Mayor Infeld called the regular meeting to order.

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

Also Present: Clerk of Council Nancy E. English
Law Director Kenneth J. Fisher
Finance Director Jennifer L. Esarey
Chief of Police Gary Stehlik
Fire Chief John Pitchler
Building Commissioner David Menn
Service Director Christopher Vild
City Engineer Joseph R. Ciuni

Pledge of Allegiance

Minutes of the regular meeting held on October 4, 2010

There were no corrections or additions to the minutes of the October 4, 2010 regular meeting.

MOTION BY MS. GOLDBERG, SECONDED BY MR. BULLOCK to approve the minutes of the regular meeting held September 7, 2010. On roll call, all voted “aye,” except Mr. Sims and Mr. Murphy, who “passed.”

Comments from the Audience:

Peter Bernardo, 2332 S. Belvoir Blvd., director of the Civilian Emergency Response Team (CERT), announced that the CERT Team is recruiting new volunteers. He mentioned that the University Heights CERT Team was one of the first organized in Cuyahoga County and was also one of the first to organize and practice a full scale inoculation hospital while giving flu shots to area senior citizens. Mr. Bernardo noted that CERT is taking on a new organization directive by organizing to provide police support for emergency traffic control, developing a neighborhood safety network to check on neighbors during an emergency and to educate neighbors on emergency preparedness, and partnering with the Red Cross to create emergency shelters. He noted that CERT training is free of charge. Any University Heights resident interested in joining may call Winifred Weizer, director of recruiting, at 216-397-0354 or 216-702-8300 or email uhcert@gmail.com.

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

Mayor Infeld reported that loose leaves will be picked up from the tree lawns from October 15, 2010 to December 1, 2010.

Mayor Infeld announced that she received three (3) job postings from St. Paul’s Church, the City of Garfield Heights and the City of Euclid. The notices will be posted on the bulletin board at City Hall.

Mayor Infeld announced that Kindernet held an Open House on Thursday, October 14, 2010. Each elementary school in the district was highlighted, teachers and principals were in attendance.

Mayor Infeld mentioned that the CH-UH City School District staff have received awards:

Natalie Wester, a third grade teacher at Gearity Professional Development School, was selected as the Ohio Teacher of the Year for 2010;

Ida Bergson, an art specialist at Canterbury Elementary School, was named Outstanding Art Teacher of the Year;

Daniel Heim, the Instrumental Music Director at Cleveland Heights High School, received the New Teacher of the Year Award from the District; and
Scott Gainer, Chief Financial Officer of the School District, has been named the Outstanding Treasurer/CFO of the Year for the State of Ohio. Mr. Gainer was nominated by Councilwoman Susan D. Pardee, who serves the School District as the Coordinator of School Improvement and Federal Program. Mrs. Pardee stated that Mr. Gainer was also nominated by a group of treasurers and that the award was well deserved. She mentioned that Mr. Gainer has received numerous government financial officers awards every year for financial reporting.

Mayor Infeld announced that Cleveland Heights High School homecoming parade will be held on Friday, October 22, 2010 before the football game against Mentor High School. The parade will start at Taylor Academy and proceed toward the high school.

Mayor Infeld announced that Future Heights is having an awards ceremony for the Best of the Heights. The City was nominated for Best Recreational Facility at Purvis Park.

Finally, Mayor Infeld announced that the library is having a fund raisers at Nighttown with “The Nighttown Academy of Poetry and Letters” on Sunday, October 24, 2010.

Agenda Items:

A. Presentation by Virginia Benjamin, Esq., Calfee, Halter & Griswold

Ms. Virginia Benjamin, the City’s bond counsel with Calfee, Halter & Griswold, explained that the Tax Incentive Review Council (TIRC) was originally started to review tax abatement for individual property owners to ensure that the property owners were complying with the terms of the tax abatement. In 1994, the Ohio Revised Code (ORC) was amended to extend the TIRC to all types of tax incentives offered, including Tax Increment Financing (TIF), which is the basis for the financing for University Square. Ms. Benjamin did not know why the creation of the TIRC was not included in the 2001 legislation authorizing the TIF. However, it was her understanding that the County Auditor had suggested to the former Finance Director that one be created, and she agreed that it should have been. Ms. Benjamin mentioned that there is nothing in the Code that provides for remedial action with respect to not creating the TIRC, but recommended that one be created now.

