MINUTES OF COUNCIL MEETING
CITY OF UNIVERSITY HEIGHTS
JANUARY 4, 2011

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

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

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

MOTION BY MRS. PARDEE, SECONDED BY MR. SIMS to excuse the absence of Mr. Murphy. On roll call, all voted “aye.”

Pledge of Allegiance

Mr. Murphy entered the meeting at 7:33 pm.

Minutes of the regular meeting held on December 20, 2010

There were no corrections or additions to the minutes of December 20, 2010.

MOTION BY MR. CONSOLO, SECONDED BY MR. BULLOCK to approve the minutes of the regular meeting held December 20, 2010. On roll call, all voted “aye.”

Comments from the Audience:

There were no comments from the audience.

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

Mayor Infeld reported that she put out a CityWatch phone call to notify the public that City Hall was closed on Monday, January 3, 2011 and that the Council meeting would be held on Tuesday, January 4, 2011. Also, due to the holiday on Monday, garbage pick up would be delayed one day from the normal schedule. The message also indicated that leaves would continue to be picked up on streets that were missed during the last pass because of the early snowfall. The crews are working west from Edgerton Road to South Taylor Road and then would pick up random piles. Mayor Infeld advised that any leaves not picked up should be bagged and placed on the tree lawn for pick up.

Mayor Infeld reported that the new Service Director, Mr. Rob Jamieson, will begin on Tuesday, January 18, 2011.

Agenda Items:

A. Appeal to the Board of Zoning Appeals’ decision of December 8, 2010 by Mr. Robert H. Weizman, 4394 Groveland Rd., regarding the revocation of a 5ft. front setback variance

Mr. Robert Weizman was present with his attorney Mr. Fred Schwartz to appeal the Board of Zoning Appeals’ decision of December 8, 2010 to revoke the 5ft. front setback variance required in order to construct a front vestibule. Mr. Schwartz presented Council with petitions in favor of the variance signed by twenty (20) neighbors on Groveland Rd., Milton Rd., and Churchill Boulevard. In response to a question regarding the dates of the petitions, Mr. Schwartz stated that the signatures on all three document were collected in the last two days. He further explained that the letter has a July 13, 2010 date because Mr. Weizman used the same letter that he presented at the July 14, 2010 Board of Zoning Appeals (BZA) meeting.
Mr. Schwartz stated that the Board of Zoning Appeals relied upon three (3) factors in making its decision: 1) neighbor input; 2) concern for Mr. Weizman’s open housing cases; and 3) concern that Mr. Weizman might not complete the front addition in a timely manner. He added that the Board was also concerned that the December 1, 2010 deadline could not be extended.

Mr. Schwartz explained that the 5 ft. front setback variance was part of an overall remodeling project that would modernize the home for the benefit the city and the Groveland Road neighborhood. He added that it would be logical to continue the variance.

Building Commissioner David Menn gave a brief history of the issue. He explained that the Board of Zoning Appeals initially granted Mr. Weizman a 5 ft. front setback variance to add a front vestibule to the home on November 14, 2007. However, because work did not start within six (6) months, the BZA’s approval of the variance was voided. Mr. Weizman went back to the BZA on July 14, 2010 for the same 5 ft. variance to add a front vestibule to the home. At that time, the Board approved the variance conditioned upon the project being completed by December 1, 2010 and that Mr. Weizman would submit a construction schedule for the front addition to the building department, which he did. On the construction schedule, Mr. Weizman indicated that he would have the work completed by October 30, 2010. However, the project did not start until late November. Because the project was not completed by December 1, 2010, Mr. Weizman was brought back before BZA on December 8, 2010. At that meeting, the Board of Zoning Appeals revoked the variance because the project was not completed. After which, Mr. Weizman appealed that decision to Council within the required 10-day period. Consequently, Mr. Weizman’s appeal is before the Council at this meeting. Mayor Infeld noted that there is a more extensive history regrading the property, but the issue before the Council is the appeal of the 5 ft. front setback variance.

Vice Mayor Goldberg inquired as to how much of the project is complete. Mr. Menn replied that there has only been one (1) inspection on the project. But in looking at the structure, he estimated that the project is 50% complete.

Councilman Consolo asked for clarification on the use of the terms “variance” and “permit.” Mr. Menn explained that once Mr. Weizman was granted the variance to build the addition, he still had to apply for a building permit and have the work inspected. He noted that once the variance was revoked by the Board of Zoning Appeals, the building permit was revoked as well. Mr. Consolo asked the Law Director if the Council was to consider whether the action revoking the variance was correct.

