

**MINUTES COUNCIL MEETING
CITY OF UNIVERSITY HEIGHTS, OHIO
MAY 4, 2015**

Mayor Infeld called the regular meeting to order at 7:37 p.m.

Roll Call:

Present: Mrs. Susan Pardee
Ms. Nancy E. English
Mr. Mark Wiseman
Mrs. Adele Zucker
Mr. Phillip Ertel
Mr. Steven Sims
Ms. Pamela Cameron

Also Present: Law Director Luke McConville
Police Chief Steve Hammett
Finance Director Larry Heiser
Service Director Jeffrey Pokorny
Clerk of Council Kelly M. Thomas

Pledge of Allegiance

Approval of Minutes from Council Meeting April 6, 2015

Vice Mayor Pardee stated that the Council Clerk had amended the April 6, 2015 minutes to reflect the corrections she provided.

There were no other corrections or amendments to the April 20, 2015 minutes.

MOTION BY MRS. CAMERON, SECONDED BY MR. SIMS to approve the minutes of April 6, 2015 as amended. On roll call, all voted "aye."

Approval of Minutes from Council Meeting April 20, 2015

Mr. Wiseman noted that on page 2 under item A, paragraph 3 the word should be corrected to read "hesitant".

There were no other corrections or amendments to the April 20, 2015 minutes.

MOTION BY MS. ENGLISH, SECONDED BY MR. SIMS to approve the minutes of April 20, 2015 as corrected. On roll call, all voted "aye."

Comments from Audience

There were no audience comments.

Mayor's Report to Community

- The Cleveland Water Department will be conducting their annual Garrett Morgan Water Treatment Plant tours this upcoming weekend.
- The City didn't qualify for the funding of any water line replacements from Cleveland Water. But the City will follow up because all the waterline replacement funds were not expended so there may still be some money available in the program. Cities are allowed to submit request for funding twice a year.
- The City will be conducting street resurfacing, some curb replacements but no waterline replacements.
- Bremec's Garden Center is holding a fundraiser through May 5th for the Heights Home Repair Resource Center.

- The Memorial Day Parade Committee met just prior to this Council meeting and will meet again just before the Council meeting on May 18 at 6:00p.m. at City Hall to finalize the parade staging details.

Agenda Items:

- A. Ordinance 2015-15 An Ordinance Enacting and Adopting the 2014 S-12 Supplement to the Codified Ordinances of The City of University Heights, Ohio (on emergency).**

No discussion was held regarding Ordinance 2015-15.

MOTION BY MS. ENGLISH, SECONDED BY MR. SIMS for the passage of Ordinance 2015-15 An Ordinance Enacting and Adopting the 2014 S-12 Supplement to the Codified Ordinances of The City of University Heights, Ohio. Roll call on suspension of the rules, all voted “aye.” and Roll call on passage, all voted “aye.”

- B. Motion Authorizing Mayor to accept the bid for a Four Wheel Utility Refuse Collection Vehicle from ABC Equipment as the lowest and best bid in the amount of \$15,475.00.**

Mr. Pokorny reported that three (3) bids were received and recommended accepting ABC Equipment’s bid of \$15,475.00 as the best and lowest bid.

Mr. Wiseman noted that it appeared that each of the three bid specs described different vehicles and asked if the vehicles were of the same type even though the verbiage differed from each other. Mr. Wiseman also asked what the cost would be to maintain the vehicle and if the City had previous dealings with ABC Equipment.

Mr. Pokorny replied that the bids were all for the same identical vehicle and that he didn’t have a maintenance cost. Mr. Pokorny noted that the vehicles should last approximately 6 years and stated that the City has not awarded a bid to purchased vehicles from ABC Equipments in the past but has purchased parts and maintenance from them.

MOTION BY MR. ERTEL, SECONDED BY MS. ENGLISH authorizing Mayor to accept the bid for a Four Wheel Utility Refuse Collection Vehicle from ABC Equipment as the lowest and best bid in the amount of \$15,475.00. On roll call, all voted “aye.”

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

There was no need to hold executive session.

Mayor Infeld asked Council to consider adding Resolution 2015-16 to the agenda. The Resolution is in regards to the City being part of a consortium of cities for the purchase of road salt from ODOT (Ohio Department of Transportation). Resolution 2015-16 would allow the City to enter into a road salt agreement for the 2015/2016 winter season. Mayor Infeld also noted that this needs to be presented on emergency because of the deadline.

