and he imagines it has affected others as well. He is looking forward to having the construction completed, but realizes the City has constraints as well.

Mr. Sims further asked if the conditions of Bushnell and Lansdale Rds. have impacted business. Mr. Stiles replied that the only impact he sees is due to the temporary road construction.

Mrs. Pardee noted that the longer and later hours will affect the noise volume in the area. Mr. Stiles stated that the microphones are modulated to drop at 8:00 p.m. when the traffic noise volume decreases.

Mr. Sims inquired as to the difference between closing the dining area and closing the drive-thru. Mr. Stiles said 90% of his business at the later hours is carry-out. It allows him to stay open until midnight while giving the employees the opportunity to clean up the inside of the store.

Mrs. Cameron added that the change in people’s lifestyle has people out later. Mr. Stiles noted another change is that young people eat more frequently than their older generation, not the standard “three meals a day”.
MOTION BY MR. COZZENS, SECONDED BY MRS. CAMERON to approve the request from McDonald’s restaurant, 2224 Warrensville Center Rd., to extend its hours of operation until 11:00 p.m. for dine-in and midnight for carry-out. On roll call, all voted “aye”.

Mayor Infeld requested Items K. and L. be considered next on the agenda so the Building Commissioner could leave following their consideration.

MOTION BY MR. COZZENS, SECONDED BY MS. GOLDBERG to move Items K. and L. next on the agenda. On roll call, all voted “aye”.

K. Motion to approve cost of a new boiler in the police department

Mayor Infeld reported this was a project that was submitted to the County so the City could receive grant funds. The project was recommended on the City’s Municipal Energy Audit. It is needed to improve the City’s energy usage and efficiency in City buildings.

Councilwoman Pardee commented on the range of bid costs. The lowest bidder at $13,875 is Central Heating and Air Conditioning. Building Commissioner David Menn stated that Central Heating and Air Conditioning recently replaced the air conditioning in the building. They are familiar with the site and some of their equipment is already there. If Central Heating and Air Conditioning is awarded the bid it would fall in line with the money the City is receiving from the grant, stated Mr. Menn.

Mr. Sims inquired as to what was the process for soliciting bids. The Commissioner said he called three companies he is familiar with. He called one minority owned business from the construction trade “blue book”. They came out and submitted a bid.

Mayor Infeld said that a representative of the County had been in the City with a camera and took pictures of all the areas submitted for projects. After the project is completed someone will return to make sure each was done as required. The project must be completed by August 27, 2012, otherwise the City is not eligible for reimbursement.

MOTION BY MRS. PARDEE, SECONDED BY MS. GOLDBERG to approve the bid of Central Heating and Air Conditioning at $13,875, as the lowest and best bid for the purpose of replacing the boiler at the Police Department. On roll call, all voted “aye”.

L. Motion to approve the cost of installation of new lighting in the Police Department

Commissioner Menn reported that this project will improve lighting throughout the Police station. Higher efficiency will lead to decreased costs and better quality lighting. Again, this was a project recommended by the Energy Audit as needing to be done. The City is under tight constraints because of the grant funding time line and only two bids were received. The lowest bid, said Mr. Menn will cover the project cost as identified in the grant.

Councilwoman Pardee inquired if the lighting would be on sensors. Mr. Menn stated that some of the lights would be on sensors. Mayor Infeld said the sensor project is something different. The building would need to be rewired to allow for sensors, making it an expensive project. This project is designed to replace old fluorescent lighting with more state of the art and more efficient lighting. Exit signs will also be upgraded.

Councilwoman Cameron asked if grant amounts were for specific dollar amount or specific projects. Mayor Infeld said many times there is a match between the dollar amount and the project. The City is reimbursed its expenses, but any overage not agreed to in the grant would need to be paid by the City.

MOTION BY MS. GOLDBERG, SECONDED BY MR. COZZENS to approve the bid proposal of Skettle Electric of $13,750 as the cost to install new lighting in the Police Department. On roll call, all voted “aye”.

