Mayor Infeld called the regular meeting to order.

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

Absent: Mr. Kevin Patrick Murphy  
Mr. Steven Sims  

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  
Senior Services Manager Walter Stinson

MOTION BY MR. BULLOCK, SECONDED BY MR. CONSOLO to excuse the absence of Mr. Sims and Mr. Murphy. On roll call, all voted “aye.”

Pledge of Allegiance

Minutes of the regular meeting held on September 7, 2010

There were no corrections or additions to the minutes of the September 7, 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.”

Minutes of the regular meeting held on September 20, 2010

Councilwoman Pardee noted a correction on the second page, the motion under agenda item A was seconded by “Mr. Bullock.” Mayor Infeld requested an addition on the sixth page, third paragraph, in the fourth sentence the words “out of several” should be added. Therefore, the sentence should read, “She is working with the CWD on reimbursement of five (5) or six (6) invoices out of several for waterline hole repairs in an amount of $65,000 to $75,000.” There were no other corrections or additions to the minutes of the September 20, 2010 regular meeting.

MOTION BY MRS. PARDEE, SECONDED BY MS. GOLDBERG to approve the minutes of the regular meeting held September 20, 2010, as amended. On roll call, all voted “aye.”

Comments from the Audience:

Carol Gibson, 1836 Wilton Rd., Cleveland Heights, reminded everyone that the League of Women Voters is sponsoring a candidates night for District 11 Cuyahoga County Council Representative on Wednesday, October 6, 2010 from 7:00 p.m. to 9:00 p.m. at Brush High School.

Sheila Hubman, 2528 and 2532 Ashurst Rd., thanked Mayor Infeld, her staff and all city employees for their time and effort in unraveling all the City’s complications.

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

Mayor Infeld reported that Garity Professional Development School is sponsoring its first annual Walk-A-Thon on Wednesday, October 6, 2010 and the students are encouraged to walk to school on that day.

Mayor Infeld also reported that the September newsletter is out and the October newsletter will be distributed within the next few weeks. She encourage everyone to look at the City’s website often because it is updated weekly.
Agenda Items:

A. Ordinance No. 2010-53 To create the Ohio Department of Public Safety Fund 217 - Training & Equipment (1st Reading)

Ordinance No. 2010-53 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. Fire Chief John Pitchler explained that revenue is collected by the State Highway Patrol from people who do not wear their seat belt. After which, the funds collected are allocated to the EMS and distributed annually to all municipalities in the state that provide EMS service. He noted $3,450 was received this year to purchase equipment.

Ordinance No. 2010-53 was presented on first reading.

B. Ordinance No. 2010-54 To create the County - POD Plan - Community Emergency Planning Operations Fund 218 (1st Reading)

Ordinance No. 2010-54 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. Chief Pitchler explained that the City received a $9,000 grant for developing a mass inoculation vaccine clinic. The grant funds will be placed in this newly created fund to be used for emergency response disaster planning for the community.

Ordinance No. 2010-54 was presented on first reading.

Mayor Infeld stated that the two funds above are being created in an effort to institute best practices in accounting. She added that because the monies are designated for certain purposes, separate funds are being established so as not to co-mingle them in the General Fund. In response to questions from Councilman Consolo, it was noted that in past years these monies have been appropriated to the General Fund. Mayor Infeld mentioned that she will work with the Directors on how the funds will be dispensed.

Councilman Consolo mentioned that the Mayor is aware of the Council’s concerns in light of the circumstances of last month regarding how things have been administered and commented that hopefully this is a way to correct that situation. He just wanted to ensure that there is accountability in the future and that Council will have something to review. Mayor Infeld noted that having separate funds is a very transparent way to follow funding and the Council will see more of it in the future.

Councilman Bullock stated that the issues for him are transparency and accountability. He added that the accountability is clear whether it is administrative or the Council.

C. Ordinance No. 2010-55 Authoring a Site Lease Agreement with Clear Wireless, L.L.C. (1st Reading)

Ordinance No. 2010-55 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 municipal property. Mayor Infeld noted that the cell tower lease is a source of revenue for the City.

