

MINUTES OF COUNCIL MEETING
CITY OF UNIVERSITY HEIGHTS
MARCH 17, 2008

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

Roll Call: Present: Mrs. Adele H. Zucker
Ms. Frankie B. Goldberg
Mr. Steven D. Bullock
Mr. Peter R. Bernardo
Mr. Frank Consolo
Mr. Steven Sims

Absent: Mr. Kevin Patrick Murphy

Also Present: Clerk of Council Nancy E. English
Law Director Kenneth J. Fisher
Finance Director Arman R. Ochoa
Chief of Police Gary Stehlik
Fire Chief John Pitchler
Service Director Christopher Vild
Community Coordinator Walter Stinson
Building Commissioner William C. Nadeau

MOTION BY MR. BULLOCK, SECONDED BY MR. BERNARDO to excuse the absence of Mr. Murphy. On roll call, all voted "aye."

Minutes of the regular meeting held on March 3, 2008

MOTION BY MS. GOLDBERG, SECONDED BY MR. BULLOCK to approve the minutes of the March 3, 2008 meeting. On roll call, all voted "aye."

Agenda Items:

- A. Ordinance No. 2008-05 Making permanent appropriations for current expenses and other expenditures of the City for the period January 1, 2008 through December 31, 2008 (2nd Reading)**

Ordinance No. 2008-05, which was placed on first reading on March 3, 2008, makes the permanent appropriations for current expenses and other expenditures of the City for the period of January 1, 2008 through December 31, 2008.

Mr. Consolo stated that the Finance Committee has not met to discuss the budget. He expressed concern that the Financial Advisory Committee will be considering the budget before the Council has reviewed it and requested that the Council discuss the budget prior to passage. Mr. Consolo added that since the City is close to fiscal emergency, the budget should be reviewed to determine if cuts can be made. Mr. Sims stated that the Council has had the budget for over a month and had an opportunity to review and discuss the budget at the retreat held in February. He suggested that questions regarding the budget could have been raised earlier to himself as Chair of the Finance Committee of Council or at the first reading of the ordinance. Mr. Bernardo mentioned that he did not realize that the retreat was the proper time to address questions on the budget. Mr. Sims inquired as to Mr. Consolo's concerns with the budget. Mr. Consolo noted that Council has not had an opportunity to meet as a group, discuss the budget, and determine if cuts could be made. He added that with a projected surplus of only \$245,000 for the year, the Council should take a detailed look at the budget to see if salaries and/or personnel should be cut, and asked if that had been done. Mr. Sims stated that he has not looked at the budget to consider salary reductions or anything specifically related to salaries.

Mr. Sims stated that he does not have a concern with the budget as presented. He added that procedurally it would have been advantageous to bring any concerns to the Mayor or the Chair of the Finance Committee so that a meeting of the committee could have been scheduled and those concerns addressed. Mr. Consolo disagreed and stated that he expected that Finance Committee to meet and review the budget once it was presented by the Finance Director and then for the budget to be presented to the entire Council. Mayor Rothschild mentioned that everything regarding the budget was done with due diligence.

Mrs. Zucker stated that Council does not have control over the funds in the budget and noted that there are no line items for salaries. Finance Director Arman Ochoa noted that some of the funds are restricted for certain expenses and that personnel costs account for 72% of the total General Fund. Mr. Ochoa reported that the General Fund budget has been cut \$300,000 from last year's \$12.4 million to \$12.1 million this year. He added that the overall budget of \$25.8 million was reduced from \$26.4 million last year.

Mr. Ochoa stated that the budget can be amended throughout the year by ordinance passed by the Council. He added that capital items will still have to come before the Council for approval. Mr. Ochoa reported that the budget has to be presented to the County Auditor's Office by March 31, 2008 in accordance with Ohio Revised Code 5705.36.

