MINUTES OF COUNCIL MEETING  
CITY OF UNIVERSITY HEIGHTS  
MARCH 7, 2011

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

Roll Call:  
Present:  Ms. Frankie B. Goldberg  
Mr. Kevin Patrick Murphy  
Mr. Frank Consolo  
Mr. Phillip Ertel  
Mrs. Susan D. Pardee

Absent:  Mr. Steven D. Bullock  
Mr. Steven Sims

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

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

Pledge of Allegiance

Minutes of the regular meeting held on February 22, 2011

There were no corrections or additions to the minutes of February 22, 2011.

MOTION BY MR. CONSOLO, SECONDED BY MRS. PARDEE to approve the minutes of the regular meeting held February 22, 2011.  On roll call, all voted “aye,” except for Mr. Ertel and Ms. Goldberg, who “passed.”

Comments from the Audience:

Adele Zucker, 2461 Claver Road, former Council member for 26 years, took exception to a Sun Press article in which Councilman Steven Bullock stated that “he believes the notion that Council members used to take their own minutes is a myth.”  Mrs. Zucker stated that former Councilman R. Patrick Kelly, who chaired the Safety Committee, confirmed that he took his own minutes.  She noted that former Councilman Steven D. Bennett, who chaired the Civic Information Committee, took his own minutes in 1994 and 1995.  Mrs. Zucker mentioned that she took her own minutes as chairman of the Recreation Committee from 1995-2002 and Vice Mayor Goldberg took own minutes from 2002-2004.  She added that former Councilman Peter Bernardo also took his own Building Committee minutes in 2009.  Mrs. Zucker requested that the statement in the Sun Press be corrected.

Steven D. Bennett, 3761 Hillbrook Road, former Councilman, had copies of the minutes that he took as chairman of the Building Committee for distribution to the members of Council.  He encouraged the Council members to consider taking and preparing minutes for the committee they chair.

Mr. Bennett stated that in the past it was recognized that there was a need for a backup for the Clerk of Council and that person was provided from the administration staff.  He realized that the structure and size of the administrative staff is different, but he warned that hiring a part-time position has a way of becoming a full-time position.  Mr. Bennett urged the Council to work with the Mayor to find a solution that would not require hiring additional staff, such as utilizing a current staff member as a backup.

Mr. Bennett also commented on the suggestion of replacing the weekly Council paper packets with electronic documents.  He mentioned that doing this may require a joint RFP with two (2) or more cities in order to keep the system customization and maintenance costs down.  Mr. Bennett stated that a Kindle should not be used because it does not have sorting capability, no audit trail, and would have both security and legal issues.  However, he added that there is software available such as Microsoft Documents, which could be used for this purpose and downloaded to the authorized recipients’ home computer, laptop or iPad.  Mr. Bennett recommended that the Council and Mayor consider the feasibility of paperless packets and work with other local governments to define system requirements, compatibility, security, and cost benefit.
Fred Teacher, 3884 Washington Blvd., thanked Mayor Infeld for her efforts in redirecting the city. He hoped that the Council will support the Mayor’s efforts as they relate to local businesses, John Carroll University and McDonald’s.

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

Mayor Infeld announced that the City’s new permanent hours of operation started today, Monday, March 7, 2011. City offices will be open from 8:00 a.m. to 4:30 p.m., Monday-Friday. She added that the Wednesday late night hours will be reinstated once the temperatures increase and there is more light at night.

Mayor Infeld reported that a CityWatch phone call went out to the residents informing them of the resident survey which is available on the City’s website. Paper copies are available at City Hall and the University Heights Public Library. She noted that the library staff will help residents respond online. The survey will close on March 31, 2011 and the results will be tabulated by Dr. Tom Short, a math professor at John Carroll University. The results will be reported to the community in April.

Mayor Infeld announced that John Carroll University will be celebrating its 125th Anniversary this year. She mentioned that there will be many free activities for the community to participate in. The activities can be found on the University’s website, www.jcu.edu, under the events section.

