

MINUTES OF COUNCIL MEETING  
CITY OF UNIVERSITY HEIGHTS  
MARCH 3, 2008

Mayor Rothschild called the meeting to order at 7:35 p.m.

Roll Call: Present: Mrs. Adele H. Zucker  
Ms. Frankie B. Goldberg  
Mr. Steven D. Bullock  
Mr. Kevin Patrick Murphy  
Mr. Frank Consolo  
Mr. Steven Sims

Absent: Mr. Peter R. Bernardo

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  
Service Foreman John Pucella  
Community Coordinator Walter Stinson  
Building Commissioner William C. Nadeau  
City Engineer Joseph R. Ciuni

**MOTION BY MR. BULLOCK, SECONDED BY MRS. ZUCKER to excuse the absence of Mr. Bernardo. On roll call, all voted “aye.”**

Minutes of the regular meeting held on February 4, 2008

**MOTION BY MRS. ZUCKER, SECONDED BY MR. BULLOCK to approve the minutes of the February 4, 2008 meeting. On roll call, all voted “aye.”**

Minutes of the regular meeting held on February 19, 2008

Mr. Consolo requested additions to Agenda Item “A”, paragraph three, on page 1 of the minutes of February 19, 2008 regarding the discussion of paragraph “4” of the Road Salt Storage Agreement with the City of Cleveland Heights.

**MOTION BY MR. CONSOLO, SECONDED BY MR. SIMS to approve the minutes of the February 19, 2008 meeting as to be amended. On roll call, all voted “aye,” except Ms. Goldberg, who “passed.”**

Mayor Rothschild noted that there were residents present in the audience from the neighborhood surrounding John Carroll University as well as representatives from the Fairmount Area Neighborhood Association in Shaker Heights, who are all concerned with the ongoing expansion of John Carroll University into the residential neighborhoods surrounding its campus.

Presentation of “University Heights Blueprint for Success” by residents surrounding John Carroll University neighborhood

Mr. Patrick O’Shaughnessy, 2624 Kerwick Road, presented the proposed “University Heights Blueprint for Success” with Mr. Martin Burke, 4190 Carroll Blvd., on PowerPoint. The blueprint is attached hereto in its entirety. The blueprint is a commitment to cooperation, communication and compromise on behalf of the residents, John Carroll University (JCU) and the City of University Heights. The vision of the blueprint is that “The area around JCU will continue to be a vibrant family neighborhood that provides a safe healthy environment for the community and students of JCU.”

During his presentation Mr. O’Shaughnessy addressed: Sasaki & Associates, JCU’s lead developer of its master plan; the City of University Heights, its government and neighborhoods; the importance of John Carroll University to the success and future of University Heights; maps detailing past, present and possible future expansion into the areas around the university; neighborhood demographics surrounding the university; four basic tenants which will allow the cooperation, communication and compromise necessary for all interested parties to move forward; compromise that is needed by all parties; and a future agenda with time lines.

Mr. O'Shaughnessy stated that the encroachment of JCU on the residential neighborhoods surrounding the university has caused uneasiness of the residents, concern for the future, instability of the neighborhood, and the loss of revenue for the City from the tax base.

The group proposed four basic tenants to establish its goals:

- “1. John Carroll needs to establish a footprint that will last 25 years, the duration of their master plan;
2. All homes falling outside of this footprint must be sold back to the general public;
3. In return, John Carroll will be granted the variances, redistricting, & permits necessary to facilitate their master plan within the established footprint;
4. A commission will be established to oversee compliance of the master plan, provide an open channel of communication, and can vote on any future deviations from the above listed tenants.”

Mayor Rothschild agreed with the presentation and thanked the residents for bringing their proposal to the City in a positive manner. She encouraged the Council to accept the plan in concept by motion and then work toward establishing the commission as requested.

Mayor Rothschild stated that she is glad that Mr. Jerry Sheehan from John Carroll University was present in the audience and also the residents from Shaker Heights.