B. Resolution No. 2012–42 approving the Cuyahoga County Department of Public Safety and Justice Services, Office of Emergency Management, to be the City’s Countywide Emergency Management Agency (Emergency)
Interim Fire Chief David Rodney introduced Brandy Carney from the County Department of Public Safety and Justice Services, Office of Emergency Management. According to State law, every political subdivision is required to have an office of Emergency Management, or adopt a Countywide Office of Emergency Management. The last time all 59 subdivisions in the County adopted the Countywide Office of Emergency Management as its Emergency Management Agency was in 1986. Since the change in County government, the Office of Emergency Management has upgraded its emergency plan and done some restructuring of the office. The Office of Emergency Management on behalf of the County and State is asking the municipalities to approve the reappointment of the County Office of Emergency Management as the City’s Countywide Emergency Management agency.

Ms. Carney said the office does flooding and other disaster assessment and can, in an emergency, coordinate with the State for emergency resources. When disaster assessments reach a certain threshold certain reimbursement is available from the State and possibly the Federal Emergency Management Agency (FEMA) for government entities and possibly to residents. Mr. Sims asked what is different about this arrangement than the one in 1986. Chief Rodney said the City has its own emergency operation plan and the County has all along been a valuable support. The municipalities in the County are being asked to reaffirm their relationship with the Countywide Emergency Management Office since the restructuring of the County government. In the event of a disaster that overwhelms the City’s emergency resources, including mutual aid agreements, the County office can bring in resources from around the County, or even the State.

Mrs. Cameron asked what the agency has accomplished recently. Ms. Carney explained after the recent flooding damage in Valleyview and Parma, their office did a damage assessment evaluation. Mr. Sims asked if the using the agency would cost the City any money. Ms. Carney answered if the County were continually asked to supply resources to a municipality the County office might ask for reimbursement, but on a day to day basis, there is no cost to the City.

MOTION BY MS. GOLDBERG, SECONDED BY MR. SIMS to approve Resolution No. 2012-42 approving the adoption of the Cuyahoga County Department of Public Safety and Justice Services, Office of Emergency Management, to be the City’s Countywide Emergency Management Agency as an emergency measure. On roll call, on suspension of rules, all voted “aye”. On roll call, on passage, all voted “aye”.

C. Ordinance 2012-43 authorizing the transfer of funds from the General Fund to the Police Pension Fund, Fire Pension Fund, Debt Service Fund and Capital Improvements Fund (Emergency)

Finance Director Larry Heiser asked that the following amounts be transferred from the General Fund to the following funds: to the Police Pension Fund in the amount of $120,000; to the Fire Pension Fund in the amount of $140,000; to the Debt Service Fund in the amount of $100,000 for the work on University Parkway; and to the Capital Improvements Fund in the amount of $320,000 for ongoing work, the next purchase of which will be the Police radios.

MOTION BY MR. COZZENS, SECONDED BY MRS. CAMERON, to approve Ordinance 2012-43 authorizing the transfer of funds from the General Fund to the Police Pension Fund, Fire Pension Fund, Debt Service Fund and Capital Improvements Fund 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. 2012-44, establishing Section 432.47 of the University Heights Codified Ordinances prohibiting the use of electronic wireless communication devices for text-based communications while driving a motor vehicle (Emergency)

Mayor Infeld reported this ordinance is in keeping with the recently passed House Bill 99 by the Ohio General Assembly. Police Chief Steve Hammett said for adults this is a secondary offense, not a primary offense. In other words, a driver can be cited when he is stopped for another offense and the officer observes that the driver is texting.
Mr. Sims asked how other cities’ ordinances differ from the ordinance proposed. Chief Hammett said that Beachwood has made texting while driving a primary offense, along with using any electronic device while driving. It is also a points offense, giving 2 points on the driver’s record. Chief Hammett said there has been no data to support that this has been a contributing factor to accidents in the City of University Heights. He felt Beachwood has more traffic and more accidents and that electronic devices were a consideration to City officials in imposing the stricter ordinance. Municipalities can make a stricter local ordinance than a State statute, but cannot be less strict than the State law.

Mr. Sims asked what was the necessity of an ordinance if there was a State law. Chief Hammett stated that all traffic violations were cited under City code because it made the paper work easier and more efficient.

