

**MINUTES OF COUNCIL MEETING  
CITY OF UNIVERSITY HEIGHTS, OHIO  
MAY 5, 2014**

**Mayor Infeld called the regular meeting to order at 7:38 p.m.**

**Roll Call:**

**Present:** Mrs. Susan Pardee  
Ms. Nancy E. English  
Mr. Mark Wiseman  
Mrs. Adele Zucker  
Mr. Phillip Ertel  
Mr. Steven Sims  
Ms. Pamela Cameron

**Also Present:** Law Director Anthony J. Coyne  
Finance Director Larry Heiser  
Fire Chief Douglas Zook  
Police Chief Steven Hammett  
Service Director Jeffrey Pokorny  
City Engineer Joseph Ciuni  
Building Commissioner David Menn

Pledge of Allegiance

Minutes of the Regular Meeting of April 23, 2014

There were no corrections or additions to the April 23, 2014 minutes.

**MOTION BY MRS. PARDEE, SECONDED BY MS. ENGLISH to approve the minutes of April 23, 2014 as presented. On roll call, all voted "aye."**

Comments from Audience

Mr. Barry Zucker, 2312 Allison Road stated he has been a University Heights resident for 5½ years and was present to request that City postpones the plans to repave Allison Road until next year. Mr. Zucker explained that he has very serious health issues and exposure to asphalt, binders and sealer fumes from the paving materials would be dangerous to his health. Mr. Zucker also explained that he has very severe chemical sensitivity and respiratory problems. Mr. Zucker stated if the city were to wait until next year he and his doctor would have time to plan and implement any necessary cancer treatments and respiratory therapy. The time would also give Mr. Zucker time to find a new suitable home in a different neighborhood for either a permanently or temporary time frame. Mr. Zucker provided a letter of petition signed by his neighbors and a letter from his doctor to Mayor Infeld and members of Council explaining Mr. Zucker's health issues and concerns. Mr. Zucker informed everyone that the City of Cleveland Heights has postponed paving of Nordway for the past three (3) years. According to Mr. Zucker Cleveland Heights informed him that this year they may again be able to postpone the resurfacing of Nordway Road in Cleveland Heights for another year if University Heights doesn't repave Allison Road this year. Mr. Zucker closed by asking University Heights to show the same consideration and compassion.

Mr. Timothy Wutrich, 2315 Allison stated that he felt Mr. Zucker request was very reasonable and that postponing the repaving for another year is fine.

Mr. Thomas (TJ) Monachino, 2319 Allison Road stated that he was fine with anything that Mr. Zucker needed.

Mr. Charles Thomey, 2304 Allison was presented to show his full support of Mr. Zucker and his request in asking the city to postpone repaving Allison Road.

Mayor Infeld stated that she had spoke with the City's Engineer, Law Director and some members of University Heights City Council and that she had also spoke with the FDA for guidelines on how to proceed with this issue. Mayor Infeld noted that she spoke with the City of Cleveland Heights to see how they are managing their road repair issues in that section of the city due Mr. Zucker's health problems. Cleveland Heights replied that they (Cleveland Heights) have delayed their road paving in that area for the last three (3) years with the expectation each year that Mr. Zucker was moving, this year Cleveland Heights decided that they couldn't wait



any longer. Mayor Infeld stated that Allison Road is on the schedule for replacement this year because the city had received complaints on the condition of the road.

Law Director, Anthony Coyne stated that the condition of Allison Road has been an issue and that the City had received complaints about it. Under Ohio Revised Code section 723.01 once the city is on notice for deteriorating road conditions and if an incident were to occur on that roadway the city could then be liable if the condition of the roadway has any significant or approximate cause for the incident.

Mayor Infeld noted that the guidance she received from the FDA specified that specific information would have to be gathered such as information about the asphalt and the paving process.

Mr. Zucker commented that he has no problem with repairing pot holes, it is the repaving that he has an issue with. Road maintenance is fine.

