

**MINUTES COUNCIL MEETING
CITY OF UNIVERSITY HEIGHTS, OHIO
NOVEMBER 17, 2014**

Mayor Infeld called the regular meeting to order at 7:33 p.m.

Roll Call:

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

Also Present: Assistant Law Director James C. Budzik
Finance Director Larry Heiser
Police Chief Steve Hammett
Service Director Jeffrey Pokorny
Building Commissioner Eric Tuck-Macalla
City Engineer Joseph Ciuni
Clerk of Council Kelly M. Thomas

Pledge of Allegiance

Approval of Minutes from Council Meeting November 3, 2014

One correction was made on page 8 where under the Director's Reports ODOT was misspelled.

MOTION BY MRS. CAMERON, SECONDED BY MS. ENGLISH to approve the minutes of November 3, 2014 as corrected. On roll call, all voted "aye."

Comments from Audience

Attorney Kenneth Fisher, representative for Cedar Green Associates and Mr. Larry Weiser was present at the meeting in regards to the re-zoning of six (6) parcels at the intersection of Cedar and Green Roads, on the Cedar Road side from a U-2 Family District and U-3 to a U-7 Commercial District.

Mr. Fisher stated that on October 20, 2014 the recommendation was considered by City Council and the rezoning of the parcels was approved with a vote of 3-3. Mr. Fisher stated and cited University Heights code section 1242.11(a) which reads; in order to not accept a recommendation of the Planning Commission on a rezoning the code is very specific. No rezoning amendment which differs from the plan or report submitted by the Planning Commission shall be adopted by Council except by the affirmative vote of not less than two-thirds of all its members, thus 5 members. Mr. Fisher continued to state that it would take 5 votes to reject the recommendation from the Planning Commission and that obviously the 3-3 tie vote is less than five; therefore according to Mr. Fisher he believed the directive given by the City's Law Director Mr. Coyne to place the matter on the November 17 Council agenda for further consideration received was correct. Mr. Fisher concluded by saying that the matter is still properly in front of Council until there's been a proper judged because the 3-3 vote neither rejects nor approves the vote.

Mayor's Comments

Mayor Infeld provided the following report.

- At 7pm on Tues., Nov 18 at John Carroll University, Dolan Science Center Auditorium the City's Planning Commission will meet to discuss the School District's proposal to bring Heights High over to the Wiley property.

A. Motion to enter executive session for imminent litigation

Mr. Wiseman objected to moving into executive session because in his estimation there is no imminent litigation, just because Mr. Fisher wrote the words imminent litigation in the letter he wrote to the City doesn't qualify as imminent litigation.

Mayor Infeld remarked that the Law Department suggested that this matter be discussed in executive session.

Mr. Budzik stated that this case has a thirty day time frame for an administrative appeal which would be considered a imminent litigation.

Mr. Sims stated he didn't have any objection to hearing this matter in executive session if that is Council pleasure, but asked if it was necessary to hold two (2) executive sessions as listed on the agenda and if the two items could be held in one executive session.

Mayor Infeld replied yes, that two executive sessions were needed because there are two (2) different items to discuss. If both items were heard in one session it could close the meeting for quite a period of time, having two sessions would be more efficient for the audience members.

Mr. Sims stated he was suggesting discussing the matter as Council's normal end of business executive session after all agenda items are heard and that he would support an executive session at the end of the meeting.

Mayor Infeld asked for a motion to table this item until the end of the meeting.

MOTION BY MR. SIMS, SECONDED BY MRS. PARDEE to table agenda Item "a" to enter into executive session for the purpose of discussing imminent litigation until the end of the meeting. On Roll Call, all voted "aye."

B. Ordinance 2014-44 Authorizing the Mayor to enter into a contract with CompManagement, Inc. for the purpose of providing third-party administrator services with The Ohio Bureau of Workers' Compensation in the amount of \$6,795 (second reading)

Mr. Heiser stated that this would be the City's second year with CompManagement and that they are the company that provides 3rd party administration services to the Ohio Municipal League groups.

MOTION BY MRS. PARDEE, SECONDED BY MRS. CAMERON to approve Ordinance 2014-44 authorizing the Mayor to enter into a contract with CompManagement, Inc. for the purpose of providing third-party administrator services with The Ohio Bureau of Workers' Compensation in the amount of \$6,795. On roll call, all voted "aye."