MOTION BY MRS. PARDEE, SECONDED BY MR. SIMS to add Resolution 2015-16 to the Council Agenda. On roll call, all voted “aye.”

Mr. Pokorny explained that the City has used this method of having ODOT bid the purchase road salt for many years via ODOT’s Cooperative Purchasing Program.

Mrs. Pardee noted that in the past there had been another bidding group that has since disbanded and asked if this was the only bidding group for the purchase of road salt and if the pricing that ODOT receives is favorable.

Mr. Pokorny replied there he was only aware of one other consortium that’s composed of ten (10) different cities tow of which are Beachwood and North Royalton. All other cities in this area typically join in with the state contract.

Mayor Infeld added that the Northeast Ohio Sourcing Office no longer exists.

Mr. Wiseman asked if the City currently knew how much the road salt would cost per ton with ODOT and if the price is competitive.

Mr. Pokorny stated that the final pricing cost would not be known until the bids are opened. Mr. Pokorny also noted that he wasn't sure that there are many choices and that consortiums who have gone out on their own have traditionally had to pay higher prices than the State.

Mr. Wiseman asked if the City could compare prices with other consortiums if the ODOT contract is a substantial amount above the private consortium once the bids come out.

Mr. Pokorny replied that cities can't join a private consortium unless invited.

Mayor Infeld added that the Administration is recommending staying with ODOT and that historically the ODOT pricing has been lower because of the number of cities included.

Mr. Sims asked how much road salt does the City order.

Mr. Pokorny replied 3,000 tons and that under the agreement with ODOT we would be required to guarantee a minimum order of 90% of that.

MOTION BY MRS. PARDEE, SECONDED BY MS. ENGLISH for the passage of Resolution 2015-16 Authorizing the Mayor to Enter into an Agreement with The Ohio Department of Transportation (ODOT) to purchase Sodium Chloride (Rock Salt) for the 2015-2016 Winter Season. Roll call on suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

Mr. Wiseman made the request to add Resolution 2015-16, which dealt with the timing of distribution of the Council Agendas was tabled during the December 15, 2014 Council meeting to the agenda.

Mayor Infeld commented that she thought that there was going to be a period of time to see how things worked and that it had not been that many months at this point and time. Given that Mayor Infeld thought the period was going to be one year Mayor Infeld asked Mr. Wiseman his reason for not waiting the one year time period and instead placing the Resolution back on the agenda.

Mr. Wiseman replied that the original motion was to make the agendas and supporting documentation available to Council and the public at 5pm on Wednesday instead of 5pm on Friday and upon discussion Mayor Infeld indicated that the Administration would conduct a pilot to have the agenda to Council by 5pm on Wednesdays. Mr. Wiseman stated that was during the middle of December and that there had been eight meetings since that time and Council only received the agenda on Wednesday once, all other agendas were received on Friday. Mr. Wiseman continued to state no specific time period for the pilot program was discussed.

MOTION BY MR. WISEMAN, SECONDED BY MRS. PARDEE to add Ordinance 2014-50 to the Council Agenda. On roll call, all voted "aye."

MOTION BY MR. WISEMAN, SECONDED BY MS. ENGLISH to take Ordinance 2014-50 off the table. On roll call, all voted "aye."

Mr. Wiseman explained that he thought it would be very helpful to Council and to the members of the community to receive the agenda items (the agenda & the supporting documentation) on Wednesday evening so they have Thursday and Friday of the previous week to look at it and to call anybody that they have questions on; whether it be someone in the Administration or otherwise. Currently the packets are distributed to Council on Friday evenings which practically speaking really leaves Monday to contact anybody in an official capacity about the agenda. In Mr. Wiseman's estimation and in the estimation of the Governmental Affairs Committee that one day is not sufficient and so they are just looking just an extra 48 hours to have the agenda and supporting documents distributed.

Mrs. Zucker asked if there would be any objection if something were to come in on Thursday or Friday; would it be added or held off to the next meeting.