Ms. Goldberg thanked the resident group and mentioned that Temple Emanu El was missing on the maps of property owned by JCU. Mr. O'Shaughnessy stated that the group must pick its battles. He added that the maps also may not show other properties purchased by the university in January of 2008. Ms. Goldberg noted that the residents in the area of Temple Emanu El are concerned about what might happen in that area also. Building Commissioner William Nadeau stated that Temple Emanu El has not transferred ownership to-date.

Mayor Rothschild mentioned that no structures outside of the College District may be demolished without the permission of the City.

Harvey Morrison, 2424 White Rd., inquired as to what John Carroll University may be planning for South Belvoir Boulevard. Mr. O'Shaughnessy did not want to speak for the university, but mentioned that JCU is planning its expansion toward Fairmount Circle and Warrensville Center Road. He added that S. Belvoir will remain open, but they may propose to elevate a portion of the street to slow traffic.

Robert Elliott, Shaker Heights, stated that the facts are different, but the story is the same as residents of Shaker Heights are concerned with the expansion of John Carroll University also. He noted that since there are common issues, a larger group of University Heights and Shaker Heights residents may generate more strength. Mayor Rothschild agreed that the two cities should join forces.

Tim Murphy, 4168 Hadleigh Rd., addressed the economics of two professional income earning individuals moving out of the city and being replaced by one JCU professional who moves into the homes purchased by JCU. Mr. O'Shaughnessy commented on the economic facts of JCU purchasing homes and renting them out, which devalues the property. Mr. Consolo inquired if the income tax credit for residents who work outside the city was factored into the economic neighborhood demographic scenario. Mr. O'Shaughnessy stated that it was not considered.

Jim Barker, 14318 Washington Blvd., noted that JCU is buying property in the neighborhood in order to put pressure on the community to get what it wants. Mr. Barker stated that the residents approach is admirable.

Mr. O'Shaughnessy stated that John Carroll University is laying the groundwork to get what it wants by purchasing home around its campus. He added that the university is putting its master plan together for the next twenty-five (25) years. Therefore, Mr. O'Shaughnessy stated that other interested groups should put their plan together for the next 25 years as well to lay the issue to rest.

Mr. Bullock stated that when the JCU Board of Trustees meet in May he would like the Board to know that the Cities of University Heights and Shaker Heights are ready to sit down with them and move forward for the benefit of all interested parties.

Vice Mayor Zucker inquired as to whom from John Carroll University was invited to this meeting. Mr. O'Shaughnessy replied that Mr. Jerry Sheehan, associate VP of Government and Community Relations, and Dr. Nick Santilli, associate VP for Planning and Assessment, who were present; Father Robert Neihoff, president of JCU, and Ms. Doreen Riley, VP for Advancement, who were traveling; as well as JCU Board members, who did not respond. Mr. Bullock noted that they have to figure out a way to get JCU to make the commitment to cooperation, communication and compromise.

Mr. O'Shaughnessy stated that a draft Cooperative Agreement has been presented to the City. He suggested that a work group be formed to start the process.

Mr. Jerry Sheehan stated that he appreciated the opportunity to meet with Mr. O'Shaughnessy and Mr. Burke prior to this meeting. He stated that JCU is interested in the spirit of cooperation, collaboration and communication. Mr. Sheehan mentioned that he was not prepared to respond to the specifics of the proposal as this was the first time he had seen the proposal. He stated that there needs to be clarification as to some of the assumptions such as why the university has purchased the properties. Mr. Sheehan also noted that the explanation as to why certain properties have been purchased and what the university plans to do in the future will be presented as a part of the master plan that will be presented to the community in April. He added that the process proposed would be another vehicle to open communications.

Mayor Rothschild stated that what is different than in the past is that now the neighbors will be part of the scenario. She also stated that it has not been revealed why the homes have been purchased, but it was her hope that with this new spirit of cooperation that everyone will learn what is going on with the houses. Mayor Rothschild mentioned that the JCU Board has heard from the City by letter, but to date the City has not had the kind of response which everyone is entitled to receive. She noted that the answers are important to the future of University Heights, of which, John Carroll University is a part of, and that they cannot move forward without a commitment to cooperation, communication and compromise.