Agenda Items:

A. Resolution No. 2011-17 Recognizing Lt. Damion Pasternak for his years of service to the City

Mayor Infeld and the Council members read Resolution No. 2011-17. The resolution congratulates Lt. Damion Pasternak on his retirement from the University Heights Police Department. Lt. Pasternak served the City with commitment and devotion for thirty-three (33) years since his appointment on January 22, 1978.

MOTION BY MR. ERTHEL, SECONDED BY MR. CONSOLO to approve the passage of Resolution No. 2011-17. On roll call, all voted “aye.”

B. Resolution No. 2011-18 Recognizing Lt. David Novinc for his years of service to the City

Mayor Infeld and the Council members read Resolution No. 2011-18. The resolution congratulates Lt. David Novinc on his retirement from the University Heights Police Department. Lt. Novinc served the City with dedication and devotion for thirty-three (33) years since his appointment on February 9, 1978.

MOTION BY MR. ERTHEL, SECONDED BY MRS. PARDEE to approve the passage of Resolution No. 2011-18. On roll call, all voted “aye.”

C. Planning Commission Recommendation: B’Nei Torah, 2588 and 2596 South Green Road, application for a Special Use Permit to construct a new synagogue facility

At its meeting held on January 31, 2011, the Planning Commission passed the following motion with respect to the application from B’Nei Torah:

“MOTION BY MS. GOLDBERG, SECONDED BY MRS. INFELD to recommend to City Council the approval of a Special Use Permit to B’Nei Torah, 2588 and 2596 South Green Road, for construction of a new synagogue facility pursuant to Section 1274.01(d) of the Codified Ordinances with a 1.43 acres variance on minimum lot size. On roll call, all voted ‘aye,’ except Mr. Reichek, who voted ‘nay.’”

Brian Farkas, 14411 E. Carroll Blvd., stated that the B’Nei Torah congregation of approximately thirty-five (35) families started almost three (3) years ago and consist of residents from both the City of University Heights and the City of Beachwood. He noted that currently services are held once a week on the Shabbat (Friday night and Saturday day) and they rent the multi-purpose room at the Yavne High School, 2475 S. Green, in Beachwood for that purpose.
Mr. Farkas stated that B’Nei Torah is looking to make a permanent home in University Heights through the construction of a synagogue facility to be located at 2588 and 2596 S. Green Road. They currently own 2588 S. Green Road and have an option on 2596 S. Green Road. Mr. Farkas stated that prior to bringing the application to the Planning Commission, they reached out to the neighbors and the City in effort to have a collaborative process before the final project was presented to the City Council. He added that they met with neighbors on Rubyvale Drive, Lafayette Drive, S. Green Road and the Villas on the Green Condominiums at two separate meetings. At the meetings, they reviewed potential plans, received input and adjusted plans in light of the comments made at the meeting. Mr. Farkas stated that he has tried to address concerns even after the meetings. He noted that there is support for the project, but there is also objection. Mr. Farkas stated that he also met with the Building Commissioner and Fire Chief and addressed concerns they had.

Mr. Farkas expressed that he believes the project will be bring stability to falling property values and, in fact, will increase property values in the surrounding area. He passed out an article entitled, “Orthodox Campus puts ‘Value Halo’ on Housing,” which ran in the Cleveland Jewish News on February 29, 2011. The article showed that the Orthodox Jewish facilities in Beachwood has had a positive impact on properties values within a quarter mile walking distance of the facilities with a 22% appreciation in comparison to the regular appreciation of houses.

Mr. Jack Bialosky, Jr., senior principal, Bialosky + Partners Architects, reviewed the plans starting with the existing site, which is a long and narrow site, comprised of two (2) parcels with homes on them. He then presented the proposed development plan. The synagogue building would be comprised of 14,000 sq. ft. with parking to accommodate 40 cars. Mr. Bialosky stated that much time was spent on deciding how best to orient the site for fire truck access to the site, the ability to turn around within the site, and to screen the site from the neighbors to the north. He noted that a new 6ft. high fence is proposed to be constructed on the north side of the property, 25 ft. off the property line. He added that the existing 6ft. high fence on the south side of the property will be continued with board on board wooden fence to the end the property. Mr. Bialosky stated that the only access to and from the property would be from S. Green Road. Two entrances are proposed to the building – the first from the main walk on S. Green Road and the other in the back of the building.