MOTION BY MR. CONSOLO, SECONDED BY MS. GOLDBERG that the Finance Committee meet and review the budget as indicated in a February 29, 2008 memo from the Finance Director, which requested that the Finance Committee meet, review the budget and give a recommendation to the Council before March 31, 2008. On roll call, all voted "aye," except Mrs. Zucker, who voted "nay."

Mr. Bullock commented that there is an issue regarding process and how the City functions. He stated that there needs to be clear understanding about what the processes are. He added that the processes should be created if they do not exist and then communicated to everyone as to what those processes are. Mayor Rothschild replied that Council had the budget, it was discussed in a committee of the whole meeting, but a meeting will be scheduled as requested. She added that past practice has been for individuals to participate in the process by a phone call.

Ms. Goldberg stated that everyone has the best interest of the City at heart and everyone just wants to vote in good faith and to use due diligence. She noted that since the Financial Advisory Committee meeting is scheduled for March 24, 2008 and the passage of the budget was scheduled prior to that meeting, everyone needs to know that all questions have been asked and that everyone is comfortable with the vote.

Mr. Sims scheduled a meeting of the Finance Committee of Council for Monday, March 24, 2008 at 6:00 p.m., prior to the Financial Advisory Committee meeting. Law Director Kenneth J. Fisher advised that it would be appropriate to hold the meeting at that time. He noted that because of the statutory requirement of the March 31st deadline to enact the budget, a special meeting could be set by the deadline.

Mr. Fisher noted that the past process with respect to budget approval has been for the Finance Committee chairman to meet with the Finance Director, questions are raised, and Council members may also raise questions. He added that the ordinance was on first reading on March 3, 2008 and if questions had been raised at that time, the Finance Committee would have had time to meet prior to this meeting. Mr. Fisher advised that due to the deadline a special meeting of Council would have to be held.

A special meeting was suggested to be scheduled for Monday, March 31, 2008 at 8:00 p.m. to approve the budget.

MOTION BY MR. CONSOLO, SECONDED BY MS. GOLDBERG that Ordinance No. 2008-05 be taken off of second reading and heard at a Special Meeting to be convened at 8:00 p.m. on March 31, 2008. On roll call, all voted "aye," except Mrs. Zucker, who "passed." On repoll, Mrs. Zucker "passed."

B. Ordinance No. 2008-06 Adopting Chapter 1468 of the Codified Ordinances relating to illicit discharge and illegal connections control (2nd Reading)

Ordinance No. 2008-06, which was placed on first reading on March 3, 2008, adopts Chapter 1468 of the Codified Ordinances relating to illicit discharge and illegal connection control. Service Director Christopher Vild reported that the ordinance must be passed in accordance with EPA Storm Water Phase 2 regulations. He noted that the City is currently performing all the functions required under the ordinance with the exception of enforcement powers. Mr. Vild reported that if an illicit discharge or illegal connection is found, the ordinance allows the City to attach a penalty for non-compliance.

MOTION BY MR. SIMS, SECONDED BY MRS. ZUCKER to approve the passage of Ordinance No. 2008-06. On roll call, all voted "aye."

C. Ordinance No. 2008-08 Amends Section 234.10 of the Codified Ordinances by reducing costs of public records

Ordinance No. 2008-08 amends Section 234.10 of the Codified Ordinances of the City of University Heights by reducing the costs of certain public records. Mayor Rothschild stated that agenda items "C" and "D" go together.

Mr. Fisher reported that Item "C," Ordinance No. 2008-08, amends the City's fee schedule for the reproduction of public records in conformity with Ohio Supreme Court case law and Ohio Revised Code requirements in that the actual cost will be charged without any additional administrative fee applied.

Mr. Fisher noted that Item "D," Resolution No. 2008-09, was being presented in conformity with HB 9 in that all political subdivisions must adopt a mission statement, statement of principles for public records, and a public record policy as promulgated by the Ohio Attorney General.