Mr. Sheehan noted that there have been explanations as to why some of the properties were purchased, and since the university is landlocked, it has to expand somewhere. He added that whatever the university decides to do will be controversial. But, it was his hope that the interested parties will find a common ground and will find solutions to the issues.

Mr. Consolo suggested that the City should reserve the right to have its own concepts incorporated into the plan.

**MOTION BY MR. SIMS, SECONDED BY MRS. ZUCKER to move forward with the "University Heights Blueprint for Success" by accepting the plan in concept with its four tenants, to move forward with a sense of urgency, and to include the interests of the City of Shaker Heights in this matter; University Heights City Council reserves the right to have its own concepts, as they may develop, incorporated into the plan. On roll call, all voted "aye."**

Comments from the Audience:

Harvey Morrison, 2424 White Road, stated that he was ruled out of order at the special council meeting on February 28, 2008 so he took this opportunity to state that it is was inappropriate for Mayor Rothschild as the presiding officer at the meeting to offer any opinion on legislation before it is presented. He stated that she must remain impartial when presiding over meetings. Mr. Morrison stated that many residents presume that the project of Waterway Gas & Wash Company is a done deal, which many Council members have denied. He then asked why another meeting was announced prior to the vote to continue the meeting to a future date.

Mayor Rothschild stated that she was only using Waterway as an example to explain the procedure for the meeting. Mr. Morrison stated that he took offense to her statement that Waterway was a fine, outstanding company.

Mary Ann Rini, 3866 Tyndall Road, stated that at the Board of Zoning Appeals meeting of February 14, 2008 and at the special City Council meeting of February 28, 2008 residents were denied permission to use the PowerPoint presentation equipment to make their presentations. Mrs. Rini stated that since the meeting is to hear both sides of the issue in the appeal to the Board of Zoning Appeals' decision, she requested permission to use the PowerPoint presentation equipment or any other audio/video equipment available at John Carroll University when the appeal is heard on April 7, 2008. Law Director Kenneth J. Fisher stated it is his determination that PowerPoint presentations should be limited due to time constraints so that all the residents have the opportunity to be heard. Mrs. Rini did not object to limiting the time for PowerPoint presentations, but did object to excluding the use totally. She noted that three citizens' groups are working together to present an organized presentation on the Waterway project and requested that they be given permission to use the PowerPoint equipment and video equipment, if necessary, within the time allowed. Mr. Fisher stated that he did not have a problem if it could be done in an orderly way during the time constraints.

Mr. Consolo stated that the appeal meeting is different because the residents are not making public comments, but rather presenting a case. He stated that since the matter is not a legal issue, the Council should decide the matter. Mr. Fisher stated that he is not taking exception of the right that Council has to hear both sides of the issue and concurred that Council has a right to decide.

Mr. Sims agreed that Council should decide prior to the next meeting if the equipment could be used and also, that the length of the presentation be restricted. Mr. Consolo suggested that the citizens group present their material one week prior to the April 7, 2008 meeting including how long the presentation will be so that the meeting may be planned accordingly. Mrs. Rini appreciated that fact that they would be able to use the equipment.

Mrs. Rini requested that the Law Director review the City's charges for public records because some records cost as much as \$1 per page. She noted that the Supreme Court has recommended a cost of \$.05 per page.

Karen McHenry Ruppe, 2403 Lalemant Rd., inquired as to the safety of the public parking garage at University Square. City Engineer Joseph Ciuni responded that the parking garage has temporary supports which were installed by Inland US Management. He noted that a structural engineer inspected the garage and recommended the supports until improvements can be made. Mr. Ciuni reported that the City has received a letter from the structural engineer stating that there is no danger to the traveling public. Ms. Goldberg mentioned that it is difficult to maneuver around the supports. Chief of Police Gary Stehlik stated that Inland plans to install more barrels in the areas around the beams. Mr. Ciuni noted that Inland plans to submit plans in March and start the project soon thereafter. But, until then, the supports have to remain in place.