Ms. Benjamin stated that with respect to a TIF district, the TIRC is to determine the increase in the true value of the real property on which improvements were made as a result of the exemption, the value of improvements exempted from taxation, and the number of new employees or employees retained on the site as a result of the exemption. She noted that the information for the first two (2) items has been presented to Council in the form of the annual reports, which the administrator has provided to the City. The information for the third item has not been contained in the reports, but it is available through income tax records.

Ms. Benjamin stated that the City has not been harmed in any way by not having the TIRC in place, but the City should move forward to pass the ordinance to create the TIRC. She noted that the TIRC membership consist of: three (3) members appointed by the Board of County Commissioners; two (2) members appointed by the Mayor with the concurrence of City Council; the County Auditor or the County Auditor’s designee, and (1) member appointed by the Cleveland Heights-University Heights Board of Education. She added that at least (2) members must be University Heights residents. Ms. Benjamin stated that with the change in county government those persons will be appointed by either the County Executive or the County Council. She added that there is legislation that would authorize the County Council to have a say in the appointment.

Councilman Consolo asked for clarification if, as part of the TIF, the owner is making payments in lieu of taxes on the value of the improvements. Ms. Benjamin clarified that the owner is making payments of real estate taxes equal to what the base value was when the TIF was passed in 2001. In addition, the owner is also making service payments in lieu of taxes equal to the increase in assessed value on both the improvement and the increase in the land value.

Councilman Sims asked Ms. Benjamin to speak to the approach being taken relative to resolving the missed TIF payment and where it stands. Ms. Benjamin stated that they met with the School District and indicated that the City missed remitting a payment to the bond trustee which the City had received from the County Treasurer. The school treasurer seemed amenable to the payment being made over time. Soon after that meeting, the City transferred $500,000 to the bond trustee – leaving a balance to be paid of approximately $1,496,000.
In the meantime, the administrator has been asked to revise the numbers to take into account consideration and calculate what the School District should have received. Ms. Benjamin explained the way the TIF agreement was structured. To the extent that there were new levies passed after the effective date of the TIF, the School District was get all of the money generated by those new levies. The administrator and the trustee did not calculate those amounts nor did the School District ask for it and there were no payments of those amounts. Therefore, it has been tentatively determined that the School District is owed in excess of $2M from the bond trustee, which is in the fund and should be paid to the district.

Ms. Benjamin stated that the comprehensive approach consists of: 1) determining how much the School District is owed and the trustee will pay that amount to the School District; 2) stipulate what amount the City owes, of which $500,000 has been paid, and the balance will be paid on or before the end of 2011, unless any amount is necessary for the payment of debt service, in which case, it would be paid within three (3) business days after demand for it; and 3) ensure that there is enough money to pay the debt service this year and next year and to make sure that all the calculations have been done properly to determine whether or not special assessments would need to be levied. Ms. Benjamin drafted the document and forwarded it to the bond trustee to verify the numbers. After which, it will be forwarded to the School District to review it. She is trying to make sure everyone agrees with the numbers.

Ms. Benjamin stated that no debt service payments were missed on the bonds. She added that there is enough money and they expect to receive enough money in service payments to pay the debt service in December of 2010 and in 2011 without receiving that money. Ms. Benjamin stated that the intent of the City administration is to budget the missed payment amount into the cash flow for next year and to make those payments. She noted that the City has turned over the money received in the second half of 2010.

Councilman Consolo inquired if there is anything in her work product that determined whether or not the City either has the cash on hand and/or the cash flow capacity to pay the $1.4M. Ms. Benjamin was unable to answer the questions and suggested that it be addressed to the Finance Director. Councilman Consolo asked Ms. Benjamin if at the time the agreement was drafted if she had any documents or reports to show her whether the City had the capacity to pay the almost $1.5M by the end of 2011. Ms. Benjamin replied that she had discussions with the Mayor and Finance Director with respect to the timing and she understood their intention was to get the money paid as soon as possible.

