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

Roll Call: Present: Mr. Steven D. Bullock (not at roll call)
Mr. Kevin Patrick Murphy
Mr. Frank Consolo
Mr. Steven Sims
Mrs. Susan D. Pardee

Absent: Ms. Frankie B. Goldberg
Mr. Phillip Ertel

Also Present: Clerk of Council Nancy E. English
Law Director Kenneth J. Fisher
Finance Director Jennifer Esarey
Chief of Police Gary Stehlik
Fire Chief John Pitchler
Building Commissioner David Menn
City Engineer Joseph R. Ciuni
Service Director Robert Jamieson

MOTION BY MRS. PARDEE, SECONDED BY MR. CONSOLO to excuse the absence of Mr. Ertel, Ms. Goldberg and Mr. Bullock. On roll call, all voted “aye.”

Pledge of Allegiance

Minutes of the regular meeting held on February 7, 2011

Councilwoman Pardee noted a correction on seventh page, the first paragraph under Item “L”, the fourth sentence should read, “Mr. Consolo asked what will happen with the one employee.” She also noted a correction on tenth page under the Safety Committee, the last sentence should read, “Mr. Bullock stated that he could expound in writing if that is desired.”

There were no other corrections or additions to the minutes of February 7, 2011.

MOTION BY MRS. PARDEE, SECONDED BY MR. CONSOLO to approve the minutes of the regular meeting held February 7, 2011, as amended. On roll call, all voted “aye.”

Comments from the Audience:

Anita Kazarian, Claridge Oval, noted that the Cleveland Clinic is planning to close the Trauma 2 Center at Huron Hospital and move all trauma cases to Hillcrest Hospital in Mayfield Heights. She encouraged everyone to participate in the effort to help save the Trauma Center at Huron Hospital from closing. Ms. Kazarian stated that as a member of the Northeast Ohio First Suburbs Consortium, the City has an mutual interest in the economic and social well being of East Cleveland. She mentioned that the Northeast Ohio Alliance for Hope (NOAH) and other citizen groups are organizing to convince Cleveland Clinic to keep the Huron Hospital Trauma Center open. The next citizens’ community meeting will be Monday, February 28, 2011 at 6:30 p.m. at New Covenant Lutheran Church, 1404 Hayden Avenue, East Cleveland. She invited members of Council and residents to attend the meeting.

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

Mayor Infeld reported that she distributed two (2) invoices from the City’s bond counsel, Virginia “Gigi” Benjamin, to the Council in response to a request that came out of the Finance Committee meeting of February 17, 2011.

Mayor Infeld reported that the City will be applying for NOPEC grant funds for multiple projects: new windows for all city buildings (storage house, building and finance department house, City Hall, police department, fire department and service department); roofs for the building and finance department house and the storage house; a rooftop air conditioner to be installed on the City Hall building; and bay doors for the fire department. She noted that the City would receive a savings in utility costs with the installation of these items. Mayor Infeld requested that an item be added to the agenda of this meeting for a motion to authorize her to submit the grant proposals.
Mayor Infeld reported that the Cedar/Taylor Business District is forming a merchants association. She and Chief of Police Gary Stehlik attended the second meeting which was held on Monday, February 21, 2011. The merchants are developing ideas about how to distinguish its district from other shopping areas and how they can best advertise the area as a place to shop.

Mayor Infeld reported that the survey to resident about city services is ready for distribution. She noted that the residents will be asked to rank the relative value of eleven (11) city services. The survey is available electronically on the City’s website, blue paper copies will be distributed at City Hall, gold paper copies will be distributed at the University Heights Public Library and a mailing will go out to a targeted population of the community. The survey will close on March 31, 2011 and the results will be tabulated at that time by Dr. Tom Short, a math professor at John Carroll University, as a project of his applied statistics class.

Mayor Infeld announced that the City will participate in the Harvest for Hunger food drive again this year. Food items may be dropped off at City Hall.

Mayor Infeld stated that there was excessive tree damage from the ice storm of February 21, 2011. She mentioned that the crews are doing their best with the clean up. The Service Director will provide additional information under his report.

Mayor Infeld read an complimentary email from a resident about the senior program held at the library held on February 17, 2011. The resident commended the following three city employees: Senior Services Manager Walter Stinson for his preparation in presenting the speakers which offered a new prospective on the importance of municipal government; Det. Lt. Edward Schmidt, who shared his experiences and generated many questions resulting in a greater appreciation for the Juvenile Diversion Program; and Service Director Robert Jamieson for his professional yet easy to understand presentation of the many tasks of the service department.