City Engineer Joseph Ciuni stated that he inquired with the contracted company "The Shelly Company" to find out if they had ever dealt with about this health problem in the past. Mr. Ciuni also stated that The Shelly Company is not just a paving company but that they produce the asphalt as well. Therefore they have to follow strict Ohio EPA testing for emissions; otherwise they can't open their asphalt plant. The Shelly Company has met all of the EPA guidelines and is within acceptable levels for any type of fumes. The Shelly Company informed Mr. Ciuni that they were not aware of causing any health problems. The Shelly Company did say that years ago they used a cold tar that had more carcinogens in it, but that is now an illegal material. Mr. Ciuni stated that Allison Road was chosen because Cleveland Heights was scheduled to repave Nordway which butts up to Mr. Zucker's backyard at the property line. Mr. Ciuni was not aware that Cleveland Heights intended to postpone the project this year.

Mayor Infeld reported that there was a separate request that went before and was approved by the Council several months ago from the City of Cleveland Heights for University Heights to pay the cost of repaving the portion of Nordway that is in University Heights. Mayor Infeld told Mr. Zucker that she understood and was very sensitive to his concerns and, that was why she contacted the FDA concerning the asphalt and the impact on public health. Mayor Infeld also noted in conjunction with the Law Director's comment that now that the City is on notice that the street is not in good shape the City has to weigh leaving the street unpaved with paving it.

An audience member asked if the issue is the use of asphalt why the city doesn't use a different material such as concrete.

Mr. Ciuni explained that concrete would be much more expensive, 3 or 4 times the cost of asphalt and that the street would have to be totally torn out and then replace with the concrete.

Mayor Infeld noted that she wasn't sure if that type of expense would fit in the budget. Mayor Infeld also stated that it was helpful to have Mr. Zucker's doctor's reports, but they didn't contain the same information that the FDA stated needed to be answered. Mayor ended in stating all factors will be weighed and thanked Mr. Zucker, his neighbor's for their testimonials and petition.

Councilwoman English commented that part of Council's job is to listen to the constituents and to let their voices be heard. Councilwoman English stated that she believed that another part of Council's job as city officials was to improve the quality of life for the residents. Mr. Zucker's case is a unique situation because of his health condition and it is rare when council has the opportunity to make a direct difference in someone life. Councilwoman English continued to say she was in favor of removing Allison Road from the list of streets to be repaved and to delay the repaving of Allison for one year not only for humanitarian reasons but because she felt it was the right thing to do.

Councilman Wiseman noted that Mr. Zucker's request is reasonable and that the city could use some other type of measure to fill the potholes on Allison Road. Councilman Wiseman commented that Allison didn't appear in terrible shape. Personally Councilman Wiseman stated he wasn't sure about the city's liability in repairing potholes.

Mr. Coyne stated that liability is about the City receiving notice of the road condition.

Councilwoman Zucker agreed with all of the comments and felt that not paving Allison Road at this time should be considered.



Vice Mayor Pardee agreed that council has the opportunity to make a difference and that it would not be harmful by not repaving Allison at this time. Vice Mayor Pardee felt that the city could use some of the funds that are set aside for large area repairs and patch the holes that are along the side of Allison but not in the center to satisfy Mr. Coyne's concern. Vice Mayor Pardee also stated that there are other streets rated number 1 and 2 that could easily take the place of Allison.

Councilwoman Cameron thanked Mr. Zucker for his residency and his neighbor's support of him.

Mayor Infeld noted that the city did not do large patching on Allison last year at the request of Mr. Zucker and thanked Mr. Zucker for informing the city that patching is acceptable this year.

#### Comments from Mayor

Mayor Infeld reported the following information.