Law Director Kenneth J. Fisher stated that Mr. Weizman’s appeal did not state the reason for the appeal, which is required by Code Section 1244.08. However, regardless of that fact, the Council must come to a decision on the revocation of the variance. He noted that the situation is unusual in that the variance was revoked once construction had started. Mr. Fisher advised that Council is only considering the 5ft. front setback variance for the vestibule even though there is a long history regarding the property.

Councilman Bullock inquired if the history and court action were totally unrelated to the issue before the Council. Mr. Fisher stated that the court action is not before the Council, but the history of the property as it relates to the 5ft. front setback variance has to be taken into consideration. He noted that a deadline of December 1, 2010 was established, but not met. Therefore, the Board of Zoning Appeals acted properly in revoking the variance and the subsequent appeal before Council was proper.

Councilman Consoled asked for confirmation that the Board of Zoning Appeals had authority to revoke the variance. Mr. Fisher replied that the BZA had authority to revoke the variance because the condition was not met. He explained that under Code Section 1244.09, variances may have special conditions. He added that the condition to have the work completed by December 1, 2010 was agreed to by Mr. Weizman and even though the work was underway, it was not completed. Therefore, after hearing the testimony, the BZA made the decision to revoke the variance. Mayor Infeld stated that the Board of Zoning Appeal put conditions on the variance based on the history of project completion at the property.

Mr. Schwartz reiterated that the 5 ft. front setback variance was part of an overall remodeling project. He presented a PowerPoint presentation which showed the various exterior projects. The photos showed the original house, the addition on the rear of the house, the new garage, a new entrance into the basement, and the front view of the vestibule.

Regarding a question about the status of construction of the vestibule, Mr. Schwartz stated that the entry is fully done, the roof extends over the vestibule, all the walls are in, the windows have been cut out, and it is missing a door, siding and windows. He added that construction is 50% or more complete. It was also noted that the vestibule will tie the old addition into the new one.
Mayor Infeld noted that the steps are also missing. Mr. Schwartz explained that Mr. Weizman will complete the steps and walkway when he repaves the driveway. Mayor Infeld stated that the driveway work can be done now by using warming blankets and straw. Mr. Consolo inquired into the status of the interior of the vestibule addition. Mr. Schwartz replied that the interior of the vestibule is not in because it is not fully covered.

Mr. Schwartz stated that Mr. Weizman is determined to finish the project and move into the house as soon as it is completed. He added that Mr. Weizman has a pulmonary condition that requires a hypoallergenic area. Mr. Schwartz also pointed out that Mr. Weizman was under the impression that he fell under the validity of permits section of the code whereby if there is construction above the grade level that the permit would be continued. But, he was not clear if it applied to variances. Mr. Fisher stated that Mr. Weizman signed a construction schedule agreement stating that as a condition of the variance the work would be completed on or before October 30, 2010 even though the Board of Zoning Appeals gave him until December 1, 2010. Mr. Schwartz stated that the project was substantially complete by December 1, 2010, and that it could be finished within two weeks.

Mayor Infeld noted that the BZA revoked the permit because the deadline was not met and because the Board was aware of the past history involving other house projects associated with the property. Mr. Schwartz acknowledged that he understood. But, noted that when he listened to the recording of the December 8, 2010 BZA meeting, the Board specifically talked about neighbor concerns. He added that he has shown through the petitions that the majority of the neighbors surrounding the property supports finishing the project. Mr. Schwartz noted that the Board was also concerned that Mr. Weizman was not completing the projects on time. However, the only pending case in Shaker Heights Municipal Court is the driveway, which is scheduled to be back before the court on February 2, 2011. He added that the court allowed Mr. Weizman until spring to finish the driveway, but he agreed to finish it much earlier. Mayor Infeld mentioned that there was one court case with many items that were not finished. Mr. Schwartz commented that Mr. Weizman made appointments for the project to be inspected before the February 2, 2011.

Councilman Consolo inquired if a contractor is involved in the project. Mr. Schwartz replied that Mr. Weizman is a contractor. Mr. Consolo asked if the completed area of the vestibule meets the code. Mr. Menn responded that only one inspection was made on part of the foundation. He added that one side of the foundation passed inspection and the other side had more work to be completed. Mr. Menn noted that the frame of the vestibule has not been inspected.

Mayor Infeld mentioned that additional construction took place after the permit was revoked. Mr. Schwartz stated that the roof was open when the BZA revoked the permit, but to ensure that the inside of the structure was not damaged, Mr. Weizman closed the roof. It was also noted that the roof was installed without a building permit.

Mr. Weizman stated that 70% of the exterior project is completed. In order to complete the exterior of the house, he has to install two (2) windows, the door, trim, siding and three (3) 5ft. sections of gutter. Mr. Weizman noted that he is treating the steps as a separate issue.