Councilman Bullock entered the meeting at 7:47 p.m.

Agenda Items:

A. Black History Program - Wiley Middle School Challenge Choir and guest speaker, C. Ellen Connally, President of the Cuyahoga County Council

Councilman Consolo introduced the national award winning Wiley Middle School Challenge Choir under the direction of Mr. Glenn Brackens. The choir opened with a modern arrangement of the “The Negro National Anthem,” Lift Every Voice and Sing. The second selection performed by the choir was its version of the traditional Black Gospel song, Rock My Soul. The third selection performed by the choir was its version of My Girl by the Temptation.

Councilman Consolo introduced guest speaker, C. Ellen Connally, who is the first President of the newly formed Cuyahoga County Council. Council President Connally served as a distinguished judge of the Cleveland Municipal Court for twenty-four (24) years. She also served as a special prosecutor for the City of Cleveland and as foreman of the Cuyahoga County Grand Jury. Council President Connally’s vision for the new County government is to set the highest standard of integrity and to establish a plan for growth and redevelopment in the County and the region. She has a Bachelor of Science degree from Bowling Green State, a Masters and Juris Doctorate from Cleveland State University and is a PhD candidate with the University of Akron. She has also served as a visiting and adjunct professor at the Law School of the University of Akron and the past president of the Board of Trustees of Bowling Green State University.

Council President Connally commended the Council for celebrating Black History Month. She mentioned that as a historian she has done a lot of research on the law and slavery and has published a number of articles on Jefferson Davis, who was President of the Confederate States of America and the leader of the Confederacy during the American Civil War.

Council President Connally stated that it has been a tireless effort forming the new County Council. She told the audience that as an African American she feels she has to be a little better prepared than your colleagues and has performed legal research to help overcome the challenges found within the Charter such as jobs being created without departments.
Council President Connally stated that the County Council’s main focus is on jobs. She mentioned that the Council approved a $350,000 forgivable loan to Lincoln Electric for wind turbines that will supply approximately 10% of the electricity needed by Lincoln Electric and save the company approximately $500,000. She noted that the important aspect of this is that the wind turbine is a prototype and all the parts will be made in northern Ohio. It is the Council’s hope that the company will locate in the area and provide jobs and reduce the carbon footprint of the area. She added that it is important for the Council to work on economic development issues because they want to create jobs and get businesses up and running so that the young people will have opportunities and jobs which will allow them to stay in northern Ohio. She pointed out that when residents leave, the area loses representation in Congress, tax revenues, and other items.

Council President Connally encouraged the students to attend college, get a degree, and then stay in the area and take over the jobs of the people preceding them. She also encouraged them to register to vote when they turn 18 and then exercise their right by voting.

In response to a question from the audience, Council President Connally explained that the County Council does not make laws because the laws are made by the State and local governments, but rather the County is a pass through organization for tax dollars of the State and Federal governments that are dispersed around the County. Ms. Connally noted that the sessions of the Council are open to the public and meetings will be streamed live on the internet starting next week.

Councilman Consolo thanked Council President Connally for participating in the Black History Month Program. He explained to the students that they are witnesses to a living example of Black history in the making because Council President Connally is a founding member and equal partner of a brand new government. Mayor Infeld also thanked Council President Connally for coming.

Mr. Glenn Brackens commented on the origin of Black History Month. He mentioned that the month of February was chosen for the observance because it marked the birthday month of Dr. Carter G. Woodson, an African American historian, writer and educator, who established “Negro History Week” to honor the contributions of African Americans. Councilman Sims noted that Dr. Woodson’s birthday was February 14 and that February also marked the birthdays of former President Abraham Lincoln and former slave and abolitionist Frederick Douglass, who were important people to the African American community of their time.

Councilman Sims mentioned that the choir’s performance is always a highlight of his year and thanked Mr. Brackens and the choir for performing again this year. He also thanked Council President Connally for participating in the program and for the work that she has done and continues to do.

B. Presentation regarding the Amendment Agreement - Virginia “GiGi” Benjamin

Mayor Infeld stated that it has taken months to unravel all the financial discrepancies discovered regarding documents related to the financing of the University Square parking garage. She turned the floor over to the City’s bond counsel, Ms. Virginia “GiGi” Benjamin of Calfee, Halter & Griswold for a detailed explanation of the Amendment Agreement.