Mrs. Pardee asked, if after the six months grace period, whether texting while driving become a primary offense. Chief Hammett emphasized that the ordinance mirrors State law and does not become a primary offense at the end of the grace period. Mrs. Pardee observed that drivers dialing numbers are exempt from the texting prohibition. She thought it would just as distracting to be looking for a telephone number as it would be texting. Chief Hammett stated studies show that people who are texting are distracted longer than people dialing a number.

Vice Mayor Goldberg wanted to know the Chief’s opinion on banning cell phones all together. The Chief reiterated that the data does not show it to be a problem in the City. However, what the studies show is that people are more likely to challenge a citation which causes more court cases and take time from police officers who have to make court appearances.

Mr. Sims inquired if the City intended to post signs regarding this ordinance. The Chief said no because it is a statewide prohibition. Mayor Infeld pointed out that residents say there are already too many signs in the City. Mr. Sims said a sign might stand as a useful reminder; similar to the buckle up for safety campaign telling drivers to use seat belts.

Resident, Mr. Paul Miller, 2370 Charney Rd., urged Council to take the next step and ban cell phones while driving.

MOTION BY MRS. CAMERON, SECONDED BY MR. COZZENS to approve Ordinance No. 2012-45 establishing Section 432.48 of the University Heights Codified Ordinances prohibiting the use of electronic wireless communication devices by holders of temporary instruction permits who have not attained the age of 18 and holders of probationary driver’s licenses for any purpose while operating a motor vehicle (Emergency) all voted “aye”. On roll call, an all voted “aye”.

E. Ordinance 2012-45 establishing Section 432.48 of the University Heights Codified Ordinances prohibiting the use of electronic wireless communication devices by holders of temporary instruction permits who have not attained the age of 18 and holders of probationary driver’s licenses for any purpose while operating a motor vehicle (Emergency)

Chief Hammett pointed out that, again, this ordinance is in keeping with State law and provides zero tolerance for electronic wireless communication devices for juveniles.

Mr. Sims asked the Chief if he thought the distinction made between the ordinance for adults and the current ordinance pertaining to juveniles is fair or necessary. The Chief said juveniles, nationally and percentage-wise, are involved in more accidents than adults. The electronic devices have been shown to be more distracting to juveniles than adults. There are distinctions made between juveniles and adults in other parts of the Code. The Chief cited the law against driving while intoxicated which gives the level of intoxication at .02% for juveniles and .08% for adults.

Chief Hammett reported that all juveniles are cited under State law and sent to Juvenile Court. Mr. Sims stated he did not like targeting juveniles for more court processing time. Vice Mayor Goldberg said as chair of the Safety Committee, the committee can revisit the ordinance and determine if the ordinance for adults needs to be as strict as juveniles. Mayor Infeld suggested giving the present ordinances a six month trial before deciding to change. The Chief may be able to present other qualifying data at that time. Mrs. Cameron cited the high fatality rate for juveniles as being attributable to distracted driving.
MOTION BY MRS. PARDEE, SECONDED BY MR. COZZENS to approve Ordinance 2012-45 establishing Section 432.48 of the University Heights Codified Ordinances prohibiting the use of electronic wireless communication devices by holders of temporary instruction permits under age 18 and holders of probationary licenses for any purpose while operating a motor vehicle as an emergency measure. On roll call, on suspension of rules, all voted “aye”. On roll call, on passage, all voted “aye” except Mr. Sims who “passed”.

F. Ordinance No. 2012-46 amending Chapter 808 of the University Heights Codified Ordinances as it relates to penalties for false alarms and unsatisfactory maintenance (Emergency)

Chief Hammett said this ordinance had been re-examined by the Department. He thought the penalty of a fourth degree misdemeanor, which could include 30 days of jail time, was too stiff a penalty. He was concerned that inadvertent false alarms could lead to penalties that might affect someone’s job. He thought a minor misdemeanor penalty was appropriate. The fine for a first violation would be raised to $50.00, which would be waivable, a fine of $50.00 for a second violation and $100.00 for each subsequent violation, would be in keeping with what other communities are imposing for false alarms. Violations would be classified as a minor misdemeanor with a $150.00 penalty.