Mr. Weizman explained that when he was granted the variance in November of 2007, he was not informed that if construction was not started within six months the variance would expire. He tried to obtain the building permit in the spring of 2008, but was informed that the variance had in fact expired. Mayor Infeld suggested that he focus on the issue at hand, which was that the BZA’s condition, which he agreed to, that the work on the vestibule had to be completed by December 1, 2010. Mr. Weizman commented that initially he was going to complete the work himself, but he got friends to help and could have completed the vestibule work within a two-week period and could have been working on the front steps currently. He added that with the recent warm weather, the cement for the driveway could have been poured and covered with warming blankets, which would have put him a week behind schedule. However, he was not allowed to bring up these facts at the Board of Zoning Appeals meeting. Councilman Consolo asked why he was not allowed to bring it up. Mr. Weizman stated that he was instructed to stop talking because the meeting was moving on. Mr. Weizman asked Mayor Infeld if she agreed the decision had already been made and that the meeting for the revocation of the variance was just a formality. Mayor Infeld agree that the conditions put on the variance gave him a timeline and he exceeded that timeline. The Mayor stated that she did not remember the removal of the steps being part of the project, but because the vestibule project was not completed by December 1, 2010, the Board of Zoning Appeals revoked the variance.
Mayor Infeld stated that there were people in the audience who wanted an opportunity to speak. Mr. Consolo asked Mr. Weizman if he had completed his comments. Mr. Weizman stated the he had not, but would keep it brief. In explaining why he fell behind schedule, Mr. Weizman noted that he is a contractor by trade and he was busy over the summer with a job for a private school that added more work to the contract. He also assisted with landscaping work to help the school finish the job. Mr. Weizman apologize for not keeping to the schedule. He added that he had been in contact with Building Commissioner David Menn several times, every month because he submitted the schedule and was in the process of getting the permits. Mr. Weizman informed the Building Commissioner that he was behind schedule and solicited his advice on what to do. He added that Mr. Menn informed him that he could not advise him because it was up to the Board of Zoning Appeals. Mr. Weizman stated that in hindsight he should have requested to go back to the Board to inform them that he was behind schedule, but he did not. At that time, he was confident that he could have finished the project within a two-week period, and he believed the Board would be satisfied with that. He added that he worked one week on the project and then was shut down. He requested an inspection on the framing, but Mr. Menn informed him that he could not get the inspection because the variance had been revoked. Mr. Weizman stated that after an inspection of the framing, he could install the doors and windows in one day, the siding would take two days to complete and the trim and gutter would take another couple of days. Mr. Weizman understood that people were angry with him, but noted that making him tear down what has already started on the project would be like “cutting off your nose to spite your face.”

Vice Mayor Goldberg commented that deadlines apply to all the residents of University Heights, then asked Mr. Weizman why he feels that deadlines do not apply to him. She added that this is not an isolated incident, but rather has been a continual course of conduct on his part. Mr. Weizman responded that it seems the rules do not apply to anyone because everyone gets a lot of latitude for different reasons. He added that he thinks the City inflicts things on him that are not inflicted on others.

As a practical matter, Councilman Consolo asked if the original part of the house is still in place where the vestibule is being built in the event that the Council decides to uphold BZA decision and the vestibule would have to be removed. Mr. Weizman stated that the framing and everything for the front door, the siding, the interior window, and the stoop are gone. Mr. Menn confirmed that there will be damage to the original structure if the vestibule area is removed. He added that the entryway would still be there. Mr. Consolo inquired if the damage would be cosmetic. Mr. Weizman replied that it would not be cosmetic, but rather it would entail at least $5,000 in repairs plus demolition of the structure. He added that $10,000 would be involved in removing and replacing the structure versus $2,000 in completing project. Mr. Weizman noted that the vestibule project is valued at $8,000, including time and materials.

Mayor Infeld asked if there were any other extenuating circumstances involved in completing the project. Mr. Weizman responded that he has been diagnosed with sleep apnea and his oxygen level is very low. He was placed on a machine, which has not helped; and therefore, his productivity has not returned to normal. He added that surgery is a possibility within 3 to 6 months.

Mayor Infeld was going to open the floor to comments from the audience in order to keep the meeting moving, but Councilman Sims inquired as to the intended use of the property. Mr. Weizman stated that he lived in the house prior to the renovations and will live in it again once it is completed. He added that currently he has $250,000 invested in the house and is hopeful he will raise a family there. In response to Councilman Sims question regarding why he is not living in the house currently, Mr. Weizman stated that he gutted the structure. He has replaced all the wiring, all the plumbing, the furnace, and duct work in order to create a hypo-allergenic environment. He added that there is still insulation and drywall installation to be completed in the entire house. Mr. Weizman noted that he started working on the house in 2006 and hopes to finish the renovations by the spring.