- Members of the Council, Board of Zoning, Planning Commission, Architect Review Commission and City Directors will meet again with Mr. David Hartt from D.B. Hartt Planners on May 6 at 7pm in the second floor conference room of the Dolan Science Center at John Carroll University to discuss updating the City's Planning and Zoning Code.
- The City Council and Mayor will hold a work session with the City's Law Department on Monday, May 12<sup>th</sup> at 6pm in Council Chambers to review the duties, responsibilities and roles of elected officials as defined in the Charter and Ordinances.
- The County Solid Waste District will give a seminar of composting on Tuesday, May 13<sup>th</sup> at 7pm at city hall.
- The Memorial Day Parade committee is still taking helpers.
- The County Board of Health has distributed their annual report.
- May is bike month and Wednesday, May 7<sup>th</sup> in the Cleveland Heights / University Heights School District is bike to school day.
- The Cleveland Water Department is giving tours of the water plants on Saturday, May 10<sup>th</sup>. The closes Water Plant to University Heights is the Baldwin Water Treatment Plant located on Stokes and Martin Luther King Blvd in Cleveland.
- The Wiley Challenge Choir will perform their final concert on Wednesday, May 14<sup>th</sup> at 7pm in the Wiley Middle School Auditorium.
- At the end of May (May 22 or May 23) the school board is beginning to prepare the Wiley Middle School children for their movement to either Roxboro or Monticello with tours and welcome gifts.

#### Agenda Items:

##### **A. Ordinance 2014-07 Authorizing the City to enter into a "Delinquent Debt Collection Agreement" with the Ohio Attorney General (second reading)**

Finance Director Larry Heiser stated that currently the city uses a different company to collect delinquent debts and would like to switch to the Ohio State Attorney General Office for the collection of delinquent debt. Mr. Heiser also noted that Cleveland Heights is considering using the State Attorney General Office as well.

Vice Mayor Pardee verified with Mr. Heiser that the City would be able to monitor the program for a period of six (6) months.

**MOTION BY VICE MAYOR PARDEE, SECONDED BY MRS. ZUCKER to approve Ordinance 2014-07 Authorizing the City to enter into a "Delinquent Debt Collection Agreement" with the Ohio Attorney General. On roll call, all voted "aye."**



**B. Resolution No. 2014-08 Approving the City of University Heights Purchasing Policy (first reading)**

Finance Director Larry Heiser remarked that this Resolution is a result from the post audit meeting, which was held on April 24<sup>th</sup>. The City uses blanket purchase orders on a quarterly basis to be in compliance with Ohio Revised Code 5705.41(d).

Mayor Infeld commented that the City has ongoing regular expenses, such as gasoline, road salt and chlorine for the swimming pool and that the Finance Department issues blanket purchase orders in large dollar amount so they can be purchased throughout the year.

Resolution No. 2014-08 was placed on first reading.

**C. Ordinance No. 2014-09 Authorizing the transfer of funds from the General Fund to the Street Maintenance Fund (201), Police Pension Fund (601), and Fire Pension Fund (602) (first reading)**

Finance Director Larry Heiser reported that Ordinance No. 2014-09 provides for the transfer for funds to allow the monthly payment to the Police and Fire Pensions as well as for the upcoming Street Resurfacing Program.

Ordinance No. 2014-09 was placed on first reading.

**D. Resolution No. 2014-10 Authorizing Kelly M. Thomas, Clerk of Council to serve as various Council Members Designee for Open Government Certified Public Records Training Seminar**

Resolution No. 2014-10 authorizes the Clerk of Council, Kelly M. Thomas to serve as designee for Vice Mayor/Councilwoman Susan D. Pardee, Councilwoman Nancy E. English and Councilmen Mark Wiseman and Phillip Ertel for the State required Open Government Certified Public Records Training.

**MOTION BY MS. ENGLISH, SECONDED BY MRS. CAMERON to approve Resolution 2014-10 Authorizing Kelly M. Thomas, Clerk of Council to serve as Designee for Vice Mayor/Councilwoman Susan D. Pardee, Councilmen Mark Wiseman and Phillip Ertel and Councilwoman Nancy E. English for the Open Government Certified Public Records Training Seminar. On suspension of the rules, all voted "aye," and roll call on passage, all voted "aye."**

**E. Resolution No. 2014-11 Authorizing an agreement with The Shelly Company, for the 2014 Street Resurfacing (emergency)**

Mr. Joseph Ciuni, City Engineer stated that the City joined with the City of Shaker Heights for the 2014 Street Resurfacing program. A total of seven (7) bids were received and opened by the City of Shaker Heights on April 7, 2014, the low bidder was The Shelly Company. Mr. Ciuni noted that each city was bided separately and within that each street was bided separately. The bids ranged from \$518,186.25 to \$621,653.50 for the eights (8) streets and repairs for large areas in University Heights. Mr. Ciuni noted that The Shelly Company has previously done work in University Heights but under the companies they bought out, i.e. Kimble, Northern Ohio Paving, Osterland, etc. and recommended awarding the 2014 street resurfacing to The Shelly Company for \$518,186.25 as the lowest and best bid.