Mr. Morrison, 2424 White Rd., asked how emergency vehicles access the top level of the garage. Fire Chief John Pitchler noted that emergency personnel access the top level through the elevators.

Kathy Skettle, 3806 Bushnell Rd., stated that the "University Heights Blueprint for Success" should be applied to the entire City because there are rental homes with John Carroll University students in them in her area also.

Agenda Items:

**A. Ordinance No. 2008-04 Authorizing Change Orders 1, 2 and 3 to the contract with Northeast Ohio Trenching Service for the Meadowbrook Blvd. Phase II Waterline Improvements**

Ordinance No. 2008-04 authorizes Change Order Nos. 1, 2 and 3 to the contract with Northeast Ohio Trenching Service for the Meadowbrook Blvd. Phase II Waterline Improvements in the amount of \$16,129.45. Mr. Ciuni reported that under the project 1,800 ft. of waterline was replaced. The paving, driveway aprons and curbing will be completed this summer. Mr. Ciuni reported that three problems were encountered that required the following change orders: No. 1) removing and replacing eight (8) waterline valves at each intersecting street along the Meadowbrook Blvd. project limits at a cost of \$10,088.00; No. 2) an additional 20 lineal feet of waterline pipe was required to extend and connect the new waterline to the existing 8" waterline along Meadowbrook Blvd. at a cost of \$3,401.45; No. 3) use of MS concrete to expedite waterline trench repair work to minimize resident inconvenience in accessing their driveways at a cost of \$2,640.00. Mr. Ciuni recommended approval of Change Order Nos. 1, 2 and 3 and payment of \$16,129.45 to the Northeast Ohio Trenching Service for extra work under the Meadowbrook Blvd. Phase II Waterline Improvements.

**MOTION BY MRS. ZUCKER, SECONDED BY MR. GOLDBERG to approve the passage of Ordinance No. 2008-04 as an emergency measure. On roll call, on suspension of rules, all voted "aye." On roll call, on passage, all voted "aye."**

**B. 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**

Ordinance No. 2008-05 makes the permanent appropriations for current expenses and other expenditures of the City for the period of January 1, 2008 through December 31, 2008.

**Ordinance No. 2008-05 was placed on first reading. There were no objections.**

**C. Ordinance No. 2008-06 Adopting Chapter 1468 of the Codified Ordinances relating to illicit discharge and illegal connections control**

Ordinance No. 2008-06 adopts Chapter 1468 of the University Heights Codified Ordinances relating to illicit discharge and illegal connection control. Mr. Ciuni reported that the City must pass the ordinance in order to stay in compliance with EPA Storm Water Phase 2 regulations. He noted that the ordinance was written by an employee of the Cuyahoga County Board of Health. Mr. Ciuni noted that although illicit discharges have been detected and eliminated, there has never been a penalty applied. Ms. Goldberg mentioned that penalty is a misdemeanor of the third degree.

Mr. Consolo inquired as to whom will have responsibility of administration under Section 1468.06. Mr. Ciuni replied that the City currently contract with the Cuyahoga County Board of Health to sample the storm water out falls. He added that if they find something illicit in the sample, then the Service Department would trace it back to find the source.

**Ordinance No. 2008-06 was placed on first reading. There were no objections.**

**D. Motion authorizing payment to the City of Cleveland Heights for Joint Fire Dispatch**

**MOTION BY MR. SIMS, SECONDED BY MRS. ZUCKER to authorize payment to the City of Cleveland Heights for joint fire dispatch costs for the first quart of 2008 in the amount of \$26,314.14. On roll call, all voted "aye."**

**E. Motion authorizing payment to OPERS for 2007 fourth quarter employer's contribution**

**MOTION BY MR. BULLOCK, SECONDED BY MR. MURPHY to authorize payment to the OPERS for the fourth quarter employer's contribution in the amount of \$91,049.66. On roll call, all voted "aye."**