Councilman Consolo inquired as to what had been finished with regard to the vestibule, driveway and steps as of December 1, 2010. Mr. Weizman replied that the foundation was in, the wood deck for the framing and the plywood floor. Taking it one step further, Councilman Sims asked what was completed on December 8, 2010 when he appeared before the Board of Zoning Appeals. Mr. Weizman responded to all the walls were up and he had stripped the shingles off a portion of the roof on the house where he was going to tie it into the vestibule and the rafters were nailed in. He confirmed that the only work he did after the variance was revoked was to cover the roof. Councilman Consolo noted that it seemed like there was a flurry of activity once Mr. Weizman was given notice to appear before the BZA. Mr. Weizman stated he had already started the work. Mr. Menn commented that the notice went out seven (7) days prior to the meeting.
Mr. Mejhrat noted that it has been a long time and urged the Council to reach a conclusion. He was in favor of improving the quality of the neighborhood. Mr. Weizman has been working outside of the prescribed construction hours of 8:00 a.m. to 4:00 p.m. on numerous occasions. He added that recently he had to call the police to have Mr. Weizman stop work after hours because his house was vibrating from the machinery being used. Mr. Axelrod mentioned that the variance was granted in July, but the work did not start until after Thanksgiving. He also noted that their property is damaged every time Mr. Weizman undertakes a project and he never repairs it properly. He added that they have to expend money to have it fixed to its original condition.

Esther Shimansky, 4389 Groveland Rd., noted that she has lived directly across the street from Mr. Weizman since 2002, and she does not remember a time when the house has not been under construction. She mentioned that until late November or early December when a crew was working very hard on the vestibule there had not been any activity there in a while. Mrs. Shimansky stated that she works during the day and could not attend the Board of Zoning Appeals meetings, but she appreciated this evening meeting because she had the opportunity to express herself. She noted that the property is an eyesore and was very concerned about what it does to the property values in the neighborhood.

Mayor Infeld mentioned that she will expand the notice to inform residents that they may submit written comments to the Board of Zoning Appeals. Barbara Daly, 4386 Groveland Road, who lives two houses down from Mr. Weizman, validated what had been stated thus far. She noted that the property is an eyesore and was very concerned about what it does to the property values in the neighborhood. She was frustrated because it is in everyone’s best interest to have the project finished. Ms. Daly stated that “the best predictor of future performance is past performance,” therefore, she does not think things will be any different. Ms. Daly commented that the neighborhood is looking to the Council for a solution because the situation is getting intolerable.

Vice Mayor Goldberg asked if Mr. Weizman communicated with Mr. Menn from July 14, 2010 until the week of Thanksgiving about the vestibule project. Mr. Menn responded that he did communicate with him because he came into the office to submit the construction schedule and they also discussed that he was behind schedule.

Nancy Harris, 2325 Milton Road, whose property backs up to Mr. Weizman’s, stated that she was in support of Mr. Weizman being allowed to finish the project. She agreed that he has been erratic and is taking a long time, but added that it would be counterproductive to tear down something that is already up. She added that if the vestibule could be finished in two weeks, it would be illogical to tear it down and then have to start rebuilding the front of the house again. In regard to Mr. Weizman working erratic hours, Ms. Harris mentioned that he has to make a living and added that he is not being paid to fix up his house, but rather is putting his money into the property. She commented that no one could turn down work to stay home and make improvements to their homes.

Joel and Elaine Axelrod, 4390 Groveland Rd., who lives next door to Mr. Weizman, presented photos of other areas of the property to show what they have lived next door to for several years. Mr. Axelrod mentioned that the situation started on Thanksgiving seven (7) years ago when Mr. Weizman experienced a fire at his home. He commented that it has been a very difficult situation to live next door to. He added that the property is usually a mess unless Mr. Weizman is coming before he comes into the office to submit the construction schedule and they also discussed that he was behind schedule.

Frank Merat, 4398 Groveland Rd., who lives to the east of Mr. Weizman, stated that this is the first time he has heard the details of this case. He echoed the comments of his neighbors regarding erratic hours and odd noises. He noted that whatever the circumstances are everyone would like the situation to come to a successful conclusion. He was in favor of improving the quality of the neighborhood. Mr. Mejhrat noted that it has been a long time and urged the Council to reach a conclusion.