Mr. Bialosky reviewed the floor plans. The first floor would consist of a central lobby, the sanctuary with seating for 176 people, a social hall in the rear, restrooms, stairs and elevator. The second floor would consist of balcony space open to the sanctuary with a small seating area and two (2) meeting rooms. The basement level would consist of mechanical rooms and two classrooms. It was noted that the social hall would be a one story building without a basement below it.

Mr. Bialosky reviewed the building elevations. The east elevation from S. Green Road would be the front of the building showing the sanctuary space, lobby area with meeting rooms above, the social hall can be seen on the south side. The south elevation shows the social hall. Both the north and south elevations depict the slope of the property. The west elevation would be the rear view of the building from the parking lot. Mr. Bialosky showed a conceptual rendering of what the building would look like and how it would fit into the character of the neighborhood. He noted that the low scale building fits into the site well. He added that the design of the building would have to be presented to the Architectural Review Board for approval.

Mr. Bialosky addressed the issues and concerns that arose during the meetings with the neighbors and city staff:

1) **Setback and Screening** - 6 ft. high fence to be installed 25 ft. off the northern property line to allow for a grass area and landscaped screening. The landscaping will be worked out in detail with the Architectural Review Board. The 6 ft. fence on the south side of the property will be continued to the end of the property, thereby allowing pedestrian and vehicular access from S. Green Road only.

2) **Noise** - noise ordinances will be enforce. B’Nei Torah would be a low impact facility and they plan to be good neighbors.

3) **Parking** - proposing to provide parking for forty (40) cars even though only thirty-five (35) parking spaces are required for 176 seats. They intend to add thirteen (13) parallel spaces on the northern side of the parking lot when the project goes back to the Planning Commission.

4) **Drainage** - they will meet the City’s standards for drainage. All parking areas will have catch basins and drainage which will not only improve the drainage issues on the site, but also for the neighbors.
5) **Lighting** - photometric study and lighting rendering were reviewed. Low level lighting will be used and no site lighting will fall off the site onto neighboring land. The light fixtures are to be shrouded, the light sources would be shielded, and the light poles are proposed at 14 ft. high.

Mr. Bialosky explained that there are two (2) variances required for the project. The first relates to minimum lot size – 3 acres are required and the combined site is 1.57 acres. Therefore, a variance of 1.43 acres would be required on minimum lot size. A second variance may be required for the height of the ridge of the sanctuary. He noted that all other height and setback requirements have been met.

Councilwoman Pardee wanted to ensure that the pool at Villas on the Green would be screened from the view of the proposed site. Mr. Bialosky explained that the 6ft. high fence would be continued with a board on board wooden fence to the end of the property screening the pool. He added that landscaping would also be added.

In response to questions from Vice Mayor Goldberg, Mr. Bialosky confirmed that the project would be completed in one phase, that there would not be ingress or egress from the fence in the rear of the property, and that the rear setback is 30ft.

Councilman Murphy inquired if the plan for thirteen (13) additional parking spaces is one they would like to see or one that would be used as an alternative. Mr. Bialosky stated that they would do it because there is no cost involved. With regard to the fences, it was noted that the existing fences would be maintained and augmented with new fences where they currently do not exist.