Mayor Rothschild inquired as to why the two pieces of legislation should be passed on an emergency basis. Mr. Consolo responded that requirement was addressed at a continuing legal education program on municipal issues which he and Councilman Murphy attended on March 6, 2008, and expressed that the legislation should be in passed as soon as possible in order to be in compliance with the public records law. Mr. Fisher added that Resolution No. 2008-09 is a requirement of Ohio law, while the current ordinance for fee structure relating to charges for public records is not in compliance with Ohio law, therefore, he recommended that both pieces of legislation be passed on emergency.

MOTION BY MR. CONSOLO, SECONDED BY MR. BULLOCK to approve the passage of Ordinance No. 2008-08 as an emergency measure. On roll call, on suspension of rules, all voted "aye." On roll call, on passage, all voted "aye."

D. Resolution No. 2008-09 Adopting a mission statement, statement of principles for public records, and adopting a public records policy

Resolution No. 2008-09 (formerly 2007-52) adopts a mission statement, statement of principles for public records, and a public record policy.

MOTION BY MR. CONSOLO, SECONDED BY MR. BERNARDO to approve the passage of Resolution 2008-09 as an emergency measure. On roll call, on suspension of rules, all voted "aye." On roll call, on passage, all voted "aye."

E. Ordinance No. 2008-10 Establishing Section 1620.04 of the Codified Ordinances to establish penalties for submitting erroneous or false statements of compliance for fire protection systems

Ordinance No. 2008-10 establishes Section 1620.04 of the City of University Heights Codified Ordinances by establishing penalties for installing contractors who submit erroneous or false statements of compliance fire protection systems. Mayor Rothschild referred the ordinance to the Safety Committee of Council for consideration.

Fire Chief John Pitchler reported that the ordinance being introduced is a life safety issue. He explained that when the fire department personnel goes out to perform acceptance tests on newly installed fire alarm sprinkler systems, the systems fail 75% of the time on the first test and 50% of the time on the second test. He noted that the systems fail because the contractors do not take the time to ensure that the system is working properly. He added that the failed test results in wasted time by Fire Department personnel because the test takes several hours to complete. Chief Pitchler stated that Building Commissioner William Nadeau is also in favor of the legislation.

Mr. Consolo inquired as to how many fire personnel are involved in a test. Chief Pitchler replied one or two men from the Fire Department and one from the Building Department on a small systems or up to five on a large system. Mr. Consolo inquired if any thought had been given to increasing the penalty from the proposed \$50 on for first violation and \$100 on each subsequent violation in an effort to recoup manpower hours. Mr. Bernardo added that the fee should cover the cost of the department's work. It was noted that the Safety Committee will address increasing the fees.

Ordinance No. 2008-10 was placed on first reading. There were no objections.

F. Ordinance No. 2008-11 Authorizing a retention agreement with Zashin & Rich Co., L.P.A for legal services and comprehensive labor relations assistance

Ordinance No. 2008-11 authorizes the Law Director to enter into a retention agreement with Zashin & Rich Co., L.P.A, for legal services and comprehensive labor relations assistance. Mr. Fisher stated that the City previously used Duvin, Cahn and Hutton for labor related matters, and then Littler Mendelson. He mentioned that the attorney from Littler Mendelson, whom the Fire Department uses for labor issues has now joined Zashin & Rich Co., L.P.A., an experienced labor law firm, and the Fire Chief would like to continue that association. Mr. Fisher noted that the collective bargaining agreements with the police and fire unions expire in June, 2008 and negotiations are forthcoming. He added that Finance Director will meet initially with the union representatives to determine the issues and attempt to resolve the negotiations prior to outside counsel being called in. However, he added that there is a pending personnel issue which requires outside counsel. Mr. Fisher recommended that the Council consider approving Ordinance No. 2008-11 in order to utilize the legal services of Zashin & Rich Co., L.P.A. on an as needed basis.

In response to a question from Mr. Bernardo, Mr. Fisher noted that the proposed rate schedule is typical municipal rates and is consistent with what the City has paid in the past.