Ms. Benjamin stated that the Amendment Agreement is intended to say, “here is where we are today and here is how we are going to fix it and get back to where we should be.” She noted that the items addressed in the Amendment Agreement include: the $2M that was collected by the City in service payments and not remitted to the bond trustee; the payments that should have been set aside for additional levies monies for the Cleveland Heights-University Heights City School District that were never set aside; the rollback payments that were not paid; the agreement to pay the School District that was not complied with; and the surplus revenues that were to have gone to the School District which it never received. Ms. Benjamin admitted that the City missed some payments, but noted that there were other parties involved that should have asked why it had not been done.

Ms. Benjamin stated that the actual parties to the Agreement includes: the Cleveland-Cuyahoga County Port Authority, which issued the bonds; the City of University Heights; the Cleveland Heights-University Heights City School District; the bond trustee; and Inland Western University Heights University Square, LLC, as the owner of the property and a successor to Starwood Wasserman University Heights Holding LLC, who was a party to the some of the original agreements.

The first provision addressed in the Agreement was the approximate $2M in unpaid payments. The Agreement acknowledged that $500,000 was paid and the balance of $1,496,927.38 will be paid not later than ten (10) business days after the date of execution of the Agreement. Ms. Benjamin stated that she has encouraged the City to wait until the agreement is signed to make the payment in order to make sure that all the proper releases are received as part of the Agreement.
The next provision addressed in the agreement calls for the payment to the School District of additional levy money in the amount of $2,361,315.79 that should have been paid to the School District on an annual basis. The amount will be paid not later than ten (10) business days after the date of execution of the Agreement.

Ms. Benjamin stated that the documents provide that first the new levy money is set aside, then service payments are used to pay debt service on the bonds, then administrative costs, and finally any surplus goes into a surplus fund. At the end of each year, if there was a surplus, it was to be paid to the School District, which never happened. There was approximately $970,000 remaining in the fund at the end of 2010. Ms. Benjamin stated that what has been negotiated with the School Board, and what they will be considering formally at its March 1, 2011 meeting, is to leave that $970,000 in the fund this year and not distribute it as of the end of 2010 and make it available to pay debt service, if necessary. Ms. Benjamin stated that it is anticipated that a portion of it will be necessary to pay debt service due to reduced service payment revenue. She added that any excess remaining at the end of 2011 would be available to reimburse the City for any refunds of service payments that the City had to make as a result of reductions in valuation of the property.

Finally, the Agreement renegotiates the payment of the rollback payments over a seven (7) year period beginning January 1, 2011 and ending December 31, 2017. Ms. Benjamin stated that the Agreement is a settlement of all the outstanding issues and provides a waiver and release so that the School District and the Port Authority cannot come back against the City nor the City against them with respect to any of the missed payments. She noted that Inland has agreed to the Amendment Agreement, but have not signed. The School Board’s attorney has agreed to present the Agreement to the School District. The Port Authority has already approved an Agreement in substantially the same form and the trustee has indicated that they are willing to sign.

Councilman Consolo inquired as to whose responsibility it is to pay back any money due on the May Company property or Target property for lowered valuation. Ms. Benjamin stated that it is her understanding that since the City received the service payments, the City is paying it back. However, any excess revenues that would have gone to the School District for 2010 and 2011 would be used to pay back those refunds.

Mr. Fisher explained that the 2011 Agreement provides that special assessments can only be assessed against Starwood Wasserman and its successor, Inland. He noted that Target and/or Macy’s (May Co.) owns their own separate parcels and pays their own taxes. Therefore, the reductions that have been obtained by Target and Macy’s will be considered and calculated ongoing when the administrator advises whether or not it is necessary to impose the special assessment. Mr. Fisher stated that the “Refund Account” specified in 2(d) of the Agreement was the last item which was negotiated. He mentioned that the Refund Account is estimated to be $300,000 at the end of 2011 and those funds will be available to reimburse the City for monies that will have to be refunded when the City is noticed by the County. Mr. Consolo asked who calculated number. Mr. Fisher responded that the calculations were done by Argus. Mr. Consolo stated that he has seen Argus’ report for the year ending 2009, and they projected that the refund due to the parcels is $2.5M and he asked who is responsible for that amount and if the $2.5M was discussed during the negotiations of the Agreement since the City has to rely on the administrator numbers. Ms. Benjamin stated that she could not speak to whether the numbers are corrects, but responded that it was discussed. However, she noted that not all of that amount will be for those tax years. She added that the original proposal to the School District would have allowed the City to offset refunds from surpluses going forward, but that was not accepted. Therefore, Ms. Benjamin stated that if the amount of the refunds for prior years exceeds whatever money is left at the end of the year, there is no other source of money to pay it from other than offsetting city revenue.

