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

Roll Call:  Present:  Mr. Kevin Patrick Murphy  
           Mr. Frank Consolo  
           Mr. Steven Sims  
           Mr. Philip Ertel  
           Mrs. Susan D. Pardee  

           Absent:  Ms. Frankie B. Goldberg  
           Mr. Steven D. Bullock  

           Also Present:  Clerk of Council Nancy E. English  
           Law Director Kenneth J. Fisher  
           Finance Director Jennifer Esarey  
           Interim Chief of Police James Williams  
           Fire Chief John Pitchler  
           Building Commissioner David Menn  
           Service Director Robert Jamieson  
           City Engineer Joseph R. Ciuni  

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

Pledge of Allegiance

Minutes of the regular meeting held on May 2, 2011

There were no corrections or additions to the minutes of May 2, 2011.

MOTION BY MR. CONSOLO, SECONDED BY MR. ERTEL to approve the minutes of the regular meeting held on May 2, 2011 as presented. On roll call, all voted “aye,” except Mr. Sims and Mrs. Pardee, who “passed.”

Comments from the Audience

There were no comments from the audience.

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

Mayor Infeld reported on several items:

Correspondence has been received from the U. S. Conference of Mayors regarding planning for the Fiscal Year 2012 federal budget. On Friday, May 13, 2011, the House Homeland Security Appropriation Sub-Committee reported out a Fiscal Year 2012 spending bill that would cut funding for state and local programs to $1B, which is a cut of more than 50% below this year’s level and 62% below the fiscal year 2010 level. Separately, that bill would cut firefighter grants 54% from a total of $810M this year to $350M next year with $200M designated for firefighter assistance grants and $150M for safer highland grants, both of these programs were funded at $405M a year. The full Appropriations Committee is expected to consider this bill on May 23, 2010. Congresswoman Marcia Fudge may be contacted with comments and concerns.

John Carroll University (JCU) will hold its commencement exercises and reunion weekend from Friday, May 20 through Sunday, May 22, 2011. During this time, parking bans around the campus will be less restrictive.

The replacement of the track surface and the field at JCU’s Shula Stadium is continuing, but is weather dependent.

The John Carroll University Bohannon Science Center will be demolished over the summer.
Agenda Items:

A. Appeal to the Board of Zoning Appeals’ decision of May 11, 2011 by Talia Gahanian of Top It Off Pizza, 14270 Cedar Road, regarding the denial to modify the ruling of City Council by not requiring delivery only from Memorial Day 2011 through Labor Day 2011

An appeal was filed by Mrs. Talia Gahanian of Top It Off Pizza regarding the Board of Zoning Appeals’ decision of May 11, 2011 to deny a modification to the ruling of City Council by not requiring delivery only from Memorial Day 2011 through Labor Day 2011. Mrs. Talia Gahanian, president of Top It Off Pizza, and co-owner, Mrs. Zahava Seltzer, were present along with Mr. Fred Bolotin, Esq., their legal counsel.

Mrs. Seltzer commented that Top It Off Pizza opened on November 1, 2011 and is operating its curbside delivery restaurant out of the Heights Jewish Center. She noted that they were granted a special use permit with the restriction for no pickup from Memorial Day through Labor Day 2011. Mrs. Seltzer asked that the restriction be lifted temporarily from Tuesday, May 31, 2011 through Friday, June 3, 2011 since the municipal pool will be closed during that time period. Further, she requested that this appeal be continued until the Council meeting of June 6, 2011.

Mr. Fred Bolotin clarified that the restriction is against curbside (parking lot) pickup from Memorial Day through Labor Day 2011. He noted that during conversations with some Council members certain questions were posed and they would like to continue the appeal until the next in order to provide data to answer certain questions. Mr. Bolotin stated that in addition they would like consideration of part of the appeal at this meeting. He noted when the restriction was put on the initial approval it was the idea that there would be interference with the pool and safety issues. Therefore, he noted that during the time the pool is open during Memorial Day weekend there will be no pickup, just delivery only. But, during those days after Memorial Day and before the pool opens for the regular season, they are asking at this meeting for a modification to special permit lifting the delivery only restriction for four days, May 31, 2011 through June 3, 2011 and continue the larger appeal until June 6, 2011 when more specific data can be provided to the members of Council.

Councilman Consolo inquired as to what information will be gathered during those four days that cannot be presented at this meeting. Mrs. Gahanian stated that they are ready to present information on traffic flow patterns that they have established. However, they need more time to put together information on the type of signage proposed, staffing to direct traffic, and a plan regarding how they will handle and assist in directing the traffic.

Law Director Kenneth J. Fisher stated that the request for a continuance is proper. He clarified that if the Council does consider and grant the request to lift the restriction for the four (4) days, it does not necessarily mean that the appeal to completely removed the restriction for the summer pool season is going to be granted. Mr. Fisher added that regardless of what private conversations are held, the Council acts publicly in an open meeting and there will be a public vote. Mrs. Gahanian understood.