Mr. Sims asked about the unusual TIF payment of $362,612.02 which was made in 2006. Finance Director Jennifer Esarey responded that the amount in question was made in regards to the 2005 tax year payment. Ms. Benjamin added that it had to do with an underpayment by the property owner which was received late as a result of challenging the assessed property valuation. Vice Mayor Goldberg asked if it was appropriate for the funds to be received on October 11, 2006 and paid on September 5, 2007. Ms. Benjamin noted that the funds should have been paid over within ten (10) days to the bond trustee. Vice Mayor Goldberg asked whose responsibility it is to say that the funds are being held too long in an account that is meant to be a pass through account. Ms. Benjamin noted that no one is responsible for telling city officials what the City has contractually obligated itself to do. She noted that if the City had asked the bond counsel could have come up with a “what to do” list, but they did not ask for it. She could not answer why the payments were not turned over within ten (10) days, but mentioned that the trustee could have made a reminder call if the payment was not made in a timely manner like they did this year. Ms. Esarey stated that she received numerous questions regarding the timing of payments and since she has not been able to locate the records, Ms. Benjamin, Mayor Infeld and she called the trustee requesting their side of the payments and receipt payments in order to validate when the money came in and when the money went out.

Councilman Consolo asked Ms. Benjamin if she was aware on September 7, 2010 when she addressed the Council at its meeting that the $500,000 payment would be made on September 8, 2010. Ms. Benjamin stated that she did know the $500,000 payment was going to be transmitted from the City. He asked Ms. Benjamin if she advised the Mayor that she had the authority to pay the funds. Mayor Infeld interjected that she made that decision herself because of the ordinance passed when the TIF was made. Mr. Consolo stated that Mayor Infeld mentioned that she relied upon the advise from bond counsel (Ms. Benjamin) to remit the $500,000. Mayor Infeld said that she relied on bond counsel for some of the questions that came up last week and that she made the decision to remit the money because the City owed the money. Mayor Infeld noted that she needed to show a good faith effort, on behalf of the City, to the trustee, the administrator and the School District that the City was going to make good on a payment plan over the next 15-month time period and she felt that a significant contribution toward the amount owed would demonstrate that.
Councilman Consolo inquired if it was Ms. Benjamin’s position as the City’s legal counsel in this matter that the agreement which is being worked out does not have to be approved by the Council. Ms. Benjamin replied no, that it would have to be approved by the Council. He asked if Ms. Benjamin has had discussions with the Law Director regarding the agreement. Ms. Benjamin responded that she had not. Law Director Kenneth J. Fisher noted that they have not talked recently, but they have talk about the issue. He noted that in terms of the $500,000 payment which was made, the funds were due within 10 days of receipt (in 2008). Therefore, the question now is where do we go from here and what has to be done to legally craft a writing that can be approved by Council and the other parties involved, which would be the bank as the trustee for the bond holders and the School District, which is being done. Ms. Benjamin stated that she wants to make sure the numbers are correct before it is presented to the Council, and she stated that it should come to Council for approval. Mr. Consolo inquired as to what should be done about the $500,000 payment that never came before Council for approval. Mr. Fisher stated that money should have been paid two years ago and it was not wrong for the Mayor to authorize the payment and sending the funds was in the authority of the Finance Director because the entire $2M should have been remitted two years prior. Ms. Benjamin stated that her goal in drafting the agreement is to give the City more time to pay the money that it owes. Councilman Consolo agreed, but stated that the concern of the Council is that a $500,000 payment was made out of City funds (even though it should have been made two years ago) and an agreement is being negotiated without documentation that says whether the City can even afford payments or the timing of them. He added that the Council has an obligation to the residents and the employees of the City to make sure that it was a prudent decision. He commented that maybe it would have been more prudent to negotiate a payment plan for the entire $2M over a number of years, but the Council was not given an opportunity to way in on it.