Law Director Kenneth J. Fisher stated that based on a frequency analysis provided and approved by GPD Group, the City can fit another co-locator on the cell tower at City Hall without interfering with the frequencies and transmissions, including police and fire, which are already in place on the monopole. Mr. Fisher noted that the site lease agreement, which is an exhibit to the Ordinance No. 2010-55, is for an initial five-year term for $60,000 rent, payable in full within fifteen (15) days of the agreement commencement date.

Councilman Consolo inquired as to how many other providers are on the tower and if the leases are comparable to the proposed lease agreement. Mr. Fisher replied that four (4) other carriers are on the tower and the rates are comparable, but noted that Clear Wireless is a smaller company than some of the other carriers on the pole such as Sprint and Nextel. Mr. Consolo asked if there is an out for the City if City Hall is relocated and the pole is not being utilized anymore. Mr. Fisher responded that there is not an out and a refund would have to made to the providers for advance payments if they were precluded from continued use of the tower. Mr. Fisher stated he will provide to the Council a schedule of the existing leases with commencement and expiration dates as well as lease considerations.
Vice Mayor Goldberg inquired as to how many users can be placed on the tower. Mr. Fisher replied that the federal law requires co-location. Therefore, as many users as would fit could be allowed. He mentioned that the existing tower is near the maximum; however, technology is changing and the antennae are getting smaller. In response to a question from Vice Mayor Goldberg, Mr. Fisher noted that Clear Wireless contacted the City to locate on the tower. He noted that the Clear Wireless representative, David Rocker, was in the audience, and he relinquished the floor to Mr. Rocker.

Mr. David Rocker, Suresite Consulting, agent for Clear Wireless, 3659 S. Green Road, Suite 214, Cleveland, Ohio, stated that the Clear Wireless lease is almost identical to the Sprint lease. He added that AT&T, Verizon and Revol are the other carriers on tower. He noted that all the leases are similar and the rents at the initial start-up are similar.

Ordinance No. 2010-55 was presented on first reading.

D. Ordinance No. 2010-56 To create a Tax Incentive Review Council (1st Reading)

Ordinance No. 2010-56 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. Mayor Infeld stated that creating the Tax Incentive Review Council (TIR Council) establishes a mechanism whereby the receipt and payment of TIF funding can be tracked so that payments will not be missed in the future. The membership of the TIR Council shall consist of: three (3) members appointed by the Board of Cuyahoga County Commissioners; two (2) members who shall be residents of the City of University Heights, appointed by the Mayor with the concurrence of City Council; the Cuyahoga County Auditor or his/her designee; an individual appointed by the Board of Education of the Cleveland Heights-University Heights School District; and an individual appointed by Tri Heights Career Prep Consortium.

Vice Mayor Goldberg inquired how the new form of county government after January 2011 will affect the membership of the TIR Council. Mayor Infeld stated that it will not be affected if the ordinance is passed while the current government structure is in place. She noted that if the ordinance is not passed until after the new county government is in effect, the composition of any new council may change. She added that the suggestion from the County Auditor was to move forward with establishing the TIR Council now.

Councilman Consoled inquired as to what the duties and functions of the TIR Council will be under the ORC. Mr. Fisher replied that he will provide a summary regarding the duties and functions of the TIR Council. He also mentioned that the creation of the TIR Council is a requirement under the TIF Agreement and the ordinance was written in conjunction with the City’s bond counsel, Virginia Benjamin of Calfee, Halter & Griswold. In response to a question from Mr. Consolo, Mr. Fisher concurred that the TIR Council should have been established when the TIF first took effect.

Councilman Consoled requested that the TIF funds be operated through a separate bank account. Mayor Infeld stated that the advise from bond counsel was that a separate account would not be appropriate. Mr. Consolo questioned why and Mayor Infeld stated that she will have Ms. Benjamin attend the next meeting on October 18, 2010 to explain the process.

Councilman Bullock inquired if the scope of the TIR Council is restricted to all tax incentive initiatives, not just the TIF. Mr. Fisher stated that this was correct, and added that if there happens to be another abatement in the future it would fall under the jurisdiction of the TIR Council.

Due to a question from Mr. Consolo, it was noted that the bond counsel advised that the Tri Heights Career Prep Consortium is a taxing authority that must be included under the ordinance. Councilwoman Pardee further explained that the Tri Heights Career Prep Consortium consist of Shaker Heights, Cleveland Heights, University Heights, and Warrensville Heights operating a career prep program.