Esther Shimansky, 4389 Groveland Rd., noted that she has lived directly across the street from Mr. Weizman since 2002, and she does not remember a time when the house has not been under construction. She mentioned that until late November or early December when a crew was working very hard on the vestibule there had not been any activity there in a while. Mrs. Shimansky stated that she works during the day and could not attend the Board of Zoning Appeals meetings, but she appreciated this evening meeting because she had the opportunity to express herself. She added that had she been at the BZA meetings, she would have requested that he be stopped. She also noted that Mr. Weizman’s work schedule is erratic and he sometimes works well past dark. Ms. Shimansky mentioned that because she lives directly across the street from Mr. Weizman, his property takes away from her property value. She would like to see the work finished, the property cleaned up, and the property value of the neighborhood increased. Mayor Infeld mentioned that she will expand the notice to inform residents that they may submit written comments to the Board of Zoning Appeals.
Linda Johnson, Board of Zoning Appeals member, commented on the history of this issue. She stated that at the July 14, 2010 Board of Zoning Appeals meeting there was a lot of discussion and concern given to what some of the neighbors had brought forth as far as issues of him not completing projects, which is why the Board insisted on the conditions and he agreed. The Board was considering tabling the whole issue until the court matters were resolved, but he was emphatic that he needed the construction to be done during prime construction weather. The Board asked him if a schedule would be acceptable and he agreed. Ms. Johnson noted that the Board of Zoning Appeals did not take the decision lightly and it was a concern for the members.

She noted that she drove by the property and no activity had taken place by November. Therefore, after the November BZA meeting she asked Mr. Menn if he had heard anything regarding the project. At that time, he had not heard anything about why there was a delay. She drove by the house again at the end of November and still there was no activity. On December 8, 2010, when Mr. Weizman appeared before the Board of Zoning Appeals, the structure was not 50% complete rather it was a skeletal structure, easily removable. Therefore, after Mr. Weizman was given notification of that the variance was revoked, he continued to work on the vestibule so as to force the situation before the Council and present a condition that did not exist when it was before the Board of Zoning Appeals.

Ms. Johnson asked the Law Director what remedies are available when variances are revoked and people decide to go against those variances.

Law Director Kenneth J. Fisher advised that in accordance with Section 1244.08 of the Codified Ordinances, the Council shall hear both sides of the issue and to make a decision within a reasonable period of time. He noted that the Council could uphold the decision of the Board of Zoning Appeals (revoke the variance), overrule the decision (re-establish the variance), or entertain another option such as granting a short period of time to complete the work and have it inspected and to have Mr. Weizman and his attorney reappear before the Council in two (2) weeks or four (4) weeks.

Councilman Consolo inquired if the City could require Mr. Weizman to obtain a bond payable to the City and if the work is not completed then the City would secure the bond money and have the work completed from the approved plans. Mr. Schwartz stated that a contractor who works on his own home cannot get a bond. However, in order to meet the Council’s concerns, Mr. Weizman was willing to work with another contractor of his choosing and the City would have a bond by law. Mr. Fisher inquired as to how soon he would be ready to move forward with a bonafide contractor who is registered with the City. Mr. Schwartz replied within one week Mr. Weizman could have a contractor with a bond in place. Mr. Fisher stated that Mr. Weizman could request a continuance and during that two week period he would have to obtain a bonafide contractor who is registered with the City. He added that there should be a contract between Mr. Weizman and the contractor that shows exactly what work is to be done and when it will be completed. At that point, the Council to make a decision on whether to allow the project to proceed. He recommended that the contractor also be present at Council’s next regular meeting, which is scheduled for Tuesday, January 18, 2011.

Mr. Schwartz requested a two-week continuance on behalf of Mr. Weizman with the understanding that Mr. Weizman will retain a contractor registered with the City, post a bond, and have a contract in place with the registered contractor. It was pointed out that no work shall be done on the vestibule during the two-week period. Mr. Schwartz made it clear that the contractor would be hired to complete the vestibule only.

Councilman Sims suggested that if Council is going to allow the project to continue he would want to make sure that there are funds in escrow to complete the project. He did not want to rely on a bond. He did he know the benefit of tearing down the vestibule, but noted that completion of the vestibule would not solve the neighbors problems because it is a much bigger issue than just the vestibule. Mr. Sims added that the City should have power and authorities to have already addressed the situation in a much different manner. Mr. Fisher noted that there is a pending building violation in Shaker Heights Municipal Court as it relates to the driveway. Mr. Sims stated that he would prefer to see the vestibule completed if it could be done in a manner that would not be disruptive to the neighborhood. He added that it would be counterproductive to tear down something that has already been constructed and that it would be more of an eyesore if the vestibule was required to be taken down. Mr. Sims stated that the City should exercise its powers and authorities to ensure that the vestibule is completed properly, that Mr. Weizman fixes up the property, and end this ongoing issue in the community.

