

**MINUTES OF SPECIAL COUNCIL MEETING
CITY OF UNIVERSITY HEIGHTS, OHIO
JULY 28, 2014**

Mayor Infeld called the regular meeting to order at 7:03 p.m.

Roll Call:

Present: Mrs. Susan Pardee
Ms. Nancy E. English
Mr. Mark Wiseman
Mr. Phillip Ertel
Mr. Steven Sims (not at roll call)
Ms. Pamela Cameron

Absent: Mrs. Adele Zucker

Also Present: Law Director Anthony J. Coyne
Finance Director Larry Heiser
Police Chief Steve Hammett
Service Director Jeffrey Pokorny
Clerk of Council Kelly M. Thomas
Community Development Coordinator Libby Ellis

Mayor Infeld stated that this was a Special Meeting of City Council as Council is in recess during the months of July and August and explained that because it is a special meeting items cannot be added nor taken away from the set agenda and that the structure does not allow for the public comments. But, Mayor Infeld asked Council if they would allow public comment because of the major rainstorm and flooding the previous evening.

Council replied that they would allow public comments.

MOTION BY MRS. CAMERON, SECONDED BY MR. ERTEL to excuse the absence of Mrs. Zucker and Mr. Sims. On roll call, all voted "aye."

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Council replied that they would allow public comments.

Mayor Infeld opened the floor for audience comments.

Agenda Items:

A. Resolution No. 2014-17 Approving the City of University Heights Credit Card Security Policy (second reading)

Mr. Heiser stated that he changed the minimum credit card charge from \$25 to \$20 based on the discussion from the previous Council meeting.

Councilman Wiseman asked for clarification under section "d" Security Policy that states the Credit Card machine will be used in the Police Department behind locked walls. At night, the machine will be in a locked cabinet. Councilman Wiseman clarified that in 2015 during the summer pool season the credit card machine will remain in the Police Department and won't be taken to the pool at anytime.

Mr. Heiser stated the credit card machine will only be at the Police Department. It has not been decided if a different credit card machine will be purchased for use at the pool or if have resident's come to the Police Department.

Councilman Wiseman noted that this Resolution may need to be amended for next pool season. Mr. Heiser agreed.

MOTION BY MS. ENGLISH, SECONDED BY MRS. CAMERON to approve Resolution No 2014-17 approving the City of University Heights Credit Card Security Policy. On roll call, all voted "aye."

B. Ordinance No. 2014-16 Authorizing the Mayor to Enter into a Contract for Professional Services for Computer Support, Network Security, and Network Upgrades with Meritech. (on second reading)

Councilman Wiseman asked Mr. Heiser if the City had any connections with Meritech.

Mr. Heiser stated the City purchased the copiers from them.

Councilman Wiseman asked if there was anyone in the City's Administration or works for city hall that is related to anyone at Meritech?

Mr. Heiser replied yes there is, Frank Vigliucci, sales representative of Meritech and resident of University Heights resident is the brother of Jackie Vigliucci who is the City's Assistant Finance Director.

Mayor Infeld stated the City received three (3) quotes and that Council received copies at the previous council meeting. Meritech had what the Administration feels is the lowest and best quote.

Councilman Wiseman stated that it was revealed to Council when the quotes were taken that the City's Assistant Finance Director is related to the Meritech sales representative.

Mayor Infeld stated that she didn't know if that is material because Ms. Vigliucci didn't review the quotes and she doesn't work with any of the computers at City Hall. Mayor Infeld said the City probably could have gotten the quote from a different sales representative, we just figured he was a resident, it was a good price, we are pleased with the copiers we purchased and it was the lowest bid.

Councilwoman Cameron asked what kind of insurance do we have that there was no inappropriate information provided to the salesman in order to make his bid.

Mr. Heiser stated that all the received bids were very specialized from each of them; we informed the bidders "this is what our system looks like" what can you provide for us. That is why one of bids came in at a couple hundred thousand dollars that company wanted to spend \$100,000 right from the start. Whereas Meritech was willing to work with what we have and implement changes over time. The other company also wanted to house their own server. Mr. Heiser stated he didn't do a specific RFP because he didn't know what was needed. Each of the companies analyzed our systems, took copier counts, etc. Mr. Heiser noted that Detective Bryan Lombardo, who also serves as the City in house IT person helped to review the bids.