MOTION BY MRS. ZUCKER, SECONDED BY MR. SIMS to approve the passage of Ordinance 2008-11 as an emergency measure. On roll call, on suspension of rules, all voted "aye." On roll call, on passage, all voted "aye."

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

MOTION BY MRS. ZUCKER, SECONDED BY MR. BULLOCK to hold an executive session for the purpose of discussing the possible purchase of real property and also personnel matters. On roll call, all voted "aye."

Directors' Reports:

Fire Chief John Pitchler thanked Council for approving the pickup truck for the Fire Department. He mentioned that it came in handy over the weekend during the major snow storm. The pickup truck went out with the rescue squad and plowed the driveways for access in order to get the stretchers into homes and the patients out and to the hospital.

Community Coordinator Walter Stinson announced that the Harvest for Hunger campaign will continue through the month of March. He noted that food and monetary donations may be dropped off at City Hall.

Committee Reports:

Civic Information Committee Chairman Frank Consolo reported that he, Mayor Rothschild and Finance Director Arman Ochoa met with Mr. Tim Parnin of Parnin Media on March 10, 2008 to discuss the future updating and maintenance of the City's website. Mr. Consolo reported that a request for proposals (RFP) will be prepared to identify the items which will be updated and maintained on a regular basis.

Mr. Consolo also reported that on March 11, 2008, he and Mr. Ochoa met with Mr. Dan Cavolo of the Loyola Group, who provided a free IT assessment. Mr. Consolo noted that Mr. Cavolo was pleasantly surprised with the City's IT system and ranked it in the upper percentile of municipalities. Both Mr. Consolo and Mr. Cavolo were impressed with Mr. Ochoa's functions as chief information officer for the City as well as Finance Director. Mr. Consolo stated that a report will be received from the Loyola Group within the next four to six weeks. He added that a favorable price was negotiated for the Loyola Group to perform an RFP for website maintenance and update proposal and to eventually take bids.

Mr. Consolo reported that emails went out to Council members and directors soliciting suggestions for updating and maintenance of the website. He noted in that in order for the suggestions to be included in the RFP, the deadline is March 24, 2008.

Mr. Consolo requested that an item concerning the public garage at University Square be placed on the agenda. He asked if someone from Inland US Management will be coming to address the Council regarding the condition of the garage. Mr. Consolo stated that Dennis Wilcox, attorney for the Cleveland-Cuyahoga County Port Authority, owner of the garage, is very concerned about this issue also. He added that they are in agreement with the City that Inland needs to complete its reports and have the repairs completed as soon as possible. He noted that any help the City can give to push this process along would be appreciated by the Port Authority. Mayor Rothschild stated that due to the amount of money involved in repairs, Inland is waiting for the bonds to be sold.

Mr. Fisher agreed with Mr. Consolo and reported that there is an assessment study which has to be done before it will be possible for the Port Authority to proceed with the possible refinancing of the TIF Bond. He noted that the refinancing would generate \$5 - \$7 million, which could be used to make the necessary repairs.

Ms. Goldberg inquired as to when the assessment study will be completed. Building Commissioner William Nadeau reported that it is anticipated that construction documents will be in his office by the end of March. Once the plan review is completed, work could begin in mid-April. Mr. Fisher noted that it would take 60 to 90 days for the refinancing to take place. Mayor Rothschild stated that if everything goes right, the goal was to start in June, 2008.

Ms. Goldberg asked if Inland responded to the Mayor's request for someone to address the Council at its meeting. Mayor Rothschild stated that Inland replied by letter rather than coming in person. Ms. Goldberg stated that it is imperative that Inland attend a Council meeting to address the issue. Mr. Consolo agreed. Mayor Rothschild stated that she would request Inland's appearance again.