Mr. Consolo stated that Section 232.01(e) of the Codified Ordinances states that the Director of Law shall has authority with the approval of Council to adjust, settle, compromise any claims and matters in which the City is concerned. He noted that the City’s laws were not followed and the matter was not handled appropriately and it should have been submitted to the Council. Mr. Fisher stated that he was not involved in the transfer of funds, but understood that it was done, as the Mayor indicated, because it was important for the City to make some kind of payment to show that the City’s intent was to comply while bond counsel was in the process of working out an agreement for payment of the entire amount.

Councilman Consolo asked Mayor Infeld why she did not inform the Council on September 7, 2010 that she felt the need to make a payment of $500,000 the next morning as a show of good faith. Mayor Infeld replied that she was not sure she knew the evening of September 7, 2010 that she was going to make the payment. She stated that the money is in the account and money was not expended that the City did not have. Mayor Infeld noted that the City has a legal obligation to make good on the debt. She added that the City is fortunate that the bond counsel is working out a payment arrangement with the School District, who will be the ultimate beneficiary of the money.

In regard to whose responsibility it was to make sure the money was passed through in the 10-day time frame, Mayor Infeld stated that it is her conjecture that perhaps a call was not made when the payment was missed because the amount that was received by the trustee was probably sufficient to service the debt. Mr. Consolo stated that they understand that, but the City has ordinances and laws for a reason, and ordinance clearly states that the Law Director has the power and authority to handle any claims for the City with the approval of the Council. He added that to make a payment of $500,000 without an analysis of how that impacts the City’s immediate cash balance, future cash flow, and budget should have been a decision not made by one person, but rather by the Council, who is elected by the community. Mayor Infeld reiterated that the money is there and the check for the entire amount could be written immediately. However, she stated that zeroing out the City’s cash balance by the entire amount would make things a little tight in the City, but they could do that. Instead the Treasurer of the School District has agreed to a payment plan and they intend to fulfill it.

In regard to Section 232.01(e) not being followed, Mayor Infeld stated that she was under the impression that it was a legal obligation that the City had to fulfill, the money was available, and she made the payment. Mr. Consolo asked the Finance Director for a report showing that the City does have the money because the last thing they were told is that the money had been spent on expenses. Mayor Infeld inquired if the Council received a cash balance report. Ms. Esarey was not sure if the Council received a statement of cash position. Mr. Sims and Mr. Consolo replied no. Mr. Sims added especially with respect to any analysis regarding this special account or the bank account. He added this is not intended to question authority, but as a Council, they have a responsibility to make sure that no decision made is going to place the City in peril. He added that the Mayor has stated it would not, but he would like it supported with documentation.
Ms. Esarey stated that she could provide the Council with the statement of cash position. Mr. Sims stated that the Council not only needed to know the cash balance, but also need to have a clear understanding of what the claims are against that balance to ensure that other obligations can be met. Ms. Esarey stated that she is currently working on that.

Councilman Consolo inquired that if the funds are available why would the debt not be paid immediately. Mr. Fisher stated that he had the same question, but he was assured by Ms. Benjamin and Brickler and Eckler, who represents Argus, who services the bond, that as long as the bond holders are current and that the bank trustee would not have a problem with it, that it made sense to talk to the School District to find out their position. Ms. Benjamin explained the difference between fund accounting and cash. She noted that the full amount of the funds received from the County was on the City’s books. She added that the City co-mingles its cash in one bank account and that cash represents balances in different funds. She noted that it is not an effective and efficient method of managing the City’s cash to have separate bank accounts for the various funds. She does not know of any City that does that. Ms. Benjamin stated that the issue was never if the funds were properly accounted for, but rather was the cash borrowed for some other fund and used for the City’s cash purposes. Mr. Sims concurred that was the point because it was originally introduced as being used for “float.” He added that it will take just one additional level of assurance to determine whether or not that is the case. Ms. Esarey stated that she is working on the first three quarters of the year – gathering information and generating reports to determine what the City has in revenue, what expenditure there are compared to what expenditures have to made, and what the City has left.