Councilman Wiseman commented that he wasn't saying or alleging that anything untort happened or was saying that it's a possibility. This just doesn't appear to be above a conflict of interest, in that the City has an employee whose brother is the sales representative selling something to the City.

Mayor Infeld stated she heard what Councilman Wiseman was saying and it sounds as if Councilman Wiseman is suggesting that there is a conflict of interest. Mayor Infeld added somebody works for the City, she has a brother who has a different job, he happens to sell a product we got a quote on and it turns out that that quote was the best of the quotes. The City tried out more than one (1) of the companies on a short-term basis to see how responsive they were to computer issues. Mayor Infeld referred to the Law Director, if Mr. Coyne feels that this is not appropriate and we have to get new quotes that can be done. The City has a anti-nepotism policy written into the Charter but it has to do with blood relations to the City Council and their service on Commissions in the City. We do have relatives currently in the City who work for more than one department; we have a council member who' daughter works here, a fireman who's brother work in the Service Department.

Mr. Coyne stated the test would ask questions such as; does that person have a interest in the contract, if they have a relationship, are they a decision maker in making recommendation on the contract, reviewing the bids on the contract or having any input on whether or not that contract is

left to that party. Mr. Coyne informed Council if they want it reviewed further they can table this item.

Councilman Ertel stated he would be concerned if we were accepting a bid in this case that was higher than some of the others. But we are getting the lowest bid of the three.

Mr. Coyne said that the lowest and best is typically the criteria for accepting a bid.

Councilwoman Cameron commented isn't the point that the other companies submitting bids would not the same opportunity or access to the financial information.

Mr. Coyne stated that is why he asked to the person was a decision maker in levying the bids or in a role of reviewing the bids to make a recommendation to the Finance Director and Council in accepting the bid.

Mr. Heiser replied, no she had nothing to do with that aspect of the bid. Actually the highest bidder met with the city twelve times (they even came out a couple of times) and met with Meritech three times. Mr. Heiser stated Meritect/ Mr. Vigliucci has done a great job service wise, part of that is that he lives in University Heights and has a vested interest as a community member.

Councilwoman Cameron asked what the differential was in the next lowest bid, was that the \$100,000 bid.

Mr. Heiser yes and their monthly price was \$5,000 in comparison to \$1,600.

Councilwoman English asked Mr. Coyne to confirm that from what he could see there's no conflict.

Mr. Coyne replied from what he has been advised at this meeting, he doesn't see any conflict from what been stated. Mr. Coyne stated he'd be glad to investigate it further if council would like if there's a concern.

Councilman Wiseman would be comfortable if there was some investigation because the circumstances are just a little too close for comfort; even though the Mayor said that there are siblings that work for the City.

Mayor Infeld stated it's not just siblings, we have a councilmember who is making spending decisions for the City who has a daughter who's employed by the City. We have things in a small City that might look unusual to someone looking in from outside. We make decisions sometimes with the best employees we can find and also the best contracts.

Councilwoman English commented on the Mayor's statement by saying yes she has a daughter that works for the City. Councilwoman English stated any decision she makes are not directly related to her personally, they are generally recommendations, for example the passage of a payroll ordinance she would be included in that payroll ordinance but it's a general ordinance so there is no nepotism in that case.

Mayor Infeld stated that she was just trying to point out to Councilman Wiseman is that there are situation that may look like nepotism but as Councilwoman English pointed out aren't. University Heights is just a small city and this agenda item is a product and service that doesn't have a lot of vendors in the area.

MOTION BY MR. WISEMAN, SECONDED BY MRS. CAMERON to table the Ordinance No 2014-18 authorizing the Mayor to Enter into a Contract for Professional Services for Computer Support, Network Security, and Network Upgrades with Meritech pending investigation by the City Law Director as to the status of a potential conflict of interest with this contract. On roll call, all voted "aye."

Mayor Infeld stated the administration needs a decision on this because it was hoped to have the contract start on August 1, 2014. Mayor Infeld noted that the city will be without computer issue coverage until a contract is awarded.