C. Ordinance 2014-46 Approval of Budget Amendment

Mr. Heiser explained that Ordinance 2014-46 cleans up the budget so that the City doesn't get budgetary citations. The three funds affected by this Ordinance are: Community Diversion Fund \$2,000 of other expenditures to personal services to cover necessary over-time, Sewer Maintenance Fund (208) because the budgeted waterline replacement project wasn't done; and Fund 213.

Ordinance 2014-46 was placed on first reading.

D. Ordinance 2014-47 Creating a Special Revenue Fund Known as The Park Fund 206 (first reading)

Mayor Infeld stated that Ordinance 2014-47 will account for the collect monies from the Park Levy and show it in the budget for the Park.

Ordinance 2014-47 was placed on first reading.

E. Resolution 2014-48 Approving the City of University Heights Debt Policy (first reading)

Mrs. Pardee asked Mr. Heiser if this is an aggregate because a part of the language states "the useful life of the asset or project shall exceed the payout schedule of any dept the City assumes".

Mr. Heiser stated that yes, it is an aggregate and that when a series of bonds are like this the playground equipment will be account for in the first five or ten years then other items such as the gazebo in the last few years.

Mrs. Pardee asked if Section 1- Purpose of Dept where it states "Long-term dept shall not be issued to finance current operation or routine maintenance of the City" could be worded differently for better clarification.

Mr. Sims commented that usually with a debt policy the purpose is to say the debt will not be used for non-capital expenditures.

Mr. Heiser stated he will replace the words "routine maintenance" with "non-capital"

Mr. Sims asked if the City has a financial advisor who serves as a consultant.

Mr. Heiser replied the City has been approached by many companies. But the rules have changed and financial advisors cannot be involved in the City's dept issuances. Mr. Heiser stated he didn't see the need for the City to have a financial advisor.

Mr. Wiseman asked what would happen if the general fund fell below \$1.6mil.

Mr. Heiser said it would affect the City's credit rating. The City's fund balance at the end of the last few years helped to achieve our current rating of AA3 with the chance to increase it to an AA2. Mr. Heiser stated that the City may not need to do a rating and just do a placement. That is why it is stated with the wording that it is a goal to maintain unencumbered general fund balance at a minimum of \$1.6mil because it is a guideline.

Mr. Sims asked if it would be to the City's advantage to be more conservative with the minimum balance amount if it could affect the credit rating.

Mr. Heiser replied that originally he had the minimum at \$1mil but after speaking with bond consultants he increased it based on what previous ending balances have been but didn't want to make it as high as it had been the pasted two years but at a decent range. The \$1.6mil is a starting figure and can be adjusted.

F. Resolution 2014-49 Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies for New Park Development on Fenwick Road (first reading)

Mr. Heiser stated that Resolution 2014-49 will allow the County to begin to start collect the tax levies.

Resolution 2014-49 was placed on first reading.

G. Motion to Authorize the 2015 Contract for Public Health Services with the Cuyahoga County Board of Health

Mayor Infeld stated that the Cuyahoga County Board of Health provides services for the City. Like many other communities in the County the City does not have its own Health Department and contracts with the County Board of Health. The contract per capita rate for 2015 is the same as 2014 in the amount of \$3.92.

MOTION BY MS. ENGLISH, SECONDED BY MRS. ZUCKER to authorize the 2015 Contract for Public Health Services with the Cuyahoga County Board of Health as presented. On Roll Call, all voted "aye."

H. Motion to Authorize Mayor to enter into Maintenance Agreement with L3 Communications Mobile-Vision for Police Department Video System

Chief Hammett stated the maintenance agreement covers all support for the entire surveillance system from the servers, video to the interview room. One maintenance call could cost several thousand dollars. Chief Hammett noted that this is a State of Ohio contract and is a proprietary. Ohio Senate Bill 77 was passed in July 2010 requiring police departments to tape all custodial integrations; if it is not tape it is assumed not to be consensual.

Mayor Infeld noted this is not a new agreement but rather a renewal contract.