**F. Motion authorizing payment to Ohio Police & Fire Pension Fund for 2007 fourth quarter employer's contribution**

**MOTION BY MR. BULLOCK, SECONDED BY MS. GOLDBERG to authorize payment to the Ohio Police and Fire Pension Fund for fourth quarter employer's portion in the amount of \$271,548.65. On roll call, all voted "aye."**

**G. Motion to approve a letter of agreement regarding storing road salt in a Cleveland Heights storage facility as a pilot project**

This item was tabled from the February 19, 2008 meeting for further investigation. Service Director Christopher Vild reported that he and Finance Director Arman Ochoa put together a detailed cost analysis of the salt proposal by Cleveland Heights (CH) by averaging out the data for the last five years. Mr. Ochoa explained the analysis, which is attached hereto in its entirety.

With regard to the question as to how the \$60 per hour handling charge was derived, Mr. Ochoa reported that Cleveland Heights used an owner and operating cost estimate produced by Case Manufacturing (manufacturer of front-end loader that CH uses). In Mr. Ochoa's calculations, the costs totaled \$57.99. He added that Kathleen Ruane, CH assistant city manager, informed him that they rounded the figure up to the nearest whole dollar.

The next item addressed was the total of snow removal cost for a snow season. Mr. Ochoa noted that regular hours and overtime hours were averaged out. He noted that if UH was to build a new salt storage facility the total annual costs would be \$440,816.33; if UH used the CH facility at 100% the total annual costs would be \$448,439.97; and if UH used the CH facility at 50% and the UH facility at 50% ("250 Plan") the total annual costs would be \$433,520.82. Mr. Ochoa stated in comparing the three scenarios if a new facility was built or if the 250 Plan was utilized the saving for both would be approximately \$7,000 as compared to using the CH facility 100%.

As to the question, what is UH cost to CH for using the salt storage facility, Mr. Ochoa reported that at 100% the cost would be approximately \$14,000 and at 50% it would be \$7,000 out of pocket expense to Cleveland Heights.

Mr. Sims thanked Mr. Ochoa and Mr. Vild for supplying the documentation necessary to make an informed decision. Mr. Sims noted that after reviewing the information, he felt comfortable with the information and was ready to support the Road Salt Storage Agreement because it would help the city in the long run even though the two things which drives the spirit and rationale for shared costs and cooperation between communities -- greater efficiency and cost saving -- are both marginal, which the analysis demonstrates. Mr. Sims pointed out that the proposed agreement is an accommodation to Cleveland Heights because it is not justified by greater efficiency and cost savings.

Mayor Rothschild appreciated the analysis and noted that the proposal is a pilot project which will not reveal the full effect until next year.

Mr. Fisher reiterated that the proposed salt storage agreement is an accommodation to Cleveland Heights based on their significant opposition to University Heights' proposal to build its own salt storage facility on South Taylor Road.

Vice Mayor Zucker inquired as to what will happen with the interest on the Bond Anticipation Notes issued to build the storage facility. Mr. Ochoa responded that the City will pay \$8,100 in interest, which will eat into the savings.

Mr. Consolo inquired as to which scenario is being supported. Mr. Sims stated that he is not supporting a particular scenario, but rather the proposed agreement. He added that it would be up to the staff to decide how much salt is stored between the two facilities. Mr. Sims noted that the analysis did indicate that utilizing the UH facility at 50% and the CH facility at 50% (250 Plan) showed the lowest overall total annual cost at \$433,520.82.

Mr. Consolo asked Mr. Vild to explain how the 250 Plan would work. Mr. Vild replied by offering the scenario that he orders 1250 tons of salt, of which 250 tons are stored in the UH facility on City Hall campus and 1000 tons would be stored at the CH facility. Crews would use the salt at the UH facility first before going to CH, which would save costs because the City would not have to pay CH to load the trucks. Mr. Vild mentioned that if the agreement was currently in effect, the crews would have only gone to CH one time this winter season.