Councilman Wiseman stated that he thought at the last Council meeting Meritech was under a continuing contract for help and other issues. Councilman Wiseman asked what this particular contract was for.

Mr. Heiser replied the contract is for the monthly maintenance and the monthly bill thus far will be at the \$3,000 by the end of August. So either end the service or have a special meeting to approve the contract.

Councilman Wiseman questioned what Meritech is doing to get that monthly payment.

Mr. Heiser stated that Meritech has started turning over the machines.

Councilman Wiseman queried Mr. Heiser on what level of work Meritech performing which is detailed in the proposed contract, so they are being paid under the proposed contract?

Mr. Heiser replied Meritech is not receiving payment under the proposed contract. They started on good faith that the City will utilize their service.

Mr. Coyne informed Council that they have the discretion to authorize Mr. Coyne to investigate the matter and also approve the contract. Mr. Coyne stated if he discovers anything in his investigation the contract could be revised.

Councilman Wiseman stated his confusion in that at the previous meeting there was an invoice to Meritech and Council asked Mr. Heiser if Meritech was being paid under this contract. At that time Mr. Heiser stated Meritech was being paid through the help desk support classification. So council is being asked to approve a contract that the company has essentially started performing under.

Mr. Heiser answered yes.

Councilwoman Cameron asked under what authority is the City paying Meritech now.

Mr. Heiser replied it is under the \$5,000.

C. Resolution 2014-19 Determining to Proceed with the Submission to the Electors of the Question of Issuing \$1,800,000 of Bonds for the purpose of Improving the City's Park and Recreational Facilities by Constructing and Equipping a Public Park Area and Related Improvements, and declaring an emergency.

Mayor Infeld stated that Council asked her to have a representative from Squire Sanders Patton Boggs present to answer any questions.

Mayor Infeld informed everyone that the Cuyahoga County Board of Elections has to have a copy of this Resolution passed and in their office before 4pm on August 6, 2014 for it to appear on the November General Election ballot.

Councilwoman English asked Mr. Heiser to explain the formula which states the amount of \$0.07 per each \$100,000 and tell what the cost would be to a homeowner with a house that has a value of \$100,000.

Mr. Heiser replied \$70.00.

Councilwoman English stated that it was reported to the residents that if their home is \$100,000 it would cost \$25.00.

Mr. Coyne stated that a \$100,000 has a taxable value of 35% of the \$100,000. So it would be .7mils based on \$35,000.

Mrs. Hanover explained for tax purposes you take 35% of the value of the home and then multiply the millage against that or by the 35%.

Councilman Sims commented that this was the second stage of a two stage process. The first stage was the submittal for certification

Mrs. Hanover stated the City submitted the certification to the County Auditor/Fiscal Officer's Office to determine the amount of millage (.7mils) that will apply. Once that certification is done the second step is taken. Both steps have to be completed by the August 6th deadline.

Councilman Sims asked if the specific language that is to (if passed) appear on the ballot has been provided, and if it hasn't when will it be provided.

Mrs. Hanover stated that the language that appears on the ballot is largely determined by statute, there isn't much flexibility. You can make suggestions on what that language should be, but the Board of Elections has the final say so. Mrs. Hanover provided an overview that the format of the ballot issue is determined by statute and the purpose is the repeated language that is in the Resolution.

Councilman Sims asked if the affect of this Resolution if approved by Council would be for the question to be placed on the ballot.

Mrs. Hanover stated yes, passage of the Resolution places the issue on the ballot.

Councilman Sims asked Mr. Heiser if 70 would be the effective cost for a \$300,000 home can we then divide 70 by 3 and then that would be the amount that is assessed to a \$100,000 home?

It was answered that it would be 35% of \$300,000.

Mrs. Hanover noted the confusion is what is meant by a \$100,000 home. It is the tax value of \$100,000 and not the market value. If your tax value is \$100,000 it means your market value is approx. \$300,000; if your market value is \$100,000 then your tax value is \$35,000.

Mrs. Muzis, 2573 Warrensville Center Road asked what will the tax assessment cost the homeowners and if the area will be patrolled by the Police.

Mr. Heiser stated it will be \$24.50 on \$100,000.