Mr. Wiseman stated that currently if the Mayor feels as though there is an item that needs to be discussed with Council after the agenda has been distributed that item is brought to Council's attention and the supporting documents are either left at council's seat on the date of the meeting or provided to them before the meeting. At that point Council then discusses adding it to the agenda. As was done for this meeting and the ODOT contract, Council determined the emergency was valid, voted on it and approved it. Mr. Wiseman added that it seemed to him that the City would continue to operate the way it's been in the past.

Mayor Infeld pointed out that the agenda that came out on that Wednesday (January 20th) was under a previous Law Director and as Council was aware at the last Council meeting (April 20th) Mr. Wiseman had an issue with a contract that was presented because he felt he didn't receive timely. Mayor Infeld spoke on the behalf of Law Director McConville and stated that in her observations, administratively there has been a bit of a learning curve, which happens with every new Law Director and until that learning curve has been mastered what Council will see on Wednesday is either a draft agenda or a permanent agenda that might be shorter than the actual agenda will end up being the following Monday. Mayor Infeld added that with this kind of system being codified by Ordinance there will likely be special meetings for the exact reason that Mrs. Zucker mentioned. Items come up on Thursday and on Friday of any given week. There could be bills that rise to a level that is beyond the Mayor's spending authority or there could be information that comes from outside agencies and the Administration has no control on when that information is received, there could be timing issues. Mayor Infeld stated her concern was that what happened at this council meeting may not be what happens moving forward. If Council were to determine that the reasoning for an Emergency Ordinance or Resolution is not to their satisfaction then there will have to be additional meetings. Mayor Infeld noted that she was speaking from her years of experience as a Councilperson for 12 years and as Mayor for 6 years. If Council codifies this legislation it will be a little hard for the Administration to operate, it can do it but Council needs to be prepared to know that there will be special meetings and more of them not just in the summer but between regular council meetings.

Mr. Wiseman replied that the way the Ordinance is written, the Mayor develops the agenda and documents by Wednesday and if something comes up on Thursday that needs to be added to the agenda she could easily email the council members. Mr. Wiseman noted he didn't see any reason for any new special meetings; a special meeting wasn't needed to allow the ODOT contract today or for the rezoning of the Weiser's property on Cedar Road, which was given to Council the Monday of the Council meeting. Mr. Wiseman stated that if the Mayor gets something passed Wednesday, it could be sent to Council and there isn't any need for special meetings. But it is up to the Mayor when to call meetings and to indicate why Council needs special meetings.

Mayor Infeld clarified that the Mayor is not in a secretarial role to the Council and stated that role belongs to the Council Clerk. Mayor Infeld noted that she saw a lot more work being placed on the plate of the Council Clerk. Mayor Infeld provided that example that if something came in on a Thursday or Friday after the agenda has been distributed, it is not the Mayor who will be sending the information to Council, it will be the Council Clerk having to notify multiple list of people or however persons get notification of the agenda. Mayor Infeld noted that she works with the Council Clerk to make sure that the Council is aware of the items on the agenda, but again this is Council's employee who will now have added work. Mayor Infeld asked Council, (and added maybe Council already has) to have a meeting with the Council Clerk to get a sense of how the agenda is put together and how it is distributed; furthermore Mayor Infeld asked Council to consider that this involves somebody else who will have more work.

Mayor Infeld asked Mr. McConville if he saw any legal issues in terms of if Council is not satisfied on Wednesday or what if somebody gets sick.

Mr. McConville noted as a practical (not legal) matter the city should avoid adding items to the agenda that haven't been posted on an agenda that been previous made available to the public as a matter of habit. From an administrative advantage point compressing the time will create some shorter agendas; in terms of contract reviews there only a certain number of things that you can get to so having a whole week can resolve in having additional items on the agenda, this is a administrative reality.

Mr. Wiseman asked that section 1 for the Ordinance be changed to read "The Mayor shall deliver the completed agenda for forthcoming meetings, along with supporting documentation to the Clerk of Council by 5:00 p.m. on the Wednesday that precedes a Council meeting on the subsequent Monday."

Mayor Infeld commented her thoughts that this Ordinance borders in conflicting with the City Charter. In the Charter the Mayor is supposed to present to Council any information that he or she deems necessary, so Mayor Infeld thought to limit the Mayor's ability to do that according to a certain time frame she believed conflicts with the Charter.