Mr. Consolo inquired as to what happens to the salt that is left over at the end of the winter season. Mr. Vild stated that he would have the salt in the UH facility transferred to CH for storage over the summer. Mr. Consolo asked if that scenario is addressed in the agreement. Mr. Ochoa stated that the City would be charged for transferring and storing incoming salt. Mr. Vild added if the salt is sitting in the bin waiting to be used there is no charge.

Mayor Rothschild inquired as to how UH will know they are getting all of the salt it purchased. Mr. Vild replied that it would be based on the size of the front-end loader and the bucket on the loader.

Ms. Goldberg inquired if a quarterly report or evaluation could be done to assess the program since the program is a pilot project. Mr. Vild stated that he will provide evaluations on a regular basis during the season.

Mr. Fisher stated that since the agreement is for one year and may or may not extend for a second year, he needs to address what would happen to UH's salt which is left in the storage facility at the end of the 2009 season. Mr. Consolo stated that CH could buy the salt from the City. Mr. Fisher noted that could be an option, but he must address with Cleveland Heights how University Heights would be reimbursed for salt that is leftover after the agreement terminates.

Mr. Consolo inquired if Cleveland Heights has seen the change in paragraph "3" of the agreement. Mr. Fisher replied that the change in paragraph "3" is Cleveland Heights' language. Mr. Consolo noted that the agreement runs through March 31, 2009, and with the sixty (60) day notice requirement, which would be January 31<sup>st</sup> (middle of the winter season), the City would be up against the wall to renew the agreement. He noted that the date should be changed to a more practical date. Mr. Vild suggested that the Law Director also find out when CH employees get a raise because that will have a factor on increased cost, and then time it with the negotiations for renewal.

Mayor Rothschild inquired if the Council wanted to approve the agreement with the understanding that the Law Director will work out the issues or table until the next meeting. Mr. Consolo suggested that the agreement be tabled.

**MOTION BY MR. CONSOLO, SECONDED BY MS. GOLDBERG to table the agreement for the storage of road salt to allow time for the Law Director to work out the time frame with which to give notice for renewing the agreement and to work out the scenario of how University Heights will get its salt back or money back when the agreement terminates. On roll call, all voted "aye."**

Mayor Rothschild requested that Resolution No. 2008-07, A Resolution In Memory of Police Officer Derek Owens, Cleveland, Ohio Police Department, be added to the agenda.

**MOTION BY MR. SIMS, SECONDED BY MRS. ZUCKER to add Resolution No. 2008-07 to the agenda. On roll call, all voted "aye."**

**H. Resolution No. 2008-07 A Resolution In Memory of Police Officer Derek Owens, Cleveland, Ohio Police Department**

Resolution No. 2008-07 honors the memory of Cleveland Police Officer Derek Owens who was killed in the line of duty on Saturday, March 1, 2008 at the age of thirty-six.

**MOTION BY MR. SIMS, SECONDED BY MRS. ZUCKER to approve the passage of Resolution No. 2008-07. On roll call, all voted "aye."**

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

**MOTION BY MR. BULLOCK, SECONDED BY MR. SIMS to hold an executive session for the purpose of discussing the possible purchase of real property. On roll call, all voted "aye."**

Directors' Reports:

Chief of Police Gary Stehlik requested that the flag in front of City Hall be flown at half mast on Friday, March 1, 2008 in memory of Officer Derek Owens.

Committee Reports:

**Civic Information Committee** Chairman Frank Consolo reported that he met with Tim Parnin of Parnin Media on Thursday, February 21, 2008 and discussed the updating and maintenance of the City's website. He noted that the \$50 per hour rate previously quoted may not be viable for ongoing updates and maintenance. Therefore, Mr. Parnin requested that a request for proposals be issued on the scope of work the City anticipates being done.

Mr. Consolo also reported that Finance Director Arman Ochoa and he will meet with the Loyola Group on March 11<sup>th</sup> for a free IT assessment. At that time, Mr. Consolo will talk with the Loyola Group about what the City should request for updating and maintaining the website.

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

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Mayor Beryl E. Rothschild

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Nancy E. English, Clerk of Council