Mayor Infeld stated it was made clear that \$25.00 for every \$100,000 property evaluation. If the resident vote in favor of this tax issue and get a park they will not see a change in their taxes and the issue will extend 15 years. If residents want to get their \$25 (for every \$100,000 property evaluation) back, they should vote no, against this tax issue.

MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to approve Resolution 2014-19 Determining to Proceed with the Submission to the Electors of the Question of Issuing \$1,800,000 of Bonds for the purpose of Improving the City's Park and Recreational Facilities by Constructing and Equipping a Public Park Area and Related Improvements, and declaring an emergency. On suspension of the rules, all voted "aye," except Mr. Wiseman who voted "nay." Roll call on passage, all voted "aye," except Mr. Wiseman who voted "nay."

D. Resolution No. 2014-20 In Support of an Application for a grant from The Cuyahoga County Community Development Block Grant 2015 Muni Grant Program in support of Streetscape Improvements in the Cedar-Taylor Commercial District (on emergency)

Mayor Infeld stated that before the County will accept the application for the grant Council has to approve the City's application with the passage of this Resolution. There are other requirements as well, the City holding a advertised public meeting for resident to attend to voice their opinion on how the grant money should be used.

Ms. Ellis stated the deadline for application is September 16, 2014, the City is required to advertise notice of the public meeting 7 days prior, submit a dated document to verify the meeting.

Vice Mayor Pardee asked Ms. Ellis if she's worked with CDBG grants before and in comparison to previous years where University Heights hasn't been award the grant what do you odds might be to be success this time; i.e. the project, your experience .

Ms. Ellis stated the best way to increase the odds are to be sure the project is a good fit with the intention of the grant.

Vice Mayor Pardee asked what will streetscape improvements look like in the Cedar-Taylor area.

Ms. Ellis commented that the Cedar-Taylor Merchants Association hired a architect to look closely at the streetscape for that area and have proposed benches, bike racks, coordinated plantings, etc. to make the area look more attractive and walkable.

Councilwoman Cameron asked if the improvements items would be consistent with the Cedar Taylor Association in terms of safety, signage, lighting, etc.

Ms. Ellis said in the last three years the average municipal grant was \$58,000 so the city will have to look closely to see what that amount of money can do.

Councilwoman English asked to the public hearing was held for the application yet.

Ms. Ellis stated no, not yet and the public hearing is to get feedback from the community about what the City intends to do with the funding. The community ideas will be integrated into the project.

Councilman Sims asked if we've talked with the City of Cleveland Heights about anything they might be planning in that same area so that they can be coordinator together.

MOTION BY MRS. PARDEE, SECONDED BY MR. SIMS to approve Resolution No. 2014-20 In Support of an Application for a grant from The Cuyahoga County Community Development Block Grant 2015 Muni Grant Program in support of Streetscape Improvements in the Cedar-Taylor Commercial District and declaring an emergency. On suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

E. Resolution No. 2014-21 To Submit a Grant Application to the Ohio Department of Natural Resources (ODNR). (on emergency)

Ms. Ellis stated that this type of funding is for recreational purposes, a pocket park would not be applicable to this type of funding. The deadline for this grant is September 1, 2014 and requires a 25% match and is more complex than the muni grant in that quite a bit of documentation is required but no public meeting is required.

Vice Mayor Pardee asked Ms. Ellis if she could more specific in terms of what the project is in terms of the tennis courts. ODNR has allocated \$337,000 what is our estimated project cost be?

Ms. Ellis the average for the past three years / 3 – 5 Cuyahoga Cities received funding under \$100,000 and still figuring out the concept.

Mayor Infeld noted the City's concept is to look at the tennis courts and divide them into 2 groups that will be divided by fencing.

MOTION BY MRS. CAMERON, SECONDED BY MS. ENGLISH to adopt Resolution No. 2014-21 to Submit a Grant Application to the Ohio Department of Natural Resources (ODNR) for funding the Purvis Tennis Courts and rehabilitation project on emergency. Roll call on suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

Vice Mayor Pardee noted that typically Council tries not to approve items on emergency so the public and have a chance to provide input and there will be a public hearing to give the public the opportunity at that point. Vice Mayor Pardee stated she's never heard a resident say don't go after money so passing this item on emergency makes sense.