Councilman Wiseman asked if another street could replace Allison Road, if it were removed.

Mr. Ciuni replied it would be not be a problem in choosing another street if Allison were removed from the list, but it would have to fit within the budget.

Discussion ensued about the different options for a motion if Allison were removed from the project.

Mr. Coyne, Law Director recommended that if Council chose to remove Allison Road from the 2014 Street Resurfacing Project that the motion could read to approve the paving project up to



\$518,186.25 and for the replacement street be determined by the City Engineer. And that due to the comments that were made by Mr. Kaufmann that Mr. Ciuni be advised to inspect Allison Road to determine if there are locations that interim patching and maintenance should be undertaken.

Mr. Ciuni stated that patching is done with asphalt.

Mr. Zucker stated patching with asphalt is different and that he had no problem with the City patching the street.

Councilman Wiseman asked if inspecting the conditions of the City's street occurs in the everyday duties of the Service Director.

Mr. Ciuni stated yes, the inspection of the city's street is done by the Service Director on a regular basis.

Mayor Infeld remarked that if Allison is removed from the project it will then have large patched paving.

Mr. Larry Heiser, Finance Director asked about the \$10,000 that was appropriated for the Nordway resurfacing project is joint with Cleveland Heights.

Mayor Infeld stated that approx. six (6) month ago University Heights entered into agreement with Cleveland Heights to resurface Nordway and that Cleveland Heights has already bid the project out.

**MOTION BY MR. WISEMAN, SECONDED BY MR. SIMS to approve Resolution No. 2014-11 authorizing Mayor Infeld to enter into agreement with The Shelly Company as the lowest and best bidder for the 2014 Road Resurfacing in University Heights in an amount not to exceed \$518,186.25 subject to the amendment that Allison Road be removed from the list of streets to be resurfaced supplied by the City Engineer, Joseph Ciuni and that Allison Road not be paved in 2014 and that Mr. Ciuni finds a suitable street that can be resurfaced using the \$43,376.50 that was for Allison Road. On suspension of the rules, all voted "aye," and roll call on passage, all voted "aye."**

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

Mayor requested a motion for executive session for the discussion of personnel and real estate matters.

**MOTION BY MR. WISEMAN, SECONDED BY MRS. ZUCKER to enter into executive session for the purpose of solely discussing personnel and real estate matters. On roll call, all voted "aye."**

Directors' Reports

**Finance Department:** Finance Director Larry Heiser stated he will report back within six (6) months on the collection of delinquent debts.

**Fire Department:** Chief Zook informed everyone that the Fire Department is in the second week of fire hydrant flushing and inspections and should be finish within the week. Chief Zook reminded everyone to allow their water to run until clear and that the Fire Department will give out stain remover free of charge to remove any stains done to laundry.

**Service Department:** Service Director Jeffrey Pokorny reported on the status of the following Service Department projects: (1) the city-wide collection of loose leaf and brush has been completed, a total of four passes throughout the city was done; (2) up to date with repairing pot holes, although it is a continual job; (3) 130 of the 215 trees that were authorized for purchase have been delivered to the city. The department will begin to place flags on the properties where the trees will be planted and then the contractor will be planting them shortly after that; and (4) the swimming pool is in the process of being cleaned and will be filled next week and ready to open for the Memorial Day weekend.



Councilman Sims asked if the City has responsibility if a property has a large dead tree.

Law Director Mr. Coyne replied that residents are responsible for maintain their own property but if there are tree limbs hanging over the right of way the city could remove those limbs without any exposure, but in terms of going onto an owner's property the city would have to cite the homeowner for a nuisance condition prior removing it.