In response to Councilman Consolo, Ms. Esarey stated that the $2M has been in the bank account and is properly accounted for in the fund. Therefore, Mr. Consolo again asked why the funds are not being remitted. Councilman Bullock commented that they are not sure the funds are there. Ms. Benjamin stated that it is not unusual for cash management to be different then fund accounting and there is some uncertainty. Mr. Consolo stated that the City needs help with the finances and they need someone to come in and investigate the matter. Mayor Infeld stated that they do not need help because they have a good handle on it and the Finance Director will have the reports as of the third quarter relatively soon and that should give the Council a better comfort level.

Councilman Consolo stated that the primary concern is if the money is not there where will the City come up with $1.5M. Mayor Infeld does not agree that the money is not there. She did not know why the payments were made late unless the former Finance Director was contacted. Mr. Consolo stated that the City has an obligation to put the prosecutor’s office and the State Auditor’s office on notice about the issue and Mr. Ochoa should be questioned about this matter. Ms. Esarey stated that they decided that there was no reason to inform the auditor until the final agreement was made. Ms. Benjamin stated that it would be appropriate to notify the auditor that they missed something. Mr. Fisher agreed and stated that the auditor should be put on notice immediately. Councilman Murphy stated that this should have been done six week ago and the notice should come from the Law Director because it is a malpractice issue that needs to be looked into.

Councilman Pardee stated that it is confusing to look at cash accounting versus GAAP accounting. She noted that this is a cash flow situation. She was happy with the payment plan if the School District is willing to wait. Mrs. Pardee mentioned that Council wanted to start budgeting, but cannot because they do not have the reports. She asked Ms. Esarey if there is any help that is needed to assist her work through the funds and accounts because she would like to see the cash flow reports and closing statements. Ms. Esarey stated that it is her time that is the problem as she is trying to prioritize and get it all done. Mrs. Pardee asked if help from former Finance Director Anthony Ianiro, who as experienced with the City and its books, would be of assistance. Mayor Infeld stated that the finance department was left in disarray when the former Finance Director left. They have been trying to recreate paperwork and do what they can to be best of their abilities with what is in-house and the documents that they don’t have they have to look to other agencies. Mayor Infeld stated that by the end of 2010 they will have a good idea of the City’s spending patterns. She added that revenue streams have not fallen and the 2011 budget will be much closer to an actual picture than the 2010 budget was because they will have better numbers to work with. She stated that it is not a matter of someone coming in to help as it is a matter of the Finance Director identifying funds differently. Councilwoman Pardee stated that they heard about the condition of the department and appreciate the work that the Finance Director has done, but the Council needs to see a recent report. She inquired if the funds are available to hire a finance/accounting temp in the short term to take over some of the Finance Director’s other tasks so she can concentrate on the reports. Mayor Infeld stated that Council received reports through August and it takes a little while after month’s end to generate the reports. With regard to utilizing a temp, Mayor Infeld was not confident that funds are available right now.
Councilwoman Pardee stated that it is difficult to do budgeting and planning without the reports. Mayor Infeld stated that they will not be doing any budgeting for 2011 in 2010 because they will not have good numbers until the end of the year. Mayor Infeld stated that was the pattern in the past. She added that in a perfect situation, the budget could be done in advance of the new year, but there has to be confidence in the numbers, and she does not have that level of confidence to begin budgeting for 2011.