In order to get a clear understanding Councilman Consolo stated that the service payments are basically the taxes that would have been due above a certain base level that was calculated when the City entered into the TIF. Ms Benajmin stated that was correct. Mr. Consolo went on that say that if properties go back and get reductions, the payments the City has already made to the trustee were too much because the parcels have now been valuated. Ms Benjamin stated that was correct. Mr. Consolo did not understand why the City is agreeing to pay another $1.5M under the terms of the Agreement when the City may not owe it because funds have already been transmitted to the trustee, which would have resulted in the City paying too much in service payments to the trustee. He also noted that the City may owe money to the owners of the parcels because the taxes have gone down and it may have to go back to the property owners because they successfully got their property taxes lowered.
Councilman Consoled requested a copy of the Annual Disclosure Report for 2010 because it may help to answer his question. Ms. Benjamin reiterated that there is no other source of money to pay it from except the Refund Account. She added that the City contractually owes the $2M payment to the Port Authority and the fact that the property was revalued lower does not factor into that contractual obligation. Councilman Consoled again asked who has to repay the money. Ms. Benjamin replied the City. Mr. Consolo mentioned that at some point the City is going to have to repay the property owners even though the money the City sent to the trustee was too much, and then have to come up with more money to pay the property owners. Ms. Benjamin stated that this was discussed with the administrator and as they are computing the necessity of collecting the special assessments in the future, they are going to take into consideration reductions in valuation as well as refunds that the City has to make. Therefore, the calculations of the assessments will take into consideration the fact that the City may be offsetting against service payments that it would otherwise receive prior refunds. She offered an example, if the City would get $1M, but owes a refund of $200,000, the calculation will only assume the City is receiving $800,000. Mr. Consolo asked if the special assessment would be on the property owners and if the City would ask them to pay more than they normally would in taxes because the City would have to repay them. Ms. Benjamin stated that it would be on Inland not Target or May Company. Mr. Consolo clarified that Inland would have to foot the bill for the reduction in valuation for Target and May Company. Ms. Benjamin concurred and noted that was the original deal as stipulated in the previously approved documents that Inland agreed to the assessment on its property and Target and May Company were totally outside of that assessment.

Councilman Consoled was concerned that Target or May Company may sue the City because the City owes them money because their property was lowered and asked if the City could go to Inland and have them pay Target and May Company. Mr. Fisher stated that the City would not owe them money, the County processes the refund application and the County would make a claim against the City. The dispute would then be between the City and the County. However, that is assuming that once they get it reduced they immediately begin paying, if not before, on the reduced value. He noted that, in fact, under the statues, once they file a tax reduction complaint, they can get an estimated bill based upon the reduction complaint.

Mr. Consolo stated that the Argus report is clear that $2.5M is owed. Mr. Fisher stated that an estimated $300,000 is the most they were able to negotiate for the City to access at the end of 2011. Mr. Consolo suggested that it be negotiated that the administrator is saying there is money owed back to May Company and Target on their properties because it was lowered so the City is not going to pay the full amount because eventually it has to get paid to them. Ms. Benjamin replied that one reason is because the trustee having determined that the payments were not made would constitute an event of default under the Cooperative Agreement. She added that the reason they requested this was because they had an event of default because of the failure of the City to turn over the 2008 revenues, and they are obligated, if it remains an event of default, to notify bond holders which could have a potentially negative affect on the Port Authority, who is the issuer of the bonds. Therefore, the trustee has agreed that the documents can be amended so that the payments are made, and that they will not declare an event of default and they will not send that notice out. Councilman Consoled inquired if the administrator could meet with the Council. Ms. Benjamin was sure they would be willing to meet.

Councilman Sims requested reassurance that the City will not be held liable for the payment of any additional money. Ms. Benjamin could not tell him that because the City may have refund liabilities with respect to service payments that it received on lower taxes. However, she noted the City will not be held liable for the payment of any additional money related to the 2008 payment due from the City to the bond trustee, the City will not be held liable for any payment owed to the School District for the period through 2010, the City will not be held liable for any failure to distribute the surplus revenues to the School District at the end of 2010 or at the end of 2011.