Ruth Dancyzer, 2632 S. Green Road, stated her opposition to B’Nei Torah being a house of worship in the midst of a residential neighborhood on S. Green Road. Her specific oppositions were that the plan is to raze two (2) existing single-family homes and squeeze a 14,000 ft. synagogue on the site with accommodations for between 176 and 200 congregants, and replacing grassland and trees with a cement parking lot for 40 cars. Mrs. Dancyzer stated that the zoning code requires 3 acres for such a facility, but the available space is only about half of that requirement. She noted that a previous Council turned down a condo project proposed for the same lots and urged the Council to disallow any structure not in harmony with the long established neighborhood. Mrs. Dancyzer urged the Council to consider an update to the planning and zoning laws.

Stuart Mendel, 2580 S. Green Road (first property north of the proposed development), was against the project because it may decrease the value of his property and for other reasons as outlined in a letter to the Mayor and Council. Mr. Mendel stated that he is in favor of economic development and thinks the City should have a plan for it.

Mr. Mendel did not believe the Planning Commission asked the proper question which was why this property has to change from a residential property to an institutional use in order to ensure that the criteria of Section 1274.01(d) of the Codified Ordinances have met. He read Section 1274.01(d) which states, “A Special Use Permit for any use described in this section shall be applied for and shall be issued on the recommendation of the Planning Commission, subject to any reasonable conditions the Planning Commission may impose uniformly in similar circumstances, for any permitted location, after the applicant demonstrates to the Planning Commission by clear and convincing evidence that the provisions of this chapter will be met and that the special use will not impair surrounding property values or uses, vehicular parking and pedestrian or traffic conditions, lighting glare at night, noise pollution to others or other applicable criteria in the Planning and Zoning Code, and will not be otherwise contrary to the public health, safety and welfare.” Mr. Mendel did not object to the shul per se, rather he objected to it being next to his property in the middle of a residential neighborhood.

He also noted that there is a drainage problem in the back of the of proposed site which affects properties on Rubyvale, Lafayette and S. Green Road and he was concerned that construction would upset the water table. He noted that the construction of the facilities in Beachwood took years to build and he requested that the Council help protect his property now. Mr. Mendel stated that currently his yard is used as a cut-through now, and he can foresee that people will continue to cut-through his yard to get to the entrance. He added that with B’Nei Torah being an Orthodox shul, they would be holding two (2) services a day, festivals, parties, events, and high holidays which will disturb his peace. He also commented on possible noise ordinance violations.

Suzanne Tishoff, 2620 S. Green Rd., agreed with almost everything previously mentioned. She noted that the project would change the area from a residential district to a commercial area and they are trying to place an institution that is too large on a small lot. She did not like the design of the building or the colors being proposed. Mrs. Tishoff stated that she believes if the project is approved the property values of surrounding homes will decrease.
Grant Dinner, 14374 Washington Blvd., stated that he is not currently a member of B’Nei Torah, but his knows a lot of its members and he also knows a lot neighbors in the area. Therefore, he recently decided to purchase a home in University Heights for those reasons. Mayor Infeld also stated that if the project is built, all drainage issues would have to go through the office of City Engineer Joseph R. Ciuni for approval. Therefore, the Mayor relinquished the floor to Mr. Ciuni for comment. Mr. Ciuni reported that the rear of the lot is a low area and he does not believe there is currently any drainage in the area. He stated that the developer will have to maintain the drainage on the property as it cannot be dispersed to other properties. Therefore, they must capture it on their own property and release it properly into a storm sewer. Mr. Ciuni noted the rate of runoff before construction and after construction have to be equal. If that requires storm water detention on the property before it is released to S. Green Road, the rate of runoff will be the same before and after. If there is under drainage, they must maintain it on their own property and release it properly into a storm sewer. Mr. Ciuni also inquired as to how far the fence on the north side of the property would be set back from the property line. Mr. Bialosky replied that the fence would be setback 25ft. from the property line with new landscaping added and the trees along the property line will remain in place. It was noted that the basketball court will be removed. Mr. Bialosky explained that currently there is no drainage throughout the rear portion of the property, and therefore, the water stands. He noted that when the paved area is provided there will be under drainage throughout the pavement which will collect the water on the site and take it to the storm system on S. Green Road. Mr. Chafetz mentioned that B’Nei Torah has done an amazing job in reaching out to the community and have been very accommodating on the issues especially the lighting.