Councilman Murphy asked how business has been during the first six months of operation. Mrs. Gahanian replied that business is going well, but the number of sales per day has been sporadic ranging from 4 to 37. She mentioned that they are busier on Thursdays and Sundays and not busy on Monday, Tuesday and Wednesday. Mrs. Gahanian noted that the requirement of delivery only is going to be suffocating and that is their concern.

Mr. Bolotin requested that the matter be continued until the next meeting so that they have the opportunity to gather and organize data to be able to show the Council that some of the safety concerns and issues based upon the original estimates of traffic may not be the same based on what the actual traffic has been. He added that there will be no expectation of ultimate approval being granted if a modification is granted lifting the restriction for the four (4) days. Council members Murphy, Consolo and Pardee mentioned that they did not have a problem with the four-day modification.

Councilman Consolo inquired as to what the plan will be if on June 6, 2011 the Council does not grant the modification to the special permit. Mrs. Gahanian responded that because they knew the delivery requirement was coming up they started offering delivery as a service in February. She noted that because they have been delivering for four months they know how much it is costing and if the requirement is upheld they must have a plan in place for the summer. She added that they are working on options, but none has been finalized. Mr. Consolo inquired if they will have data showing that people prefer coming to pickup rather than delivery to their homes. Mrs. Gahanian replied that is the case.
Councilwoman Pardee stated that with regard to the traffic numbers she is interested in the spread of pickups over the hours, not just the total number for the day. Mrs. Gahanian mentioned that the busiest time of day is between 4:30 p.m. and 6:00 p.m. and they are averaging 35% of all sales during that time period.

Mrs. Gahanian was informed that there is a Jewish holiday on June 6, 2011 and requested that the meeting start earlier in order to allow them to attend the meeting.

**MOTION BY MR. CONSOLO, SECONDED BY MRS. PARDEE** to modify the special permit to allow Top It Off Pizza to operate as it has been since November 1, 2010 on the days of May 31, 2011 and June 1, 2, and 3, 2011 without that being intended to be a change of the special permit permanently until the next Council meeting of June 6, 2011. On roll call, all voted “aye.”

Councilman Sims inquired if Council has to vote to move the appeal to the June 6, 2011 meeting. Mr. Fisher advised that the Council could allow the request to table the appeal of Talia Gahanian and Zahava Seltzer of Top It Off Pizza to go forward until the June 6, 2011 meeting without a formal vote. He added that there should be motion to change the time of the regularly scheduled Council meeting from 7:30 p.m. to 6:30 p.m. with the notice to be posted by the Clerk of Council.

**MOTION BY MR. CONSOLO, SECONDED BY MRS. PARDEE** to change the time of the next regularly scheduled Council meeting on Monday, June 6, 2011 to 6:30 p.m. On roll call, all voted “aye.”

**B. Ordinance No. 2011-28 Awarding the 2011 Street Resurfacing Program to Karvo Paving Company jointly with the Cities of Shaker Heights and Cleveland Heights (2nd Reading)**

Ordinance No. 2011-28, which was presented on first reading on June 2, 2011, awards the 2011 Street Resurfacing Program to the lowest and/or best bidder, Karvo Paving Company, in an amount not to exceed $97,600 for University Heights’ portion of the project.

**MOTION BY MRS. PARDEE, SECONDED BY MR. SIMS** to approve the passage of Ordinance No. 2011-28 as an emergency measure. On roll call, on passage, all voted “aye.”

**C. Ordinance No. 2011-29 Enacting and adopting the 2011 S-8 Supplement to the Codified Ordinances**

Ordinance No. 2011-29 enacts and adopts the 2011S-8 supplement to the Codified Ordinances as submitted by American Legal Publishing Corporation. The supplement includes local legislation passed through February 7, 2011 and State legislation through December 31, 2010.

**MOTION BY MR. CONSOLO, SECONDED BY MR. SIMS** to approve the passage of Ordinance No. 2011-29 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. 2011-30 Authorizing an agreement with ODOT for the purchase of rock salt for the 2011-2012 winter season**

Resolution No. 2011-30 authorizes an agreement with the Ohio Department of Transportation (ODOT), Office of Contracts, to purchase sodium chloride (rock salt) for the 2011-2012 winter season.

Service Director Robert Jamieson recommended that the best and most reliable way of securing road salt at the best price for the winter season is by participating in ODOT’s Cooperative Purchasing Program contract. Mr. Jamieson noted that he intends to order the same quantity as last year, 3,300 tons. He noted that the agreement has a 80/120 clause whereby the City can order as low as 80% of the 3,300 tons or as much as 120%. Last year the City used 3,689.11 tons which included salt let over from the previous winter and only ordered 2,640 tons off of last year’s contract. He added that there was 674.6 tons left in reserve this year. Mr. Jamieson stated that ODOT does not have prices yet for the 2011-2012 season, but the price for the 2010-2011 season was $44.84 per ton and for the 2009-2010 season it was $43.53 per ton. He as not aware of any other consortiums for the purchase of rock salt.