Councilman Sims inquired if there is a potential $2.5M liability that the City faces relative to what might be owed for prior years because of reduced valuations and he asked what the likelihood is that the City would be responsible for a $2.5M payment. Ms. Benjamin confirmed and stated that the administrator, at the time when those valuation complaints were filed, taken the reduced valuation into account, the report would have required that a special assessment be levied. She noted that the problem is by law that they cannot go back and levy special assessments for prior years. But, the administrator in calculating the amount that is going to be available from service payments each year, which is then any shortfall between that and debt service is what is assessed is going to take into consideration any refunds in the future that the City has to make with respect to any years for which the City has not already paid the refund. Mr. Sims agreed that a session with the administrator is advisable.
Councilman Sims asked where the $2.3M that is due to the School District coming from. Ms. Benjamin noted that those funds are sitting in the trustee’s account. She noted that they wanted to get an agreement on what the correct amount is through 2010.

Mr. Fisher stated that Argus is looking at the total reductions that have been achieved to date by Target and May Company. He noted that Inland has not been successful in reducing values, to date, but there is a pending complaint in front of the Board of Tax Appeals, which deals with the retail spaces other than Target and May Company. He noted that the Argus report details the total reductions that they have achieved based upon reduction complaints that have been finalized with the Board of Tax Appeals. However, what they have not analyzed is what the City’s potential liability is to the County. He added that they need to look at what has been paid in, what the City receipted and paid to the trustee, and what the City could be looking at in terms of liability. Mr. Fisher also agreed that Argus should meet with the City to address that issue. Mayor Infeld stated that arrangements will be made to have Price Finley of Bricker & Eckler and/or Julie Burkart of Argus meet with the City.

Ms. Benjamin pointed out that when the trustee is aware that there has been a failure to make a payment, they do not have a lot of discretion in giving notice that an event of default has occurred. She noted that they have been gracious and restrained in not sending the notice out to date and suggested that the way to resolve the termination of the default is to amend the agreement so that an default has not occurred. She added that the consequences of the trustee sending notice of an event of default would not be good as it might adversely affect the City’s and the Port Authority’s credit rating. Ms. Benjamin stated that this is an attempt to resolve an outstanding problem and the motivation for the Amendment Agreement was to get rid of that event of default. Mayor Infeld stated that time is of the essence and suggested that the meeting be scheduled prior to the next regular Council meeting.

Councilman Sims stated that the City needs to understand with it is facing with regarding to the missing piece. Mr. Fisher stated that Ms. Benjamin has done a excellent job drafting the agreement and garnering the approvals from the various entities. He added that the Amendment Agreement needs to be adopted in order to resolve the outstanding issues. Mayor Infeld expressed how difficult the entire process has been.

Councilman Murphy inquired if the City is the ultimate backstop in terms of the potential $2.5M liability and if the City will have to look to Inland for payment or if Inland is the ultimate backstop and they have an obligation. He inquired if the County is going to come to the City and the City in turn to Inland and request it made. He asked if they paid on the current assessed value, they have complied with their obligations under the documents even if they had a complaint pending and did not pay the lower value. The question is if they complied with all portions of the agreement, there may not be any recourse against them. Mr. Murphy stated that it does not seem to be something that is subject to renegotiation through the Amendment Agreement. Ms. Benjamin stated that they have not addressed that with Inland. Mr. Fisher mentioned that neither the 2001 Tax Increment Financing Agreement nor the Cooperative Agreement took reduction in property values into consideration.

It was noted that a Council Committee-of-the-Whole meeting will be scheduled prior to the next regular Council meeting when Ordinance No. 2011-10 will be presented on second reading. Ms. Benjamin reiterated that the School Board is expected to approve the Amendment Agreement on March 1, 2010.

C. Ordinance No. 2011-10 Authorizing the City to enter into an Amendment Agreement with the Cleveland-Cuyahoga County Port Authority and the Cleveland Heights-University Heights City School District, relating to a Cooperative Agreement, a Tax Increment Financing Agreement and a Memorandum of Understanding related to the University Square parking garage (1st Reading)

Ordinance No. 2011-10 authorizes the City to enter into an Amendment Agreement with the Cleveland-Cuyahoga County Port Authority and the Cleveland Heights-University Heights City School District, relating to a Cooperative Agreement, a Tax Increment Financing Agreement and a Memorandum of Understanding related to the University Square parking garage.

Ordinance No. 2011-10 was presented on first reading.
Ordinance No. 2011-11 To repeal Ordinance No. 2011-09 and enter into an agreement with Ace Business Solutions for lease of a copier for the Building Department

Ordinance No. 2011-11 repeals Ordinance No. 2011-09 and authorizes an agreement with Ace Business Solution for a lease of a copier for the Building Department for a period of sixty (60) months in an amount not to exceed $166.62 per month.