Councilwoman Cameron stated for the recorded she regretted the absence of her colleague who has been an ardent supporter of City's tennis courts, in its use and in her imagination as to what it could become for our City. Councilwoman Cameron noted that Mrs. Zucker will be thrilled to hear that there's a focus for the funds.

F. Motion Authorizing the Mayor to pay various Vendors

Mayor Infeld stated the Law Director was asked to look at the way the Mayor's spending authority works in the City. Mr. Coyne has determination that anytime a vendor could be paid by the City and if those payments could add up to \$5,000 over time it has to do with the Mayor's spending authority and needs to be brought before Council for approval. Mayor Infeld stated

that that then would apply to almost any business the City does. Mayor Infeld stated that the bills before Council are recent bills that need Council approval on before they can be paid.

Councilman Sims asked Mr. Coyne what kind of sense does this make. Councilman Sims summarized that at a previous meeting Council voted to give the Mayor all the authority he believed necessary in this matter. Councilman continued to say no other City in Cuyahoga County and no other Law Director that he could think of that would suggest that every single Council meeting that Council should be given a packet of bills that they are obligated to review and approve for payment. And, furthermore Councilman Sims stated he was certain that there are other City's that have the exact same provision that University Heights provides with respect to the authority of the Mayor around contracts. Councilman Sims asked Mr. Coyne why he suggested this is appropriate.

Mr. Coyne replied that he didn't advocate for that. Mr. Coyne stated he said that any contract that is in excess of \$5,000 needs the approval of City Council. As it relates to some of these other items there are parties that have monthly payments from the City that over the course of the year will exceed the \$5,000. Mr. Coyne noted he has discussed with Vice Mayor Pardee of what could be a way to address this. Mr. Coyne stated he didn't think the Ordinances are clear on unwritten agreements or contracts or expenditures for other items that exceed \$5,000. In the code it is clear that if it exceeds \$5,000 any agreement that the City has requires approval by Council. Mr. Coyne stated Mayor Infeld's decision to introduce the items before you is her decision to do so and if these items can exceed the \$5,000 in the course of a year Mr. Coyne stated he thought it would be prudent to look at them, but also that there are ways that and the code can be tightened up.

Councilman Sims thanked Mr. Coyne for his explanation and stated that he is not interested at all in voting to approval to pay a packet of bills for the City. The Charter speaks to contracts and in Councilman Sims opinion what the Council needs to do is for the Mayor to bring contracts and agreements that exceed \$5,000 to Council for approval and also the Mayor needs to continue to pay other bills as has been done in this City, under the Charter for the past, as long as the City has been incorporated. Nothing has changed so greatly that Council needs to adopt a new method a new method of operating. This does not discount the fact that there may be some things that can be looked at to see if they can be tightened up. Councilman Sims restated he has no interest at all in approving a packet of bills

Councilman Wiseman echoed Councilman Sims statement and stated his belief that at the last Council meeting, Council declined to vote on and the direction was asked that the Mayor continue to operate as the City had been in the past. Councilman Wiseman commented he looked at the State Auditor's website and the 2014 Ohio Compliance Supplement that was issued in February basically called for blanket certificates to be passed by Cities at the beginning of each fiscal year to allow the City to take care of most professional services; fuel, oil, fuel items and any other specific recurring and reasonably predictable operating expense that the City might encounter during the year. It would seem that looking beyond our Code into the State Auditor's Office for some guidance on how to handle this. It doesn't make any sense to approve bills for all the different amounts. While he had the floor, Councilman Wiseman asked a question about the Meritech agenda item, and read a portion of the minutes from the last Council meeting where Councilwoman English asked if the contract was permanent and if the contract had already started - Mr. Heiser replied Meritech has started looking at our system and has allowed the City to engage their help ticket center, Mr. Heiser stated the City can walk away from the services if need be. Mr. Heiser response to Councilman Wiseman additional question about the help desk support was that Meritech has only been supplying the service for a month and that the City is not obligated if Council doesn't approve the Ordinance. Councilman Wiseman commented that in his eyes it is the complete opposite in having the need to have another Council meeting in seven (7) days because the Computer System will crash and we can operate without this support from Meritech.