**MOTION BY MR. ERTEL, SECONDED BY MR. CONSOLO** to approve the passage of Resolution No. 2011-30 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. 2011-31 Authorizing transfers (1st Reading)**

Ordinance No. 2011-31 authorizes the transfer of funds from the Street Maintenance - 201 Fund to the Bond Retirement Fund in the amount of $1,705,000; from the Sewer Maintenance “A” - 208 Fund to the Bond Retirement Fund in the amount of $325,000; and from the Capital Improvement - 401 Fund to the Bond Retirement Fund in the amount of $570,000.

Finance Director Jennifer Esarey reported that the funds were budgeted with regard to the 2010 Bond Anticipation Note payoff.

**MOTION BY MR. SIMS, SECONDED BY MRS. PARDEE** to approve the passage of Ordinance No. 2011-31 as an emergency measure. On roll call, on suspension of rules, all voted “aye.” On roll call, on passage, all voted “aye.”

F. **Motion to authorize the lease of a new postage machine**

This item was placed on hold at the meeting of May 2, 2011 in order to get clarification on the quotes. Mayor Infeld stated that Pitney Bowes offered the lowest price for the five-year (60 mos.) contract in the amount of $7,380.

**MOTION BY MR. SIMS, SECONDED BY MR. CONSOLO** to authorize a lease for a new postage machine to Pitney Bowes. On roll call, 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. PARDEE, SECONDED BY MR. SIMS** to hold an executive session immediately following this regular meeting for the purpose of discussing personnel matters. On roll all, all voted “aye.”

**Directors’ Reports:**

**Finance Director** Jennifer Esarey reported that she received notice that there was a fine from the IRS that had to do with late filing of 2008 W-2s to the Department of Social Security. The penalty of $360 has been paid.

Ms. Esarey also reported that the Public Employee Fidelity Bond (crime bond) expired on January 1, 2009 due to non-payment at renewal. Crime coverage has been obtain through Travelers for all employees at an annual premium of $1,400. The policy was effective on April 14, 2011. It was noted that there is a separate bond in effect for the Finance Director.

**Interim Chief of Police** James Williams reported that construction has started on the pedestrian crosswalk at the Silsby and Green Road intersection. The pads for the poles have been installed and work will continue as the weather permits. Mayor Infeld noted the cost for the crosswalk signals have been budgeted.

**Service Director** Robert Jamieson reported that the City will hold a Spring Household Hazardous Waste Disposal, Recycling, and Document Shredding Day on Saturday, May 28, 2011 from 9:00 a.m. to 1:00 p.m. in the service yard. Community members who observe the Sabbath on Saturday may drop off their items on Friday, May 27, 2011.

Mr. Jamieson noted that yard waste collection is back on schedule with pick up of craft bags and bundled brush. Residents are asked to bag their leaves and trimmings or cut and bundle the brush in 4 ft. sections weighing no more that 50 lbs. and logs should be cut in 2 ft. sections. Notification will go out to households with loose brush on the tree lawn.

**Building Commissioner** David Menn reported that over 200 grass notices have been sent out this year. He noted that the rainy weather has been a hindrance to cutting the grass, but grass nuisances are being abated. Mr. Menn stated that addresses of any known nuisance property may be submitted to the Building Department. Councilwoman Pardee noted that Fuchs Mizrachi should be sent a notice.

Mayor Infeld reported that the pool and slide cannot be painted until the fall due to the wet weather. In addition, she noted that the wetness has also delayed road repairs at area marked with orange cones.
Committee Reports:

**Finance Committee** Chairman Steven Sims reported that Council has received information relating to budget versus actual performance for the first four months of 2011. He will schedule a Finance Committee meeting for review and discussion.

**Governmental Affairs Committee** Chairman Susan Pardee reported that the committee will meet in the first or second week of June to discuss “Make A Difference Day.”

Councilwoman Pardee stated that given the decrease in revenues she would like to work with a group to assess grant funding opportunities to help support the administration. She suggested that a request for volunteers for people with grant writing experience be placed in the newsletter.

Mayor Infeld referred the review of charges for public records to the Governmental Affairs Committee for a recommendation to the Council.

Mayor Infeld also referred a review for the length of time for holding emails to the Governmental Affairs Committee. She noted the some cities have passed legislation indicating how long email will be held due to computer space. Councilman Murphy stated that is a legal issue of maintaining public records and suggested that the Law Director review it. Mr. Fisher stated that he will review it.

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

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Susan K. Infeld, Mayor

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Nancy E. English, Clerk of Council