Mrs. Pardee asked if the hardware would be covered because the contract states hardware protection is no longer available and what happens after the extended maintenance agreement won't be offered after next year.

Chief Hammett replied that yes the hardware is covered and that after 2015 some of the equipment will have to be replaced because it will be past its life cycle of 5 to 7 years.

Mrs. Zucker asked if there were other companies that offer this type of equipment so that the City could find the best offer.

Chief Hammett replied yes.

MOTION BY MRS. PARDEE, SECONDED BY MRS. ZUCKER to authorize the Mayor to enter into Maintenance Agreement with L3 Communications Mobile-Vision for Police Department Video System for the amount of \$5,665. On Roll Call, all voted "aye."

I. Motion Authorizing Mayor to Post Legal Notice to Sell City Owned Property located at 2240 Jackson Blvd., parcel no. 722-04-043

Mayor Infeld stated that per Ohio Revised Code the City is required to publicly post notice of selling City property.

Mr. Budzik added that pursuant to Article 8 of the Miscellaneous Provisions of the City Charter it notes that the general laws of Ohio relating to budgets, appropriations, deposits, expenditures, debts, bonds and contracts shall be applicable to this City except as modified by provisions of this Charter. Mr. Budzik stated that there is no conflicting Charter Provision so therefore the City has to comply with the State law on advertising and bidding.

The Mayor remarked that Council was aware that each of the adjoining neighbors on both sides of the property are interested in purchasing the property and have approached the Finance Director about doing so. The City is first required to post notice and will see what the posting yields. Mayor Infeld also noted that the City Council has discussed selling the property to the adjoining neighbors, but has made no decision to so.

Mrs. Cameron asked about the lot split.

Mr. Heiser stated that if another party bids more than the adjoining neighbors would agree to pay the City would have to sell it to the highest bidder.

Mr. Budzik remarked that the Council approved the lot split, which will be filed with the County and then the City is required to advertise to get the highest price.

Mr. Wiseman commented that Council had a specific amount that was to be equally shared between the neighbors. Mr. Wiseman questioned if those adjoining neighbors have to bid once the notice gets published and if they have been sent a letter stating the same.

The response was yes, the City will inform the adjoining neighbors what necessary.

MOTION BY MRS. CAMERON, SECONDED BY _____ authorizing Mayor to Post Legal Notice to Sell City Owned Property located at 2240 Jackson Blvd., otherwise known as parcel no. 722-04-043.

Motion failed due to lack of a second.

Mr. Sims stated that the intent was to split the lot to provide an opportunity for the two adjacent property owners and asked what happens if Council approves this without the split, because then that would advertise the property as one parcel.

Mayor Infeld said the property went to before the Planning Commission as a lot split and Council approved it. Mayor Infeld noted that the administration did not come before Council and say it would like to sell this to neighbor "A" and neighbor "B", in the intervening time the Council talked about this in executive session not open session. Mayor Infeld continued to say the City cannot sell property without a public discussion. In the meantime the Law Department found that the Ohio Revised Code requires this to be publically posted. Although Council talked about this in executive session there has never been an open session where any dollar figure, names of person "A" person "B" have been discussed.

Mr. Sims stated that he was not disagreeing with the posting of the notice but that the posting should be for two (2) parcels instead of posting the consolidated parcel which Council did not intend.

Mr. Wiseman agreed with Mr. Sims.

Mr. Heiser asked the City Engineer if the lot split has been filed yet.

Mr. Ciuni responded no, the lot split has not been filed with the County yet.

Mr. Wiseman noted that Council previously approved the lot split and the intention was that the paperwork would be filed and that the lot is split.

Mr. Heiser asked if Council wanted to make a motion that the City advertises the property as two parcels.

Mr. Ciuni stated that Council approved a lot split and consolidation. Even though it could be two different instruments, it was done as one. So in anticipation that each neighbor would pick up half the land we approved the lot split and consolidation, nothing can be done until money/deed changes hands and that hasn't happened yet. Therefore Council really can't approve the lot split because it doesn't exist; it's a lot split and consolidation plat.

Mr. Sims in seeking clarification and understanding asked if the legislation before Council and if approved would advertise the property as one lot. So if someone were to bid on it they would have the entire lot and that was not Council's intent.