Mr. Bialosky stated that the reason Mrs. Nagel was not notified of the meetings is that invitations were only sent to those people who would have been notified by the City. Mayor Infeld mentioned that the City exceed its normal notification requirements for the Planning Commission meeting and for this meeting as well.

Law Director Kenneth J. Fisher stated that the matter before the Council is the recommendation from the Planning Commission wherein a Special Use Permit application for 2588 and 2596 S. Green Road was approved pursuant to Section 1274.01(d) of the Codified Ordinances. He noted that the criteria was that the applicant had to demonstrates to the Planning Commission by clear and convincing evidence that the provisions of Chapter 1274 will be met and that the special use [B’Nei Torah Synagogue] will not impair surrounding property values or uses, vehicular parking and pedestrian or traffic conditions, lighting glare at night, noise pollution to others or other applicable criteria in the Planning and Zoning Code, and will not be otherwise contrary to the public health, safety and welfare. Mr. Fisher added that if Council accepts the recommendation from the Planning Commission which includes a 1.43 acres variance on minimum lot size (3 acre minimum not met), a site plan application will be filed with the Planning Commission and reviewed by not only the Planning Commission, but the Architectural Review Board as well as all the directors, including but not limited to City Engineer Joseph R. Ciuni, and then return to the Council for final approval.

Mr. Dinner offered support for the project.

Barbara Nagel, 2561 Lafayette Drive, mentioned that she was not invited to the meetings with the developer. Mrs. Nagel stated that she has never had a wet basement in 36 years, but she was concerned that construction on the narrow strip of land would change the drainage. She noted that her neighbors’ properties currently floods and she was worried about where the additional water would go. Mrs. Nagel expressed concerns that people will cut-through the neighborhood and that there will be parking issues from before Shabbat on Friday until after Shabbat on Saturday. She was also concerned that the property may not be maintained. Mrs. Nagel also questioned why 176 seats are being provided for thirty-five (35) families.

Benjamin Chafetz, 2585 Lafayette Drive, noted that his main concern is drainage so he wanted to know the detailed plans with regard to drainage. He also inquired as to how far the fence on the north side of the property would be set back from the property line. Mr. Bialosky replied that the fence would be setback 25ft. from the property line with new landscaping added and the trees along the property line will remain in place. It was noted that the basketball court will be removed. Mr. Bialosky explained that currently there is no drainage throughout the rear portion of the property, and therefore, the water stands. He noted that when the paved area is provided there will be under drainage throughout the pavement which will collect the water on the site and take it to the storm system on S. Green Road. Mr. Chafetz mentioned that B’Nei Torah has done an amazing job in reaching out to the community and have been very accommodating on the issues especially the lighting.

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Mayor Infeld stated that if the project is approved and moves forward, all department directors will be involved with all phases of the project.
Councilman Consolo stated that from what he has heard, there is nothing to give him pause that the Planning Commission did not have the best interest of everyone in mind when making its recommendation. Mr. Consolo added that he had not heard anything to make him believe there was any type of error and he supported the Planning Commission and the Mayor and Vice Mayor in their roles on the Planning Commission.

MOTION BY MR. CONSOLO, SECONDED BY MRS. PARDEE to accept the recommendation of the Planning Commission to grant a Special Use Permit to B’Nei Torah, 2588 and 2596 South Green Road, as presented, for construction of a new synagogue facility pursuant to Section 1274.01(d) of the Codified Ordinances with a 1.43 acres variance on minimum lot size. On roll call, all voted “aye.”

Ordinance No. 2011-14 amends Ordinance No. 2010-64 by extending the temporary moratorium on the acceptance and processing of applications for zoning, occupancy, and/or building permit approval for sweepstakes terminal cafes and the issuance of such approval for a period of two (2) additional months.