Mayor Infeld stated that there was a typographical error in Ordinance No. 2011-09 and Ordinance No. 2011-11 reflects the correct month charge.

MOTION BY MR. BULLOCK, SECONDED BY MR. SIMS to approve the passage of Ordinance No. 2011-11. On roll call, on suspension of rule, all voted “aye.” On roll call, on passage, all voted “aye.”

Mayor Infeld requested that an item be added to the agenda of this meeting for a motion to authorize her to submit the NOPEC grant proposals.

MOTION BY MR. SIMS, SECONDED BY MRS. PARDEE to add a motion to the agenda to authorize the Mayor to submit grant proposals to NOPEC.

E. Motion to authorize the Mayor to submit grant proposals to NOPEC

MOTION BY MR. SIMS, SECONDED BY MR. BULLOCK to authorize the Mayor to submit grant proposals to NOPEC. On roll call, all voted “aye.”

F. Ordinance No. 2011-12 Amending Section 220.09 of the Codified Ordinances by establishing the part-time position of Assistant Clerk of Council (1st Reading)

Ordinance No. 2011-12 amends Section 220.09 of the Codified Ordinances by establishing the part-time position of Assistant Clerk of Council.

Ordinance No. 2011-12 was presented on first reading.

G. Ordinance No. 2011-13 Establishing the rate of pay for the part-time position of Assistant Clerk of Council (1st Reading)

Ordinance No. 2011-13 establishes the rate of pay for the part-time position of Assistant Clerk of Council at a range of $13.00 to $15.00 per hour depending on qualifications.

Mayor Infeld distributed a memo to Council clarifying her position regarding the position of Assistant Clerk of Council. The Mayor noted that she expressed concern to Vice Mayor Goldberg first verbally on February 1, 2011 and then in writing on February 2, 2011 about establishing a new position and proposed that a transcription service be used to assist the Clerk of Council in transcribing minutes. She mentioned that at the Council Committee-of-the-Whole meeting on February 7, 2011, the Clerk of Council indicated that an Assistant Clerk would not be necessary if the Council members recorded their committee meeting minutes. Mayor Infeld noted that this had been a long established practice of the City Council.

Mayor Infeld indicated that she reduced the workload of the Clerk of Council when she took office because under the previous administration, the Clerk of Council served as the Mayor’s Administrative Assistant in addition the role of Clerk of Council.

Mayor Infeld expressed concern about how the establishment of this position would impact the City’s budget. The financial impact would include a salary of $15,600, PERS costs, and other associated costs of $3,400. The memo also pointed out other non-related financial obligations that are placing constraints on the City’s budget.

Mayor Infeld requested that the Council research various options to perform the function of transcribing minutes in order to determine if there are less expensive alternatives. She noted that one alternative, which would be the cheapest option, would be for the City Council to renew the practice of taking minutes of the Council committee meetings.
Councilman Sims stated that the Council could take the opportunity to look into various alternatives which might exist and mentioned that Councilman Murphy made the same suggestion. However, Councilman Sims did not think it was a good practice for Council members to have the responsibility of preparing their own committee minutes. Mr. Sims noted that it has been his experience that the minutes and/or notes received in the past as prepared by the Council members have not been sufficient and did not accurately reflect what occurred at the various meetings. He mentioned that minute transcription is something that most Council members are not trained to do and although it may have been a past practice, he did not believe it is a good practice.

Councilman Consolo mentioned that Kelly Thomas, a former employee of the Administration Department, would fill in when the Clerk of Council was out of the office, but since she can no longer be utilized in that capacity, he inquired as to what will happen when the Clerk is off because of vacation or illness. Mayor Infeld replied that if the Clerk is not at the Council meeting, the Finance Director would call the role as has been done in the past or she, as presiding officer, could call the role and take the vote. Councilman Consolo inquired if the Mayor being the Clerk of Council would violate the Charter. He noted that the Charter states that the Clerk of Council is responsible for keeping the record and minutes of the Council. Therefore, he does not see how it is possible to hire an outside court reporter to do that function unless there is a plan to change the Charter. Mayor Infeld did not see the difference in someone outside of the City transcribing the minutes versus someone inside of the City who is not the Clerk of Council. Mr. Consolo stated that the City has a Charter and the Charter must be followed. Mayor Infeld stated that the Charter states that the Clerk is the secretary to the various boards and commissions, but the proposal to hire someone who is a different person from the Council Clerk to fill in for the Council Clerk, in her mind, would be no different than hiring another person who does not work for the City who could transcribe the minutes off site in their office. Mr. Consolo stated that hiring a court reporting firm is vastly different than hiring an Assistant Clerk as far as the Charter goes unless the Law Director interprets the Charter say that they can relieve the Clerk of Council duties and subcontract to a court reporter.