MOTION BY MR. WISEMAN, SECONDED BY MRS. CAMERON to approve Ordinance 2014-50 Amending Section 220.01 of the Codified Ordinances providing for the timing and distribution of Council Agendas and Supporting Documents as amended. On roll call, all voted “aye.” except Mrs. Zucker who voted “nay.”

Directors' Reports

Law Director Luke McConville stated that both he and Councilwoman Zucker read an article in the in the Ohio Municipal League Publication regarding the “Maddox Case” and the Sunshine Law regarding executive session. Mr. McConville provided members of Council with a memo that reviewed the Sunshine Law and Executive Session as well as public bodies and public meetings. Mr. McConville stated that the bottom line is that when Municipal Councils go into executive sessions that they do so specifically under criteria that outlined in the statute.

Mr. McConville stated that the prohibition on conducting a meeting that isn't publically posted or that consist of a majority of a particular body is that no formal action is to be taken. The Courts have stated that formal action includes any deliberation. So any discussion that can relate to decision making can constitute deliberation, which constitutes formal action, which are prohibited under the Sunshine Law. The public body that is meeting is not limited to Council it also encompasses Council Committees. So if the majority of the members of a Council Committee are meeting on a matter that would have to be publically posted and opened to the public as well.

Mayor Infeld asked what constitutes majority when a Council Committee has three (3) members and one (1) alternate.

Mr. McConville replied a majority would be two (2) people. Any prearranged discussion of a quorum of Council or a Council Committee would be considered an open meeting subject to the Sunshine Law.

Mr. Wiseman commented that on one occasion three (3) Council members met to discuss the duties of the Community Engagement Committee. The Community Engagement Committee has seven (7) members because its members are the entire Council. Mr. Wiseman stated in his estimation 3 people is not a quorum and not a majority of that particular committee.

Mr. McConville stated that if the committee has seven (7) members and it is a three (3) person meeting then that is correct, it is not a quorum.

Police Department Chief Hammett informed everyone that the traffic signal at Fenwick and Silsby will be replaced with a four (4) way stop sign. Chief Hammett noted that traffic counts were done in that area and the numbers don't justify having the traffic light there.

Mrs. Pardee comment that she thought that the traffic light was left in place because potentially the new park on Fenwick could generate traffic that would bring the numbers back up, but not to a school level but still generate traffic. Mrs. Pardee asked if the City is assuming that a lot of people in that neighborhood would walk. Chief Hammett replied yes.

Mr. Wiseman asked Chief Hammett what residents could do to get a stop sign at Baintree Milton intersection. Mr. Wiseman noted that area has numerous school bus stops and that cars zip past creating a potential dangerous situation.

Mayor Infeld commented that the school bus pickup, particularly for the public schools changes annually and that the City Engineer in the past has noted that a stop sign would not be warranted at that “T” intersection.

Chief Hammett replied that traffic studies were done in that section around 2011/2012 and at that time it didn't substantiate a stop sign. If the traffic patterns have change since then another study can be conducted. Chief Hammett explained that there are several categories examined, for example the amount of traffic, speed, pedestrian traffic, the type of traffic, etc. Chief Hammett noted that placing stop sign to regulation speed is frowned upon under the Ohio Revised Code.

Mr. Wiseman asked, as a City, the City isn't allowed to just put up stop signs on a particular block.

Chief Hammett answered the City can, but if the City puts a stop sign up and the homework (studies) haven't been done and the stop sign creates a hazard/accident the City has then been exposed to a liability.

There were no other director reports.

Standing Committee Reports:

Governmental Affairs: Mr. Wiseman noted that he anticipates holding a meeting in the next couple of weeks to discuss the adoption or formulation of a policy with respects to minority and women owned businesses.

Recreation Committee: Chairwoman Pamela Cameron reminded everyone about the upcoming family event "All Geared Up" on Saturday, May 16, 2015 from 9am until 12noon (rain or shine).

There were no other standing committee reports.

There being no further business to discuss, the meeting was adjourned at 8:31pm.

MOTION BY MR. WISEMAN, SECONDED BY MRS. CAMERON to adjourn the meeting. On Roll Call, all vote "aye."



Susan K. Infeld, Mayor



Kelly M. Thomas, Clerk of Council