Mr. Bernardo inquired if the City has the authority to close down the garage as a safety hazard. Mr. Fisher responded that the Building Commissioner does have the authority to close down the garage if a safety hazard exists. Mr. Nadeau advised the Council that he, the Chief of Police, Fire Chief, City Engineer and Law Director all visited Inland at the garage a month ago and gave Inland 24 hours to produce documents or the City would close down the garage. He noted that Inland produced the documents, which started the research on the safety of the garage. Mr. Nadeau stated that due diligence is being done by structural engineers to his and Mr. Ciuni's satisfaction. He explained that Inland understands that the City is not happy with the situation as far as the barricades are concerned because they are a traffic hazard. He stated that Inland is moving forward expeditiously because they do not want the garage closed down. Mr. Nadeau stated that based on everything he has received, the garage is safe.

Mr. Consolo thanked Mr. Nadeau and Mayor Rothschild for their efforts, but mentioned that Council should have known this information so that the proper answers could have been given to the public. Mr. Consolo stated that the administration did a good job and that should be communicated to the residents.

Mr. Bernardo stated that he understands Inland doesn't want the garage to close because of the loss of money, but he is concerned about safety. Mr. Nadeau mentioned that the City has requested that Inland address three major issues, which are better lighting in the garage, the ability to move vehicular traffic better, and that the garage be structurally sound.

Ms. Goldberg stated that there is a public perception that the garage is not safe. Mr. Fisher stated that by all indications, the garage is safe. Mr. Bernardo stated that the information has to be communicated to the public. Mr. Consolo stated that after reviewing all the documents, hearing from the Mayor, Building Commissioner and the counsel for the Port Authority, he feels comfortable that the garage is safe because he has not seen anything to suggest that it is not safe.

Mayor Rothschild stated that she informed Inland that they have a public relations problem, and was informed that their public relations department is working on it. She also strongly suggested to Inland that they attend a Council meeting, but they could not make this meeting.

Mr. Bullock inquired as to when this matter will be resolved. Mr. Nadeau replied that even though the garage is safe now, the improvements to the structural integrity will bring the structural integrity to the place it was designed to be for now and into the very long future. Mr. Bullock asked if the garage will have an appearance of being safe once the improvements are completed. Mr. Nadeau responded that the proposed improved lighting will help with the aesthetic appearance.

Mr. Fisher mentioned that Inland brought University Square from Starwood Wasserman and they have been struggling with the design problem connected with the garage ever since they acquired the property. He added that Inland is moving forward to make the needed repairs this year, which should put the issue to rest.

Mr. Fisher also explained that because of the tenant space vacancies at the time of the purchase, a Master Lease was entered into between Starwood Wasserman and Inland, whereby Starwood Wasserman agreed to pay the buyer a certain amount of money for a fixed number of years to increase the operating income in order to justify the sale price. Mayor Rothschild noted that the Master Lease agreement ends in 2008.

Ms. Goldberg reiterated that she would like knowledgeable representatives of Inland US Management to attend a Council meeting to answer questions from the Council and the public.

Recreation Committee Chairman Frankie Goldberg reported that she is attempting to schedule a Recreation Advisory Committee meeting before the recreation booklet goes to print.

Safety Committee Chairman Steven D. Bullock reported that his committee will meet on Wednesday, April 2, 2008 at 8:00 a.m. in Council Chambers to discuss potential landscaper registration, concerns about traffic at the intersection of S. Belvoir Blvd. and Silsby Road, and Ordinance No. 2008-10.

Mr. Fisher announced that the location of the City Council meeting scheduled for Monday, April 7, 2008 at 7:30 p.m has to be changed because Kulas Auditorium at John Carroll University is no longer available. He noted that when a new location is secured notice will be posted on the website and circulated.

Service and Utilities Committee Chairman Adele H. Zucker reported that the Storm Water Management Committee will meet on Tuesday, April 8, 2008 at 7:00 p.m. in the conference room at City Hall. Mrs. Zucker thanked Service Director Christopher Vild and his staff for an excellent job handling snow removal during the major snow storm over the weekend.

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

Mayor Beryl E. Rothschild

Nancy E. English, Clerk of Council