Mr. Heiser said that the City needs to notify Meritech if the City is not going to approve the contract.

Councilman Wiseman stated he understood Mr. Heiser point of notifying Meritech but Mr. Heiser's answer at the last Council meeting was that the City could walk away from the Meritech contract, it's not a problem and its clearly something that can be approve or approve. Not what was heard at tonight's meeting in that the Council has to approve in seven days or the computer system will stop working, this needs to be clear up before the end of tonight's meeting because the vibe has been anytime Council ask a question, it's another special meeting and Council has

the summer off for reason. Council meetings resume in September and if we don't absolutely have to meet Councilman Wiseman didn't think it would be necessary to call a meeting to discuss something that doesn't need to be discussed.

Mayor Infeld commented that there appears to be a lot of radiate around the Meritech billing and so it would be a good idea to have the Law Director steps in to make a determination. Mayor Infeld restated that University Heights is a small city and this is specialized service there only so many company in our area that provide this service, it just so happens that one of them that was asked to give a quote, sales person (not the only person at the company) happened to have the same name as the Assistant Finance Director. Mayor Infeld stated her thoughts regarding the implication/suggestion by Councilman Wiseman and Councilwoman Cameron that there's some nepotism and that other people who were interested in this City work may have had the inside track on knowledge based on the fact that there is an employee who happens to have the same last name is a very serious allegation and can't be taken lightly. To think that the City is in anyway giving favorite treatment to somebody when all the City wants to do is buy a product or service from them. Mayor Infeld stated she didn't mean to focus on only the full-time employment at City Hall because it just happens even in the Recreation Summer Division. Mayor Infeld comment that it may have been easier for her in whether than have Council table this, if Council had said absolutely not, if someone has the same last name, doesn't matter their out – but that's not what Council said.

Councilwoman Cameron responded that if this issue was brought to Council's attention at the time that the contract was presented, it would have spoke highly to assure everyone that everything was above board, if there was an opportunity to release that information so people would have the opportunity to say "yes, this person is both a resident and a sibling to an employee who works in the Finance Director's office." Councilwoman Cameron stated that she didn't think it could be discounted that there is the appearance that there could be something inappropriate, it the appearance of it. Councilwoman Cameron stated that she isn't accusing the young lady or the gentleman of anything wrong, but was saying had it been presented to Council as part of the packet of information it would have gone a long way to making people feel like there wasn't something being hidden.

Mayor Infeld stated she was aware that it was hidden, and doesn't remember how it was presented – if it was pointed out that the salesperson had the same last name as the employee.

Vice Mayor Pardee asked when Meritech start working, how many months.

Mr. Heiser replied that they started working in June of 2014.

Vice Mayor Pardee stated the City has though August if Meritech started in June at that dollar amount which would be under the Mayor spending authority of \$5,000 and Council could pick this up in September.

Mr. Heiser replied that the City would have to disengage them now because that would be the whole month of August for \$4,800 and if something got delayed, the Administration doesn't want to mess with that anymore and its less on the Administration and more on his self so would like Council to have a meeting next week to get this settled because he doesn't like that cloud over his head. Mr. Heiser said he has a very good reputation in the community of Finance Directors.

Councilman Wiseman stated the implication that because Council wants to investigate a conflict of interest can't happen because somebody might have their feelings hurt can't be a rule that Council follows. Council is just saying there may be a conflict, we're not say anybody has done anything wrong, what we are saying is that it looks like it might be a conflict of interest and we would like to look at it.