Law Director Kenneth J. Fisher stated that municipalities throughout the state are confronted with the issue of whether or not internet cafe use violates the Ohio Revise Code definition of gambling. Some communities say it is, while other say the use is not and taxes its use. Mr. Fisher stated that Ohio Attorney General Michael DeWine issued a press release indicating that he will issue an Ohio Attorney General Opinion on the matter that hopefully will provide some clarity on how to proceed. Mr. Fisher recommended that the ordinance be approved.

MOTION BY MR. CONSOLO, SECONDED BY MR. ERTEL to approve the passage of Ordinance No. 2011-14, as an emergency measure. On roll call, on suspension of rules, all voted “aye,” except Mr. Murphy, who voted “nay.” On roll call, on passage, all voted “aye,” except Mr. Murphy, who voted “nay.” Motion on suspension of rules failed.

Ordinance No. 2011-14 was placed on first reading.

Councilman Murphy stated that he voted against the ordinance because he has worked on agreements with other cities, and he believes the City would be better served by finding a way to work with the cafes. He mentioned that University Heights has many vacant store spaces and many communities are regulating and taxing the businesses. Mr. Murphy stated that he would rather choose to work with the cafes over the two-month period because they could be a source of revenue for the City.


Vice Mayor Goldberg stated that Finance Director Jennifer Esarey and Mayor Infeld worked very hard on the budget and she appreciated their efforts.

Ordinance No. 2011-15 was presented on first reading.

Resolution No. 2011-16 Urging the Ohio Legislature to amend certain provisions of HB 114 to reinstate funding for the Ohio Public Works Commission (OPWC), State Capital Improvement Program (SCIP), and Revolving Loan Program (RLP) to their previous levels.

Resolution No. 2011-16 urges the Ohio Legislature to amend certain provisions of HB 114 to reinstate funding for the Ohio Public Works Commission (OPWC), State Capital Improvement Program (SCIP), and Revolving Loan Program (RLP) to their previous levels.

City Engineer Joseph Ciuni reported that HB 114 will cut the OPWC funding by 75%. He noted that since its inception in 1988, the City of University Heights has received $5.9M in funding through the Ohio Public Works Commission for projects such as Phase 1 and 2 of the Meadowbrook Boulevard Project.
Mr. Ciuni noted that he received an email today stating that the funding was going to be put back in, but he urged the Council to pass the resolution anyway.

Mayor Infeld stated that the City does not have a lot of money for infrastructure projects and this is the type of money that is need to facilitate infrastructure repairs. She encouraged the Council to vote in favor of the resolution.

MOTION BY MR. CONSOLO, SECONDED BY MS. GOLDBERG to approve the passage of Ordinance No. 2011-16, as an emergency measure. On roll call, on suspension of rules, all voted “aye,” except Mr. Murphy, who voted “nay.” Motion on suspension of rules failed.

Ordinance No. 2011-16 was placed on first reading.

Councilman Murphy stated that he voted against the resolution because he believes cities should work together to find the money they need and sustain themselves.

G. Motion to advertise for bids for Dysart Road, Traymore Road and Glendon Road Waterline Replacements

Mr. Ciuni recommended that the City advertise for bids for the second group of streets for waterline replacements. The project areas will include: Glendon Road in its entirety, Dysart Road north to Charney Road and Grenville Road; and Traymore Road from Tyndall Road to Meadowbrook Boulevard. The project will be funded 100% by the Cleveland Water Department.

MOTION BY MR. CONSOLO, SECONDED BY MRS. PARDEE to advertise for bids for Dysart Road, Traymore Road and Glendon Road Waterline Replacements. On roll call, all voted “aye.”

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

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

Directors’ Reports:

Finance Director Jennifer Esarey reported that the 2010 GAAP Conversion Audit will start on Tuesday, March 8, 2011.

Fire Chief John Pitchler reported that the City will pickup the new fire truck on Thursday, March 10, 2011.

Service Director Robert Jamieson reported that crews are still in the process of brush clean up from the ice storm which struck a few week ago.

City Engineer Joseph R. Ciuni reported that the City faired well with the recent flooding issues throughout the county. He noted that the City only received a few calls.