Mr. Ciuni stated that if the lot were split, it would not be a buildable lot.

Discussion ensued regarding whether or not this is one parcel or a lot split with two parcels.

Mr. Wiseman asked if the parcel could be split and then advertise it as two half parcels to comply with the law.

MOTION BY MRS. CAMERON, SECONDED BY MR. SIMS to remove this item from the agenda. On roll call all voted "aye."

Mayor Infeld commented to Council that they may see this item again in two weeks or may see it in four weeks with probably two different parcel numbers.

J. Motion at Authorize the Mayor to advertise RFQ's for Design Services for the New Park

Mr. Ciuni stated that this is part of the process. The City has to publically advertise for architects to submit their qualification and proposals on how they would approach the project. Usually you review the proposals and choose the top three architects to interview then choose one to develop the design.

Mayor Infeld stated she will be working with Mr. Ciuni as well as Mr. Pokorny to develop packets detailing what the City is looking for in the proposals. Mayor Infeld noted what the City currently has for the park is a conceptual plan and not the detailed scope of the project.

Mrs. Cameron asked Mayor Infeld to provide Council with the packet information detailing what the scope of the project will be.

Mr. Wiseman asked if Mr. Sims request for the City to have a policy regarding minority owned businesses would be ready prior to the City taking bids for the new park.

Mayor Infeld stated that that is defined by Ordinance and read Section 212.01 - Advertising Requirements; Bids. (1) Contracts or agreements which involve the expenditure of fifteen thousand dollars (\$15,000) or less, or as provided in Section 212.02, may be made without published notice and without competitive bidding. However, contracts in excess of five thousand dollars (\$5,000) shall require approval of a majority of Council by motion or ordinance. Except as provided by Section 212.02, in all cases where the expenditure exceeds fifteen thousand dollars (\$15,000), the contract shall be let only to the lowest and best bidder after advertising not less than two consecutive weeks in a newspaper of general circulation in the City, or except if there are no qualified bids received after advertising or re-advertising. (2) Minority Business Enterprises (M.B.E.'s), Woman Business Enterprises (W.B.E.'s) and Small Business Enterprises (S.B.E.'s) are encouraged to participate and bid on City projects. In the absence of any other definition, such enterprises shall be defined according to applicable County of Cuyahoga, State of Ohio and/or U.S. guidelines, rules, regulations or laws.

Mr. Sims stated he would personally like to see it finished and said that one of the aspects that the current ordinance does not address is the encouragement of the prime contractor to include women and minority owned businesses. Mr. Sims noted that this was to be added to the adopted procurement policy and that he would again shared the information he has written with Council and the Law Director.

MOTION BY MR. ERTEL, SECONDED BY MRS. CAMERON to authorize the City to advertise RFQ's for Design Services for the New Park. On roll call, all voted "aye."

K. Discussion of Vendor Contracts and Companies doing business with the City

Mayor Infeld asked Council if they had any questions regarding City doing business with them or if they knew if the business has any relatives that work for the City. The list of businesses the Mayor named are; CompManagement or L3 Communications Mobile-Vision.

Mrs. Cameron asked the Mayor if she was aware of anyone who is employed by the City and has a relative in either of the companies.

Mayor Infeld responded that she did not know of anyone.

Mr. Sims asked if the City does anything in its solicitation that would raise a concern if it did exist. When the City is securing services at any level is the question asked if there are familiar relationships.

Mr. Budzik replied that there is a discloser statement for any type of relationships for business interest or family relations.

Mr. Sims commented that he would respectfully asked that if the City were to ever receive an affirmative to that disclosure that if Council is presented with the contract that they be made aware of such relationship.

MOTION BY MR. ERTEL, SECONDED BY MRS. CAMERON to enter into executive session for the purpose of discussing personnel bargaining union contracts. On roll call, all voted "aye."

L. Motion to hold an executive session immediately following this regular meeting for the purpose of discussing collective bargaining matters.

Mayor Infeld asked if anyone from Council would be willing to pick agenda item "a" off the table and vote to go into executive session at this time on agenda item "a" which is a motion to enter executive session for imminent litigation.

Mayor Infeld explained that she is asking for two different motions to enter into executive session because they are two different reasons and were entered on the agenda as two different motions to begin with.