Mayor Infeld ended the discussion and stated she is in the position of having to pay bills and has a decision from the Law Directors that talks about contracts which includes implied contracts that the City enters into for goods and services we are reaching \$5,000 and have surpassed \$5,000 on many items that were included in the budget. Often times these are budget line items, items that were approved during the budget process and to Councilman Sims point this is the normal way the City has of operating. The City Council approves a budget annually, this City Council and previous City Councils tend to review the budget line by line. We are now at a point where the Mayor says she cannot pay the bills because of the amount. Mayor Infeld recognized what Councilman Sims in referring to Councilwoman Cameron's motion for the

Mayor to continue to operate. Mayor Infeld said she cannot continue to operate because the Law Director made a determination about the Mayor's spending authority. Mayor Infeld said as much as we would want her to be able to just pay the bills, Mayor Infeld said she cannot in good conscience pay the bills without some approval of Council because some of them might be at \$5,000 or approaching \$5,000 or may have surpassed \$5,000. Mayor Infeld stated she is caught between Councilwoman Cameron's motion and the Law Director's ruling about her spending authority. Mayor Infeld stated she also has a good name that she wants to keep it in good standing. Mayor Infeld stated she will not spend money if there is any doubt at all about her spending authority and that she believes that doubt is there.

Vice Mayor Pardee stated that the Finance Committee as well as the Finance Advisory Committee is meeting on August 7 and will discuss those procedures, looking at vendors and the City Code. Vice Mayor Pardee stated she will try to find someone for the State Auditor's office to attend the meeting. These are operating expenses; they have never risen and don't rise to the level in any City of a contract/implied contract notwithstanding. Perhaps more information can be found on implied contract rising to the level of contract. Chapter 212 in the Administrative Code is about contracting procedures. Vice Mayor Pardee stated if this is a problem and if the Mayor needs to pay items Council should be provided with the contracts and Ordinances for passage rather than the bills.

Mayor Infeld stated that it is not that she is unwilling to put in the time; but there is not enough physical time to get contracts for all the suppliers. It may take approximately three months and some of the vendors, i.e. dominion gas may not be able to supply contracts.

Councilman Sims asked Mr. Coyne to say exactly what he has advised Mayor Infeld.

Mr. Coyne replied at the end of the day section 212.03 is clear in that contracts that exceed \$5,000 requires Council approval, under article 5, section 4(c) the Mayor has the responsibility to supervise the administration of all the City's affairs. The invoices that exceed \$5,000 in aggregate are basically obligations that the City has and they are contractual in nature. Mr. Coyne stated that he did not see in the City code or Charter anything that distinguishes the responsibilities of the Mayor under article 5, section 4 and 212.03. Mr. Coyne stated that he has advised Vice Mayor Pardee, as the Chair of the Finance Committee that it should be tightened up. There are a couple of ways to do that and those have been suggested to the Vice Mayor. At this time it would seem to be prudent just to approve these as just necessary expenses that the City has to incur to operate and then we can look at how to provide Ordinances that will give the Mayor and this Administration flexibility to administer the affairs of the City.

Councilman Sims asked Mr. Coyne if he has taken the opportunity to review the language that other Cities operate under with respect to this question.

Mr. Coyne replied that he's looked at some cities as it relates to contracts specifically and looked at Cleveland Heights, Cleveland, Shaker Heights for example their spending limits are somewhat higher as it relates to competitive bidding they are different. Mr. Coyne has advised the Vice Mayor that we might want to look at some of those and tighten up the Ordinances.

Councilman Sims asked Mr. Coyne in his opinion based on his review is University Heights in a position that is different or the same as other Cities with respect to the issue of implied contracts.

Mr. Coyne stated that Mayor Infeld used the word implied contract, Mr. Coyne stated he has not used the word implied per say, it's a fair word to use, but at the end of the day these are all contractual obligations. If any one of the vendors is not paid and they demand payment and they go to a lawyer it will be for breach of contract. If it's over \$5,000 and it's a contractual obligation of the City – it should be taken very seriously. Mr. Coyne noted that he hasn't looked at how other Cities pay their utility bills and other obligations under sole source providers in detail.

Councilman Sims stated everyone understands what a contractual obligation and agreement is and it is not having a relationship with Dominion or East Ohio or whoever. Councilman Sims noted that, that is not what a contract is within the language of the Charter and doubt if that is the language within the Ohio Revised Code is speaking of contracts. Why are we distinguishing it, if it's not distinguished in the code?

Mr. Coyne stated that it doesn't say utilities are exempted from having to get approval from Council.

Councilman Sims continued to say then every political sub-division in the State of Ohio should be under a contract and asked Mr. Coyne if he has looked into this.

Mr. Coyne replied he hadn't look at any City as far a utility bills.