Mr. Pokorny stated that per city ordinance the Service Director can take action once notified of a hazardous tree. Mr. Pokorny gave to process of not handling a hazardous tree; (1) notifies the City's Arborist to inspect the tree, (2) a letter is written to the homeowner explaining the trees condition and what needs to be done. The property owner is given several notifications and if the issue is not addressed at that point per city ordinance the city can contract with a contractor and remove the tree. The cost of the removal of the tree is billed to the property owner and if not paid the bill goes on the property tax bill.

Councilman Wiseman questioned if the painting that was done on Baintree by the gas company were markings of the gas lines for the tree plantings. Mr. Pokorny responded that he did not know for sure but that the City Arborist did provide a list to OUPS (Ohio Utility Protection Service / utility marking company) so markings can be done for both water and gas lines.

Councilwoman Cameron asked why the road repair that was done on Cedarbrook near South Taylor was filled with concrete as opposed to asphalt and if it was because it was near a drain. Mr. Pokorny explained that concrete was used because in many cases it is a utility patch (where water or sewer work is done) and those patches are done with depth concrete, long term it will be replaced with asphalt when the street is regrinded and it is resurfaced. Mayor Infeld gave the example of Lansdale Road and when it was replaced.

**City Engineer** Joseph Ciuni introduced Ricky Breener who is in his senior year at Gilmour Academy. Ricky is shadowing Mr. Ciuni for his senior project. Mr. Ciuni reported that South Belvoir Boulevard is under construction. The project started in South Euclid and should be finished with South Euclid in time to start the University Heights portion on June 19<sup>th</sup>. At that time the block of South Belvoir between Washington Blvd. and Carroll Blvd. will be closed for approx. 6 weeks until August 15<sup>th</sup>. After that section of South Belvoir is completed the work will begin on the rest of South Belvoir, in a circle fashion where the inside lanes are done first and then the curb lane. This portion of work will run from approx. August 15<sup>th</sup> and be completed by October 6<sup>th</sup>.

There were no other director reports.

#### Standing Committee Reports

**Building Committee** Chairman Steven Sims reminded everyone that a schedule of Building Committee meetings was established at the beginning of 2014 and unless something special comes up the committee will meet according to that schedule. The next scheduled meeting is on Thursday, June 26 at 7pm.

**Civic Information Committee** Chairwoman Nancy English reminded everyone that the Technology Advisory Committee will have their next meeting on Wednesday, May 14<sup>th</sup> at 7pm in Council Chambers.

**Finance Committee** Chairwoman/Vice Mayor Susan Pardee reported that the next joint Finance/Financial Advisory Committee meeting will be on Thursday, June 12 at 7pm in Council Chambers.

**Governmental Affairs Committee** Chairman Mark Wiseman reported on the follow up meeting at Heights High School for the redesigning of Heights High. The meeting was informative and productive. The architects brought in three (3) basic models based on the Lego design models ideas and took more ideas from those in attendance.

**Safety Committee** Chairman Phillip Ertel's committee meeting will be next month to discuss auxiliary police officers.

Mayor Infeld added to the report she gave at the beginning of the Council meeting that she had received a suggestion from a resident who serves on the city's Economic Advisory Committee as well as being a commercial real estate developer on how to manage the high school student population during the rebuilding process of Heights High in a more cost effective way. The

resident suggested that the high school students be relocated from Heights High and be transported by school buses to South High School which is located in Cleveland near Garfield Heights. Mayor Infeld stated she approached the School Superintendent and also the School Board with the suggestion. The School Board considered the proposal and after a period of time the Superintendent informed her that the suggestion would not be pursued or considered.


There were no other standing committee reports.


Council entered into executive session at 8:55p.m. to solely discuss personnel and real estate matters with no new business to conduct after the executive session.

**MOTION BY MRS. CAMERON, SECONDED BY MR. WISEMAN to resume the regular Council meeting session at 9:42p.m. On roll call, all voted "aye."**

There being no further business to discuss, the meeting was adjourned at 9:45pm.

**MOTION BY MS. ENGLISH, SECONDED BY MR. WISEMAN to adjourn the meeting. On roll call, all voted "aye."**

  
\_\_\_\_\_  
Susan K. Infeld, Mayor

  
\_\_\_\_\_  
Kelly M. Thomas, Clerk of Council