MOTION BY MR. CONSOLO, SECONDED BY MR. BULLOCK to grant a continuance with the conditions that two (2) weeks hence Mr. Weizman will have a contract with a bonafide contractor, registered with the City to address minimally the vestibule issue, but suggested that all issues related to completion of this structure will be prepared to be addressed and no work shall to be done during the two-week period before reappearance before the Council. On roll call, all voted “aye.”
Mr. Weizman was instructed to appear before the Council on Tuesday, January 18, 2011 at 7:30 p.m. with his contractor.

B. Ordinance No. 2010-82 Amending Section 238.02(c) of the Codified Ordinances by allowing the Chief of Police to assign any member of the Division of Police to act in the Juvenile Bureau (2nd Reading)

Ordinance No. 2010-82, which was presented on first reading on December 20, 2010, amends Section 238.02(c) of the Codified Ordinances by allowing the Chief of Police to assign any member of the Division of Police to act in the Juvenile Bureau.

Councilman Bullock noted that the ordinance was considered at the Safety Committee meeting of December 15, 2010 and was recommended for passage.

Chief of Police Gary Stehlik stated that eight years ago the State of Ohio changed the pension plans for police and fire. He mentioned that this is the first year of the drop program that employees will be leaving in mass. The Chief noted that four command officers will be retiring in 2011. Therefore, he is taking this opportunity to evaluate the department and reduce the rank structure by eliminating two (2) lieutenant positions. Currently, the juvenile officer is required by the code to be a lieutenant. By amending the section, he would have the ability to put the best person in that position. Chief Stehlik stated that his intention is to assign a patrolman to the Juvenile Bureau.

MOTION BY MR. BULLOCK, SECONDED BY MR. CONSOLO to approve the passage of Ordinance No. 2010-82. On roll call, all voted “aye.”

C. Ordinance No. 2010-83 Amending Section 414.03(c)(5)(B) of the Codified Ordinances by removing certain prohibitions of right turns against steady red signals in certain locations (2nd Reading)

Ordinance No. 2010-83, which was presented on first reading on December 20, 2010, amends Section 414.03(c)(5)(B) of the Codified Ordinances by removing certain prohibitions of right turns against steady red signals in certain locations.

Councilman Bullock reported that the Safety Committee recommended passage of ordinance at its meeting on December 15, 2010. Chief Stehlik noted that the area is no longer a school district because Fuchs Mizrachi School has moved out of the building on Fenwick Road. Therefore, the two locations associated with the school district will be deleted from the ordinance and the signs will be removed. Chief Stehlik noted that signs will be retained and could be reinstalled if another school moves into the building.

MOTION BY MR. BULLOCK, SECONDED BY MRS. PARDEE to approve the passage of Ordinance No. 2010-83. On roll call, all voted “aye.”

D. Resolution No. 2011-01 Requesting tax advances from the proceeds of tax levies for the period of January 1, 2011 to December 31, 2011

Resolution No. 2011-01 requests the County Auditor to advances taxes from the proceeds of tax levies for the period of January 1, 2011 to December 31, 2011 pursuant to Section 321.24 of the Ohio Revised Code.

Finance Director Jenny Esarey reported that the resolution is being presented on emergency in order for the County to advance monies from the proceeds of tax levies to the City as soon as it able to do so. She also noted that the County will deduct the $158,321.37 in real property taxes which would have been remitted to the City this year in order to reimburse the overpayments in property taxes made in 2006 and 2009 due to the successful appeal to the Board of Revision by various commercial properties on Cedar Road.

MOTION BY MR. SIMS, SECONDED BY MR. BULLOCK to approve the passage of Resolution No. 2011-01 as an emergency measure. On roll call, on suspension of rules, all voted “aye.” On roll call, on passage, all voted “aye.”

E. Motion authorizing the Mayor to accept grant funds from the Cuyahoga County Municipal Energy Program as previously authorized by Resolution No. 2010-58

Mayor Infeld requested that Council include in the motion the establishment of a special fund to account for the grant funds. Mr. Fisher advised that the temporary special fund could be approved by
motion. Mayor Infeld reported that stimulus funds were made available to the County for municipalities to do an energy audit of all municipally owned buildings. She noted that a grant in the amount of $12,000 was awarded to the City. Mayor Infeld added that the County provided a list of approved contractors to choose from. Her intention is to send out a letter to each contractor on the list requesting qualifications, which will be reviewed by the City Engineer.