Councilman Wiseman stated that is a huge difference between contracts that the City enters into whether with bids or not and there is a written amount that states on a go forward basis we know that a relationship is going to be "x" and it's going to cost "y" and it is more or less that's \$5,000. Even though the code/charter doesn't distinguish between those and everyday expenses somebody knows that answer. To sit and say the City will come to a halt if these bills don't get paid, why hasn't the City called the State Auditors to find out how to treat everyday expenses that will reach \$5,000 or more a year.

Mayor Infeld stated that Mr. Heiser previously worked in the State Auditor's office and that she not doing this to waste peoples time, she is doing this to protect the City and to allow it to continue to operate.

Councilman Sims informed Mr. Coyne that he would like to have his determination regarding this issue in writing prior to the August 7 Finance Committee meeting so that Council can come to a good decision. Mr. Sims also noted that any recommendation from the State Auditor's office should be from an attorney from within their office and not a CPA.

Vice Mayor Pardee clarified that it is specifically do with normal operating expenses within a City, things as major as the utilities and as minor as office supplies as contrasted with contract that are under things like bidding procedures.

Councilwoman English stated she thought that Council gave its authorization to pay bills four weeks ago when Councilwoman Cameron made the motion - until the Finance Committee meets that the City operates in the manner that it has been operating as far as everyday bill paying goes.

Mayor Infeld commented that she would prefer that it was stated the way Councilwoman English just stated because previously it wasn't as descriptive. Mayor Infeld stated she didn't see the harm in having another motion and if it goes indefinitely. Mayor Infeld asked Mr. Coyne if the language is appropriate to allow the City to continue paying bills indefinitely in this manner if it was in the budget and approved.

Councilman Wiseman asked Mayor Infeld if the Law Director had instructed her not to pay the bills that she was presenting to Council tonight for approval.

Mayor Infeld stated the Law Director told her that she did not have the authority to spend money beyond the \$5,000, if there is a contract; she also noted that her understanding of the Law Director's interpretation is that the contract for the goods and services, is not an actual contract. And that the Law Director has advised her (Mayor) to obtain contracts with each of the vendors.

Councilman Wiseman questioned if the City had contracts with the given vendors, we are just doing business with these businesses.

Mr. Coyne stated that the Mayor has the authority to supervise/administer to all the affairs of the City. The Mayor is authorized to make the given expenditures, when it comes to expenditures that under a contract exceeds \$5,000 or is going to exceed the \$5,000 it is prudent that she gets approval from the Council. Anything within the spending authority, the Mayor can certainly pay even if there is no written contract.

Councilman Sims called for a point of order to move the meeting forward.

Mayor Infeld stated that Councilman Sims made a point of order to call the question to get the decision made about paying the bills. Mayor Infeld agreed in calling for a decision, the City would like to pay the presented bills.

Councilman Sims stated he thought the Mayor should pay the bills and that she has the authority to do so.

Councilman Ertel agreed with Councilman Sims and further stated a motion wasn't necessary.

Mayor Infeld stated that then the bills can't be paid.
Councilman Sims responded that is the Mayor's choice.

Mayor Infeld responded no, the Law Director has told her and also Council. Now that City Council has decided to ignore the Law Director's advice she (Mayor) doesn't know what to do.

Councilman Sims again asked Mayor Infeld to call for the question on the motion.

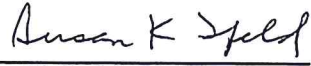
Mayor Infeld asked if there was a motion to allow the City to pay the bills presented to Council.

Mayor stated, hearing none the motion failed.

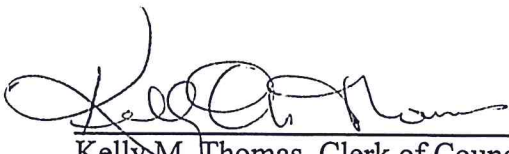
THE QUESTION FAILED DUE TO THE LACK OF A MOTION.

There being no further business to discuss, the meeting was adjourned at 8:32pm.

MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to adjourn the meeting. On roll call, all voted "aye."



Susan K. Infeld, Mayor



Kelly M. Thomas, Clerk of Council