Councilman Ertel thought the change reasonable. Mr. Sims asked what constitutes unsatisfactory maintenance. Chief Hammett said security systems that require police response need to be checked monthly by the security service. Security systems need to be tested on a regular basis to prevent false alarms.

MOTION BY MRS. CAMERON, SECONDED BY MR. SIMS to approve Ordinance 2012-46 amending Chapter 808 of the University Heights Codified Ordinances as it relates to penalties for false alarms and unsatisfactory maintenance as an emergency. On roll call, on suspension of rules, all voted “aye”. On roll call, on passage, all voted “aye”.

G. Ordinance No. 2012-47 amending Section 9 of Ordinance No. 2008-41, as amended by Ordinance No. 2011-95, by updating health care benefit eligibility provisions for non-exempt employees (Emergency)

Mayor Infeld noted the change to the health care benefit eligibility would lift the 90 day waiting period for new employees. The Mayor said the waiting period is unusual and not in keeping with other cities’ practices.

Councilwoman Pardee stated that the waiting period was in conjunction with the probationary period required of new employees. The Mayor responded that the granting of health insurance benefits does not correspond to a probation period and that the City does not have a uniform probation period for employees. Mr. Heiser noted when he was hired he was surprised at the waiting period. It was necessary for him to use the COBRA plan in order to keep his health insurance for the 3 month waiting period.

Mayor Infeld said the change in health care eligibility was an attempt to bring the City up to best practices. Mr. Sims thought it very appropriate.

MOTION BY MR. SIMS, SECONDED BY MR. COZZENS to approve Ordinance No. 2012-47, amending Section 9 of Ordinance No. 2008-41, as amended by Ordinance No. 2011-95, by updating health care benefit eligibility provision for non-exempt employees as an emergency measure. On roll call, on suspension of rules, all voted “aye”. On roll call, on passage, all voted “aye”.


Mayor Infeld stated this was an extension of the previous ordinance, but applies to appointed officials.
MOTION BY MR. SIMS, SECONDED BY MS. GOLDBERG to approve Ordinance No. 2012-48, amending Section 6 of Ordinance No. 2009-16, as amended by Ordinance No. 2011-95, by updating health care benefit eligibility provision for appointed officials as an emergency. On roll call, on suspension of rules, all voted “aye”. On roll call, on passage, all voted “aye”.

I. Ordinance No. 2012-49 authorizing the Mayor to enter into an agreement with Independence Communications for the purchase of communication equipment (the “Narrowbanding Project”) in an amount not to exceed $76,360 (Emergency)

Chief Hammett explained by that Federal Communications Commission (FCC) has mandated all public safety communications equipment to be narrowbanded from 25 kilohertz to 12.5 kilohertz by January, 2013. Mr. Sims asked if there were grant funds available. Chief Hammett replied grant funds had been applied for but not received.

Mayor Infeld stated that this was an expected expenditure and was included in the 2012 budget.

Asked by Mrs. Cameron to explain narrowbanding, the Chief said it allows additional channels or more traffic to exist in a spectrum. Without the equipment, the Department would no longer be able to communicate. It will bring the 5 cities which are discussing combined dispatch services in line with each other.

It is expected that the narrowbanding will have to be redone in 2018 or 2019, but without it there would be no communication possible for the Police Department.

MOTION BY MR. SIMS, SECONDED BY MR. COZZENS to approve Ordinance No. 2012-49 authorizing the Mayor to enter into an agreement with Independence Communication for purchase of communication equipment (the “Narrowbanding Project”) in an amount not to exceed $76,360 as an emergency measure. On roll call, on suspension of rules, all voted “aye”. On roll call, on passage, all voted “aye”.

J. Resolution 2012-50 authorizing the Mayor to enter into an ambulance replenishing agreement with University Hospitals.

The Mayor asked that this item be removed from the Agenda because there was no agreement to present to Council at this time.

MOTION BY MRS. PARDEE, SECONDED BY MS. GOLDBERG to remove Item J, Resolution 2012-50, from the agenda. On all call, all voted “aye”.

There being no further business, the meeting was adjourned.

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Mayor Susan K. Infeld

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Assistant Clerk of Council Janice A. Giles