Mr. Ciuni reported that the McDonald’s traffic study is completed. He should receive the study from URS this week. Once Mr. Ciuni has had an opportunity to review the study to make sure that they met the scope of work, he will report back to Council. Mayor Infeld added that she will schedule the work session for the Council to meet with URS, McDonald’s and Mr. Ciuni after the review has been completed. Councilman Ertel requested that the Council members receive copies of traffic study to review in advance of the work session.

Committee Reports:

Building Committee Chairman Frankie B. Goldberg reported that a Building Committee meeting has been scheduled for March 28, 2011 at 6:00 p.m. in the Council Chambers.

Governmental Affairs Committee Chairman Susan D. Pardee reported that the Work Session/Retreat is scheduled for Tuesday, March 15, 2011 from 9:00 a.m. to 3:00 p.m. at the Cleveland Heights-University Heights Library, 2345 Lee Road, Cleveland Heights, in Boardroom on the 2nd floor of the former YMCA Building.
Recreation Committee Chairman Kevin Patrick Murphy reported that the Recreation Committee meeting has been rescheduled for April 4, 2011 at 6:30 p.m. in the conference room.

Service and Utilities Committee Chairman Phillip Ertel reported that the committee met prior to this Council meeting in regard to the recent ice/snow event. Ideas were exchanged relative to snow removal procedures.

Councilman Ertel reported that the committee will meet for a series of three (3) meetings to review the Rubbish Study. All three meetings will be held a 7:00 p.m. in Council Chambers on the following dates: Tuesday, March 29, 2011; Tuesday, April 5, 2011; and Tuesday, April 12, 2011.

Mayor Infeld reported that money has been allocated in the budget for a review of the City’s Planning and Zoning Code based on a proposal received by David B. Hartt of D.B. Hartt, Inc., two years ago. She was not sure if the review would be done by Mr. Hartt or bid out, but funds are available.

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

Following the executive session, a motion was made to adjourn the executive session.

MOTION BY MR. CONSOLO, SECONDED BY MRS. PARDEE to adjourn the executive session and reconvene the recessed meeting. On voice vote, all voted “aye.”

Law Director Kenneth J. Fisher stated that under Section 232.01 (e) of the Codified Ordinances, the Director of Law has the power and authority to settle litigation with the approval of Council. Mr. Fisher presented a Settlement Agreement which settles the pending Federal Court case involving the City of University Heights and John Carroll University over the University’s proposed use of the property located at 4070 Carroll Boulevard, which is United States District Court Case No. 1:10-CV-2601. He advised that the authority of City Council is limited to either authorize the Law Director to settle or to continue with the litigation. Mr. Fisher recommended that the City accept the settlement Agreement, which has been negotiated between the City and John Carroll University and provides for:

- a 5-year period where no rezoning will be sought in the Kerwick Road, Hadleigh Road, Carroll Boulevard corridor, which is detailed on an exhibit attached to the proposed Settlement Agreement in a shaded area; the University has stated what its intended projects are for the City’s consideration, which is consistent with what was submitted to the City Council’s University Affairs Committee on January 12, 2009; the other two conditions imposed by City Council after the Board of Zoning Appeals voted on June 16, 2010 to approve the transitional use for 4070 Carroll Boulevard will not apply – those conditions being a prohibition on the University from buying homes in the area and the University being precluded from applying for tax exemption with the Ohio Department of Taxation for 4070 Carroll Boulevard.

Councilman Consolo inquired if the Council has the authority to meet, reconsider its prior decision, and vote again. Mr. Fisher replied no and stated that the Council’s authority is limited to either authorize settlement or to continue litigation.

MOTION BY MRS. PARDEE, SECONDED BY MS. GOLDBERG to authorize the Law Director to settle the lawsuit between the City of University Heights and John Carroll University (Case No. 1:10-CV-260 in United States District Court for the Northern District of Ohio). On roll call, all voted “aye.”

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