MOTION BY MR. SIMS, SECONDED BY MR. CONSOLO to authorize the Mayor to accept grant funds from the Cuyahoga County Municipal Energy Program as previously authorized by Resolution No. 2010-58 and allowing for the creation of a special fund for these grant monies. On roll call, all voted “aye.”

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

An executive session was not required.

Directors’ Reports:

Finance Director Jennifer Esarey reported that R.I.T.A. is encouraging all resident taxpayers to file their 2010 municipal income tax returns online. She encouraged this as well because it will reduce the City’s cost for collection.

City Engineer Joseph R. Ciuni reported that URS has completed the counts for the McDonald’s traffic study, but the analysis has not started because they are awaiting data from McDonald’s on traffic generated at other restaurants with dual drive-thru lanes.

Committee Reports:

Civic Information Committee Chairman Frank Consolo reported that he will attempt to schedule a meeting for January 31, 2011 at 7:00 p.m. to continue discussion regarding the contract for senior transportation. He requested that any suggestions or information gathered be presented to him so the contract can be resolved. Councilman Consolo mentioned that the committee will discuss having a liaison to County Council. He added that discussion will also be continued with regard to the citizen advisory committees. Mr. Consolo mentioned that a resident had inquired about the Stormwater Management Committee and the Community Garden Committee and the email will be forwarded to the Mayor. Mayor Infeld noted that both committees are meeting this month. She mentioned that the most recent usage report from the Senior Transportation Connection will be the Council packets is week.

Mayor Infeld announced that a Planning Commission meeting has been scheduled for January 31, 2011 at 7:30 p.m. in Council Chambers. The agenda will consist of a review of the GFS Foods proposal to be built on the South Euclid side of Cedar Center and to hear the proposals for two synagogues in the city. Mr. Consolo mentioned that he would select another date for his committee meeting.

Governmental Affairs Committee Chairman Susan Pardee announced that the Cleveland Heights-University Heights School District will hold a Schools Facilities Planning Committee meeting on January 5, 2011 (6:30 p.m. reception/7:00 p.m. meeting) at Roxboro Middle School. He also announced that Superintendent Douglas Heuer will give the District’s State of the School Address on January 26, 2011 at 7:00 p.m. in the social room at Cleveland Heights High School.

Councilwoman Pardee reported that a Governmental Affairs Committee meeting is scheduled for Monday, January 24, 2011 at 7:00 p.m. in Council Chambers. The Master Plan will be reviewed at that meeting and possibly the NEO/SO Exceptions Analysis, time allowing.

Councilwoman Pardee stated that she has names of two (2) individuals who could facilitate a one-day work session. She inquired if the Council wanted to go forward with planning and identifying, as a group, what they mean by planning and how they want to proceed. She also asked if the Council wanted to schedule a one-day work session in February or March. Councilman Ertel thought moving forward with both planning and holding the work session were good ideas. He noted that planning is essential and the one-day work session is a good way to start. Councilman Consolo agreed with both. Councilman Bullock noted that he would like to see the Council undertake both because the work session will raise and answer the Council’s questions until the group comes to a shared understanding of what they are trying to do and why it is important to do it. Vice Mayor Goldberg felt that it is a positive development, but inquired as to the cost. Mrs. Pardee replied that both individuals, Jack Marsick of the Hay Group and Sally Parker of Currere, Inc., came in well under $2,000.
She mentioned that background information on Sally Parker had been forwarded to the Council and she would forward information on Jack Marsick and the Hay Group as well. Mrs. Pardee stated that the Council could talk with both people, but she has set up a meeting with Sally Parker to start discussing what an agenda for the one-day session would entail. Councilwoman Pardee pointed out that determining the long-term strategic direction during the planning process will not interfere with focusing on one or two priority items that are selected for 2011.

Mayor Infeld expressed her concern of what is meant by planning, particularly as it relates to priority items. She commented that the Council has priority items that it is already addressing such as the rubbish study, senior transportation, an issue with ambulance billing, and reviewing the Planning and Zoning Code. She was concerned that Council would dilute its attention from those items to an undefined concept about planning. Mayor Infeld stated that starting another initiative which is not well defined when there are concrete projects that will help the City in its ability to deliver services to the residents concerns her. She would prefer that the Council focus on those concrete issues before tackling planning.

Councilman Murphy stated that he thinks the opposite of the Mayor and did not believe decisions can be made in a vacuum. He questioned whether services can continue to be provided to the residents if the City continues on the same course. Mr. Murphy stated that unless the City looks at things differently, he does not think it will make a difference if they analyze senior transportation as it currently exists because he does not know if the City could afford to have the service in a few years. Mr. Murphy added that the City has to do long term financial planning with permanent solutions to the problems facing the City. He commented that the situation will not get any better if the City does not plan. Councilman Murphy stated that the City has to address the present circumstances, but it also has to look three to five years into the future. He noted the University Heights is in the same situation as other municipalities, citing Pepper Pike, in that the City is not sustainable and without collaboration and privatization the City cannot continue to exist and provide the same services. Mr. Murphy noted that if the City does not come to this realization and start taking steps to improve it, the City will be in major trouble in a few years. He did not believe planning should be postponed because of pending issues, but rather both should be addressed.