Councilman Bullock asked for an explanation of the process and timing for special assessments on the TIF. Ms. Benjamin stated that the process is that the administrator is to calculate the amount of cash on hand at the end of December of each year, the amount of the cash expected to come in from service payments by December of each year, and the anticipated service payments to be received in the next calendar year. That amount needs to be at least 103% of the debt service payable in December of the current year and the two payments in June and December of the next year. If the anticipated revenues are equal to at least 103% of the debt service payments, the administrator gives the City a report that says no special assessment will be necessary next year. Ms. Benjamin noted that the City levied the assessment in 2001, but each year thereafter, the amount of the debt service has been at least equal to the 103%, and the City has not collected those assessments. If in a future year, the administrator determines that the amount of service payments to be received in those three payment periods is not sufficient for the debt service, they will notify the City and accordingly the City will notify the County Auditor to collect so much of the $4M a year special assessment against that property which would be necessary to pay the debt service. This year the administrators report’s said there was sufficient money on hand to pay the debt service in addition to the money expected to be received in December of this year and the spring and the fall of next year to pay the debt service in 2010 and 2011. Therefore, the City abated the collection of those assessments. Ms. Benjamin stated that she has no reason to believe that the report is not correct, but it was based on a cash balance in that account and when you go through all the numbers, it is not clear that the cash balance is the right number based on what should have been paid out to the School District. Ms. Benjamin point out that no bond payment has been missed, and the School District should have received money over the years that it has not received. However, the goal is to get everyone to agree that we are starting from here and going forward. Mr. Fisher added that going forward the TIF payments will be made in a timely basis.

Mr. Fisher stated that he will meet with Ms. Benjamin and direct a letter to the auditor that the funds were not accounted for in their audit of 2008. Mr. Fisher noted that once the draft agreement is agreed to by the trustee and the School District, it will be presented to the Council.

B. Ordinance No. 2010-53 To create the Ohio Department of Public Safety Fund 217 - Training & Equipment (2nd Reading)

Ordinance No. 2010-53, which was presented on first reading on October 4, 2010, creates a special revenue fund known as the Ohio Department of Public Safety Fund 217 - Training & Equipment. Finance Director Jennifer Esarey reported that the account is being created in order to properly account for and allocate the revenues and expenditures of the EMS grant funds received from the Ohio Department of Public Safety. An ordinance to create the fund is required to be approved by Council for submission to the County Budget Commission.

MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to approve the passage of Ordinance No. 2010-53. On roll call, on passage, all voted “aye.”

C. Ordinance No. 2010-54 To create the County - POD Plan - Community Emergency Planning Operations Fund 218 (2nd Reading)

Ordinance No. 2010-54, which was presented on first reading on October 4, 2010, creates a special revenue fund known as the County - POD - Community Emergency Planning Operations Fund 218. Ms. Esarey reported that the account is being created in order to properly account for and allocate the revenues and expenditures of the grant funds received from the Cuyahoga County Board of Health. An ordinance to create the fund is required to be approved by Council for submission to the County Budget Commission.

MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to approve the passage of Ordinance No. 2010-54. On roll call, on passage, all voted “aye.”
D. Ordinance No. 2010-55 Authoring a Site Lease Agreement with Clear Wireless, L.L.C. (2nd Reading)

Ordinance No. 2010-55, which was presented on first reading on October 4, 2010, authorizes the execution of a lease agreement, subject to the approval of the Law Director, with Clear Wireless, L.L.C., a new provider, for antenna facilities on the existing monopole and equipment shelter on municipal property.

Law Director Fisher stated that he prepared and submitted to Council a summary of existing leases on the monopole at City Hall. All leases terminate in 2029, at which time, the monopole becomes the property of the City. He noted that at this point there will be no ongoing users on the tower beyond 2029. Mr. Fisher noted that the proposed lease with Clear Wireless, L.L.C. is in the City’s interest and provides a $60,000 up front payment for the first 5-year term. He added that it will not interfere with any of the existing antennae on the tower and there is room adjacent to the tower for the equipment shelter.

MOTION BY MR. SIMS, SECONDED BY MS. GOLDBERG to approve the passage of Ordinance No. 2010-55. On roll call, on passage, all voted “aye.”

E. Ordinance No. 2010-56 To create a Tax Incentive Review Council (2nd Reading)

Ordinance No. 2010-56, which was presented on first reading on October 4, 2010, creates the City of University Heights Tax Incentive Review Council to perform the duties and functions prescribed under Ohio Revised Code (ORC) Section 5709.85.

MOTION BY MRS. PARDEE, SECONDED BY MR. SIMS to approve the passage of Ordinance No. 2010-56. On roll call, on passage, all voted “aye.”