Law Director Kenneth J. Fisher advised that the Clerk of Council has specific prescribed duties under the Charter, including taking the minutes. Mayor Infeld asked what the difference is if another person is doing it who is not the Clerk. Councilman Murphy stated that when Kelly Thomas was filling in she was not doing it as Clerk of Council. Mr. Fisher stated that Kelly Thomas was an Acting Clerk of Council. Mr. Murphy inquired if the Finance Director could be the Acting Clerk of Council when the Clerk on vacation. Mr. Consolo asked how could she practicably do both when the Clerk signs with the Finance Director on warrants and checks of the City. Mayor Infeld stated that the Law Director does that also. Mr. Murphy asked if there is some else in the City that can be Acting Clerk of Council when the Clerk is out of the office. Councilman Murphy agreed with the Mayor about looking into privatizing some job functions because there is an expense associated with hiring a public employee. Councilman Murphy suggested using technology such as going to paperless packets by downloading the Council’s packets into a Kindle for each Council member as a way to save time and ultimately money.

Mr. Fisher stated that the question is what can be done to provide some assistance to the Clerk of Council. Mr. Fisher advised that Council has the authority under the Charter and under Section 220.09 in the Codified Ordinances, which provides for the Clerk of Council, to make provisions for that assistance.

Mayor Infeld stated that she wanted to express her position because these are tough economic times and the budget is tight. She added that they have to be very careful in deciding how to spend money and requested that Council consider that there may be other ways to do things than hiring another person.

Councilman Sims was not opposed to doing research, but he feels there is a tendency to underestimate the amount of work that is involved in being the Clerk of Council. Mr. Sims mentioned that he was not at the Committee-of-the-Whole meeting were the issue was discussed, but in his view and experience there is more to the job than just the transcription of minutes. Mr. Sims stated that the bottom line is Clerk had help and now that help is no longer available.

Mayor Infeld stated that one aspect that has changed since she was on Council is that the Clerk did not do the committee meeting minutes. Therefore, she suggested that the Council focus on what has changed to make the job need an assistant at this point and maybe there is a way to alleviate that need.

Councilman Bullock inquired if past committee meeting minutes are in the archives of the City. The Clerk replied that there are records of past committee minutes. Mr. Bullock commented that there might have been minutes taken by someone, but when he came on Council the committee that he took over had no minutes.
Mr. Bullock stated that he would like to see the files because when he asked for records from the person who was chair, he had nothing to give him. He agreed to look throughout the budget to determine if there are other ways to get work done and achieve the same goal at a lesser cost.

Mayor Infeld stated that her main concern is adding to the employment base because 70% of the budget is based on salaries and there is not a lot of discretionary money to work with.

Councilman Consolo inquired how the Mayor differentiates this situation from the one that was brought to her a few month ago when his colleagues wanted to investigate a payroll service to eliminate the need for a new employee. He mentioned that they had done the research and were told it could not be presented. Mayor Infeld stated that she does not have an issue with Council pursing payroll companies to come in and analyze how the City does things. However, at the time when it was brought up, the Finance Director was too new and felt overwhelmed and did not feel she had enough time to sit down with a payroll company at that time.

**Ordinance No. 2011-13 was presented on first reading.**

**H. Motion to hire Sylvester Murray to facilitate a Council Work Session entitled, “University Heights Leadership Effectiveness Retreat”, and to allocate up to $2,000 for the meeting which will include the consultant fee of $1,000**

Councilwoman Pardee stated that this item came out of the Council Committee-of-the-Whole meeting of February 17, 2011. The recommendation to hire Sylvester “Sy” Murray was based on the nature of his proposal at a cost of $1,000 and to set aside $1,000 in case there is a need for additional costs, which are not necessarily anticipated. She noted that Dr. Murray will spend 30 minute with each Councilperson and the Mayor prior to the retreat to discuss goals, outcomes and deliverables for the retreat. He will host the retreat on March 15, 2011 from 9:00 a.m. to 3:00 p.m. (including a working lunch).

Mrs. Pardee noted that she has rooms reserved at the main library on Lee Road in Cleveland Heights, but she is looking for a more suitable location because the room sizes at the library are small. Mrs. Pardee added that she did not want to commit to a location until a vote was taken.