Mayor Infeld asked for a timeline if Council is going to address the four issues she mentioned simultaneously with a facilitated planning project. Councilman Murphy stated that he is willing to put in as much time as it takes. Mr. Murphy welcomed the Mayor’s participation in the process because the administration will be needed as well. Mayor Infeld suggested that the Council save itself some time toward this effort until the administration presents a budget and knows where the City stands financially.

Councilman Sims respected what Mayor Infeld had to say and noted that at some point her comments may have more relevance, but currently a full-fledged planning process has not been suggested. He explained that the initial meeting would be to see what the possibilities are and lay the foundation for possibly moving forward with a planning process. He added that the initial idea is to meet with a consultant and decide on a good agenda which would help in defining what planning is. He hoped that the Mayor would participate in the pre-meeting to set the agenda for the one-day work session. He did not think that a one-day session would be overly burdensome on the Council. Mr. Sims commented that he heard what the Mayor had to say about going down the road and being able to make sure that the City can do all the things that it needs to do. But, it was his opinion that the City needs to take this first step to sit down and try to express some issues and concerns that may grow into a planning process. If it is determined that a planning process is needed, then it would be important to think about a time frame for that process.

Councilwoman Pardee stated that Councilman Sims described the initial steps accurately. She noted that Council has not defined planning or talked about it in detail, but have talked about a work session and also talked about how they make decisions and work together because they want to have a good working process to move the City forward. Mrs. Pardee stated that there is nothing more worthwhile in starting 2011 then going through an intensive process to determine this and then move forward.

Councilwoman Pardee stated that she conducted research on City Councils and strategic planning and found that this is not uncommon for City Councils think about the future of their cities and plan long term as a group with the Mayor and the administration. Mrs. Pardee pointed out that she realized with the McDonald’s project that University Heights reacts to situations as they arise. Her personal thought was that the City should not react and other Council members have agreed. Councilwoman Pardee commented that the work session does not commit the City to anything, but rather it give the officials a chance to meet, discuss, come up with a process and decide how, when and with whom to move forward. The meeting to discuss the agenda for the work session has been scheduled for January 20, 2011.
Mayor Infeld again expressed her concern because the initial discussion was to find a way to institute a level of civility in the Mayor’s and Council’s interactions with one another. Mayor Infeld mentioned that she and Councilwoman Pardee had a discussion about a consultant and she was confused because in her past experience with strategic planning there has been an interview committee for consultants and that was where the question about the meaning of strategic planning came up. She mentioned that it is good to think and to vision. But as Mayor, she pointed out the need to address the way the City does the ambulance billing because there are options and to study those options is being proactive not reactive. Also, with studying the way the City delivers transportation to seniors or whether the City continues to deliver it at all is not reactive, but proactive. In addition, studying the Planning and Zoning Code and changing it so that it functions in a way that the City can do its day to day operations without issuing so many variances is also proactive. She added that even in looking at the rubbish study it is not being reactive when the City plans. Mayor Infeld stated that she sees the need to do planning, but she sees it as being tied to concrete projects that will impact the budget. She commented the Council will see that when she presents the budget. But, she did not want to dissuade the Council from meeting if they want to meet.

Councilman Bullock stated that they need to have this discussion and decide during the discussion what comes next. He asked that the officials trust themselves to have the discussion and he hoped the Mayor would be involved in the discussion. Mr. Bullock stated that he too has experience with strategic planning and commented that planning is not additional duties, but rather planning is organizing and providing a comprehensive focus on all the issues that Mayor Infeld talked about. He mentioned that she made a great case for the need for organized and comprehensive planning. Mr. Bullock also stated that he realizes that clarity is needed in defining roles and staying within the appropriate roles. He asked that everyone trust themselves to have the conversation that Councilwoman Pardee is suggesting and then see where it leads.

**Recreation Committee** Chairman Kevin Patrick Murphy scheduled a committee meeting for February 15, 2011 at 7:00 p.m. in Council Chambers.

**Safety Committee** Chairman Steven D. Bullock did not have a committee report, but Mayor Infeld stated that she will talk to him about the change in ambulance billing.

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

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Susan K. Infeld, Mayor

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Nancy E. English, Clerk of Council