F. Resolution No. 2010-57 Accepting amounts and rates as determined by the Budget Commission and authorizing necessary tax levies (2nd Reading)

Resolution No. 2010-57, which was presented on first reading on October 4, 2010, accepts the amounts and rates as determined by the County Budget Commission and authorizes the necessary tax levies and certifies them to the County Auditor. The County Auditor’s estimate of tax rates to be levied are as follows: 4.05 mills -- Inside 10 mill limit; and 9.15 mills -- Outside 10 mill limit; a total of 13.2 mills.

MOTION BY MR. SIMS, SECONDED BY MR. BULLOCK to approve the passage of Resolution No. 2010-57. On roll call, on passage, all voted “aye.”

G. Resolution No. 2010-58 Authoring preparation and submission of an application to participate in the Cuyahoga County Municipal Energy Program (2nd Reading)

Resolution No. 2010-58, which was presented on first reading on October 4, 2010, authorizes the Mayor to prepare and submit an application to participate in the Cuyahoga County Municipal Energy Program and to execute contracts as required. Mayor Infeld stated that this is a grant program with funds available to be spent on energy audits of municipal buildings. The resolution will be submitted with the grant application.

MOTION BY MRS. PARDEE, SECONDED BY MS. GOLDBERG to approve the passage of Resolution No. 2010-58. On roll call, on passage, all voted “aye.”

H. Resolution No. 2010-59 Approving and authorizing the execution and delivery of a Petition, Articles of Incorporation and Initial Plan of the Cleveland-First Suburbs Development Council Advanced Energy Special Improvement District (2nd Reading)

Resolution No. 2010-59, which was presented on first reading on October 4, 2010, approves and authorizes the Mayor to execute and deliver a Petition, Articles of Incorporation and Initial Plan of the Cleveland-First Suburbs Development Council Advanced Energy Special Improvement District.

Mayor Infeld stated that a requirement of the City’s participation is that the City have an education project easily visible. She noted that a solar light has been installed to illuminate a pillar on City Hall.
In response to a question from Councilman Sims, Mayor Infeld stated that the funding for advanced energy projects would be available to businesses, commercial and industrial property owners in the city with the intent that in the future residential properties would be eligible for these projects. She noted that she has discussed perhaps using solar lights for the flood lights on the fire station building. Mr. Sims mentioned that the projects are not limited to electric projects only. The resolution allows the City to become a charter member at a cost of $50.

**MOTION BY MS. GOLDBERG, SECONDED BY MR. BULLOCK to approve the passage of Resolution No. 2010-59. On roll call, on passage, all voted “aye.”**

**I. Ordinance No. 2010-60 Amending Section 12 of Ord. No. 2008-41 by providing that when New Year’s Day falls on a Saturday, the legal holiday will be observed the following Monday (1st Reading)**

Ordinance No. 2010-60 amends Section 12 of Ordinance No. 2008-41 by providing that when New Year’s day is on a Saturday, the legal holiday will be observed the following Monday. This Ordinance covers non-union employees.

Ordinance No. 2010-60 was presented on first reading.

**J. Ordinance No. 2010-61 Amending the Service Union Contract to provide that the 2011 New Year’s Day holiday will be observed on Monday, January 3, 2011 (1st Reading)**

Ordinance No. 2010-61 amends Article XVI, Section 2 (Holidays) of the Collective Bargaining Agreement between the City of University Heights and National Production Works, Local 707 to provide that the 2011 New Year’s Day holiday will be on Monday, January 3, 2011 instead of Friday, December 31, 2010.

Ordinance No. 2010-61 was presented on first reading.

Ms. Esarey noted that the Police and Fire union contracts do not stipulate what day the holiday is observed, they only stipulate the number of holidays.

**K. Ordinance No. 2010-62 Increasing the depreciable asset threshold from $500 to $5,000 (1st Reading)**

Ordinance No. 2010-62 increases the depreciable asset threshold from $500 to $5,000 to provide a baseline for the effective creation and maintenance of a capital asset policy.

Councilman Sims stated this item was discussed extensively at the most recent Finance Committee meeting. He noted that the increase in the depreciable asset threshold does not affect the budget and is reasonable.