Councilman Murphy inquired as to how the Mayor felt about holding a work session/retreat. Mayor Infeld replied that she did not understand the verbiage, “Leadership Effectiveness Retreat” and was not sure what the outcome is expected to be. Mayor Infeld announced that she had a scheduling conflict that day and will have to attend a meeting with other Mayors regarding the EDGE agreement so she will not be able to attend the entire retreat.

**MOTION BY MRS. PARDEE, SECONDED BY MR. CONSOLO hire Sylvester Murray to facilitate a Council Work Session entitled, “University Heights Leadership Effectiveness Retreat”, and to allocate up to $2,000 for the meeting which will include the consultant fee of $1,000. On roll call, all voted “aye,” except Mr. Murphy, who voted “nay.”**

**I. Motion to advertise for bids for Purvis Park Food Concession Operation**

Mayor Infeld announced that the previous concessionaire Joan Horowitz of Snacks and Stuff, Inc. has decided not to extend the contract for concession operations with the City this year.

**MOTION BY MR. CONSOLO, SECONDED BY MR. BULLOCK to advertise for bids for Purvis Park Food Concession Operation. On roll call, all voted “aye.”**

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

**MOTION BY MR. CONSOLO, SECONDED BY MR. BULLOCK to hold an executive session immediately following this regular meeting for the purpose of discussion pending litigation. On roll call, all voted “aye.”**

**Directors’ Reports:**

**Finance Director** Jennifer Esary reported that the Finance Committee will meet on Thursday, February 24, 2011 at 7:00 p.m. to continue a review of the 2011 budget.

Ms. Esary also reported that the City was accepted into the retrospective rating program for 2011.
Service Director Robert Jamieson reported that an ice storm struck the city recently which caused a damage to a number of tree lawn trees. He noted that the broken limbs will be cleaned up street by street until completed. He added that some trees may need more extensive trimming which will have to occur over the summer.

Councilwoman Pardee inquired if there is personnel to do sidewalk plowing when the weather is bad or does that job wait until other things are done first. Mr. Jamieson stated that sidewalk plows are dispatched after there is 6” to 7” of snow on the sidewalks and after street clearing duties are complete. He mentioned that one bombardier is down so there is only one machine in operation and there is no overtime associated with running the sidewalk plow. Mrs. Pardee inquired if they start clearing sidewalks on priority streets where children walk to school such as Silsby Road. Mr. Jamieson stated that they focus on streets that are most heavily traveled by pedestrians such as the Cedar Road corridor, the Green Road area, and the pathways leading to and from the schools.

City Engineer Joseph R. Ciuni reported that the City will advertise for the first of two water main replacement projects. Mr. Ciuni noted five streets have been slated for water main replacements this year. The first project will be Bushnell Road and Northwood Road.

Mr. Ciuni reported that Dominion East Ohio Gas will be doing gas main replacement on Green Road and Washington Blvd this year as well. He noted that the company has a twenty (20) year plan to replace all of the steel gas lines that are dated earlier than 1962.

In regard to the resurfacing program, Mr. Ciuni reported that University Heights will join the City of Shaker Heights and the City of Cleveland Heights in a joint resurfacing program. The City will resurface one block of Silsby Road and large area patches (6’ wide and 50’ long) under the program. The bid will be advertised next week, bids will opened in March and awarded in April.

Mr. Ciuni reported that the $23,000 check has been received from McDonald’s for the traffic study and the City has a signed contract with URS. Mr. Ciuni will have an updated status report at the next meeting.

Building Commissioner David Menn reported that the vestibule project at 4394 Groveland Road has been completed. The stairs will have to be replaced, but that will be tied into the driveway project. Mr. Menn noted that Robert Weizman has also pulled permits for interior work and smoke detectors have been installed throughout the house.

Councilman Consolo mentioned that the vending machines at BP on Fairmount are gone. Mr. Menn stated that BP was cited for having the machines, they could have filed an appeal with the Board of Zoning, but chose to remove the machines.

Committee Reports:

Under Civic Information Committee, Mayor Infeld thanked Chairman Frank Consolo for arranging the Black History Month Program.

Mayor Infeld also reported that she received two (2) different contracts from the Senior Transportation Connection (STC) for senior transportation services. She will distribute the contracts to the Council and perhaps have another meeting to consider them.

Recreation Committee Chairman Kevin Patrick Murphy reported that the Recreation Committee meeting which was scheduled for February 15, 2011 had to be cancelled. Another meeting will be scheduled in March.

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

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Susan K. Infeld, Mayor

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Nancy E. English, Clerk of Council