Mr. Sims stated that there have been executive sessions in the past where there were numerous items without separately identifying what was being discussed. Mr. Sims offer to support an executive session relates to the general executive session where once Council has entered executive session Council can determine what will be discussed relative to litigation, etc. Mr. Sims stated that in his tenure Council has never had a situation where there were items for executive session and different executive sessions for those items.

Mayor Infeld replied that there was a reason for that would have been explained to Council in the executive session.

MOTION BY MR. SIMS, SECONDED BY MS. ENGLISH to take agenda item "A" off the table for consideration and enter into executive session for the discussion of imminent litigation. On Roll Call, all voted "aye," except Mr. Wiseman and Mrs. Cameron who voted "nay."

MOTION BY MS. ENGLISH, SECONDED BY MR. SIMS to enter into executive session under agenda item "L" for the purpose of discussing collective bargaining matters. On Roll Call, all voted "aye."

Council enter into executive session at 8:47pm

MOTION BY MS. ENGLISH, SECONDED BY MRS. ZUCKER to resume the regular Council meeting. On Roll Call, all voted "aye."

Council resumed their regular Council session at 10:38pm

MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to add the Planning Commission's decision dated August 26, 2014 back to the Council agenda to reconsider Larry Weiser's application for the rezoning only of parcel numbers 721-18- 005, 721-18-006, 721-18-007, 721-18-008, 721-18-009, and 721-18-049 from the current U-2 (two-family residential district) to a U-7 (Local Retail District) and the rezoning of 721-18-010 from the current U-3 & U-8 (automobile parking district/shopping center district) to a U-7 (Local Retail District). Conditional on the filing of the lot split and consolidation plat with the County; as Council has received correspondence dated November 14, 2014 from Waterway Gas and Wash Station withdrawing their name from the application. On roll call, all voted "aye," except Mr. Wiseman who voted "nay."

MOTION BY MR. SIMS, SECONDED BY MRS. CAMERON to approve the Planning Commission's recommendation for the rezoning only of parcel numbers 721-18- 005, 721-18-006, 721-18-007, 721-18-008, 721-18-009, and 721-18-049 from the current U-2 (two-family residential district) to a U-7 (Local Retail District) and the rezoning of 721-18-010 from the current U-3 & U-8 (automobile parking district/shopping center district) to a U-7 (Local Retail District). Conditional on the filing of the lot split and consolidation plat with the County; as Council has received correspondence dated November 14, 2014 from Waterway Gas and Wash Station withdrawing their name from the application. On roll call, all voted "aye," except Mr. Wiseman and Mr. Sims who voted "nay."

Mayor Infeld stated that the applicant could chose to have commercial property with homes sitting on it, but there are certain requirements if the homes are removed. There is an Ordinance requiring that any demolition be approved by the City Council. If the applicant decides to place a commercial business on that site the application would go before the Planning Commission.

Directors' Reports

Service Department: Service Director Jeffrey Pokorny reported that curbside leaf pick-up is stalled because of the weather; pickup will resume once the snow melts and possibly extend the ending date.

There were no other director reports.

Standing Committee Reports

Civic Information Chairwoman Nancy English reported that there will be a joint meeting with the Technology Advisory and Civil Information Committees on Monday, November 24, 2014 at 7pm and that the Civic Information Committee will meet sometime in December to discuss the Senior Transportation Connection program. Ms. English asked Mayor Infeld to provide her with the most recent contract.

Finance Committee Chairwoman/Vice Mayor Susan Pardee reported that there will be a Joint Finance/Financial Advisory Committee meeting to review the budget on Thursday, December 4, 2014 at 7pm in Council Chambers.

Governmental Affairs Committee will meet on Wednesday, November 19, 2014 at 7pm in Council Chambers.

Recreation Committee Chairwoman Pamela Cameron will schedule a Recreation Committee meeting in December to discuss the 2014 Recreation Summer Season.


There were no other standing committee reports.

There being no further business to discuss, the meeting was adjourned at 10:45pm.

MOTION BY MRS. ZUCKER, SECONDED BY MR. SIMS to adjourn the meeting. On roll call, all voted "aye."



Susan K. Infeld, Mayor



Kelly M. Thomas, Clerk of Council