Ordinance No. 2010-62 was presented on first reading.

**L. Ordinance No. 2010-63 Amending Chapter 1450 of the Codified Ordinances pursuant to the requirements of Federal Emergency Management Agency’s standard flood control ordinance (1st Reading)**

Ordinance No. 2010-63 amends Chapter 1450 of the Codified Ordinances pursuant to the requirements of the Federal Emergency Management Agency’s (FEMA) standard flood control ordinance.

City Engineer Joseph Ciuni noted that FEMA is publishing new flood insurance maps effective December 3, 2010 and has requested that all member communities pass the standard flood control legislation prior to December 3, 2010 in order to retain FEMA membership. Mr. Ciuni noted that University Heights is currently called Zone C, which is everything above a 100-year floodplain. When the new maps come out University Heights will be in Zone A-H. He added that no properties in University Heights are in the floodplain. But, as a member of FEMA, the City would be eligible for other FEMA funding. Mr. Ciuni added that the ordinance was submitted to the EPA for comment. He expects comments back before the second reading of the ordinance.

Ordinance No. 2010-63 was presented on first reading.
M. Ordinance No. 2010-64 Establishing a temporary moratorium on sweepstakes
terminal cafes

Ordinance No. 2010-64 establishes a temporary moratorium on the acceptance and processing of
applications for zoning, occupancy, and/or building permit approvals for sweepstakes terminal cafes
and on the issuance of such approval. The moratorium would be for a period of six (6) months from
the effective date of this Ordinance.

Mr. Fisher stated that there have been recent inquiries to the Building Commissioner regarding
sweepstakes terminal cafes coming into the City. He has been in the process of researching this issue.
Mr. Fisher has come to the conclusion that a moratorium is in the best interest of the City until the state
law become more clear as to whether or not it is considered gambling. He noted that some
communities have passed legislation to regulate the cafes, but many communities have established a
temporary moratorium to allow the matter to be studied and ultimately for the state legislature to
address the issue. The attorney general has not made an opinion. Therefore, it was Mr. Fishers
recommendation that a temporary moratorium be established so the matter can be studied further.

Building Commissioner David Menn noted that he received four (4) inquiries about opening new
internet café businesses.

Chief of Police Gary Stehlik explained that internet cafes are being sold as a business venture with the
necessary machinery (simulated slot machines) to operate the business. The individual would buy a
phone card for internet time, using their machine, in their establishment. The person would get free
credits to gamble with and then win credits. The credits can be used toward a sweepstakes chance or
redeemed for cash or prizes. There is dispute as to whether or not it is considered gambling.

MOTION BY MR. BULLOCK, SECONDED BY MRS. PARDEE to approve the passage of
Ordinance No. 2010-64 as an emergency measure. On roll call, on suspension of rules, all voted
“aye.” On roll call, on passage, all voted “aye.”

N. Resolution No. 2010-65 Authorizing payment to the Northern Ohio Risk
Management Association Self-Insurance Pool, Inc. (NORMA)

Resolution No. 2010-65 authorizes payment to the Northern Ohio Risk Management Association Self-
Insurance Pool, Inc. (NORMA) in the amount of $93,920.68, of which, $59,540.68 represents the
City’s annual premium for the year commencing October 1, 2010, and $34,380 for the City’s share of
the reserve fund to be paid in quarterly installments of $8,595.00.

MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to approve the passage of Resolution
No. 2010-65 as an emergency measure. On roll call, on suspension of rules, all voted “aye.” On
roll call, on passage, all voted “aye.”

O. 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 MS. GOLDBERG to hold an executive session
immediately following this regular meeting for the purpose of discussing pending litigation. On
roll call, all voted “aye.”

Committee Reports:

Governmental Affairs Committee Chairman Susan D. Pardee reported that the Council met with Mr.
Paul Alsenas, director, Cuyahoga County Planning Commission, and Kristin Hopkins prior to this
meeting for the first planning discussion. She reported that the Council will hear from Kevin O’Brien
from Cleveland State University on November 1, 2010 at 6:30 p.m. in the conference room.

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