Vice Mayor Goldberg asked why the Council was not apprised of the requirement in 2002 when the TIF Agreement first went into effect. Ms. Esarey replied that the Finance Director at the time should have apprised the Council of the requirement. She noted that communications with the County Auditor’s Office indicated that prior notifications to the Finance Director went unanswered. Ms. Esarey mentioned that she received a similar notification and that is how she became aware of the requirement. Mr. Consolo asked if there was documentation of this. Ms. Esarey noted that she did not have information from prior years, but she has the correspondence that was sent to her. Mr. Consolo asked where are the records from prior years and if anyone had look through them to locate
the records. Mayor Infeld noted that when the former Finance Director Arman Ochoa left the City the financial records were disorganized and she was not sure if they are complete. Mayor Infeld added that when she became aware that a regulatory requirement was not being met she had the ordinance prepared to create the TIR Council.

Mr. Fisher stated the TIR Council is to meet once a year as a statutory requirement. He added that the fact that the TIR Council had not been created to date does not carry a monetary penalty. However, Mr. Fisher stated that it is important to comply with the state law from this point forward.

**Ordinance No. 2010-56 was presented on first reading.**

E. **Resolution No. 2010-57 Accepting amounts and rates as determined by the Budget Commission and authorizing necessary tax levies (1st Reading)**

Resolution No. 2010-57 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.

**Ordinance No. 2010-57 was presented on first reading.**

F. **Resolution No. 2010-58 Authoring preparation and submission of an application to participate in the Cuyahoga County Municipal Energy Program (1st Reading)**

Resolution No. 2010-58 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.

City Engineer Joseph R. Ciuni reported that the Cuyahoga County Municipal Energy Program is a new program of federal funds from the U.S. Department of Energy being administered by the County. He noted that the resolution authorizes the Mayor to apply for the grant and the grant will cover an energy audit performed by a consultant. During an energy audit, windows, lights, HVAC, etc. are reviewed. Mr. Ciuni mentioned that the City must submit a year’s worth of electric and gas bills for analyzing. After which, the County will tell the City how much it will spend on an energy audit by a consultant, typically between $20,000 and $50,000 for all municipal buildings. Then, the City receives a 100% grant to hire a consultant to perform the audit. Once the audit is complete, grant funding will be at an 80/20 split to do projects that will result in energy savings in municipal buildings. Mr. Ciuni stated that the application is due November 1, 2010.

Councilman Consolo suggested that the last sentence of Section 2 of Ordinance No. 2010-58 should be changed to read, “The Council requires that the Consultant agrees to comply with any requirements imposed upon it under the aforementioned laws, regulations, Orders and Circulars.” The Law Director will review the ordinance for amendment.

Councilman Bullock inquired if the audit will reveal areas that require improvement. Mayor Infeld and Mr. Ciuni agreed. Mr. Bullock added that then it would be a matter of prioritizing the various projects.

**Ordinance No. 2010-58 was presented on first reading.**

G. **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 (1st Reading)**

Resolution No. 2010-59 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 mentioned that Jennifer Kuzma, the executive director of the First Suburbs Development Corporation, attended the Council Committee-of-the-Whole meeting on September 27, 2010 and explained the solar energy special improvement project and special improvement districts that are being established county-wide. She added that the resolution allows the City to become a charter member at a cost of $50. Mayor Infeld stated that like all first suburbs initiatives, this is a pooled effort to collectively apply for funding for advanced energy projects which 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.
Ordinance No. 2010-59 was presented on first reading.

H. Motion authorizing repairs to Rubbish Truck 21-4

Service Director Christopher Vild reported that Rubbish Truck 21-4 (2007) has developed a hydraulic leak in the telescoping ejection cylinder and cannot be repaired in-house. The first thought was to have the cylinder rebuilt, but it was damaged beyond repair and has to be replaced. Due to the estimated cost, three quotes were received: 1) American Fleet Services at $10,199.46; 2) Best Equipment Co., Inc. at $7,800.00; and Waste Removal Equipment at $7,525.85. Mr. Vild recommended to accept the quote of Waste Removal Equipment as the best and lowest quote.

Ms. Esarey stated that the funds are not available in the line item for maintenance and repairs in the service department. She added that the account is currently $12,377 over the budgeted amount. Mr. Vild noted that because of the age of trucks, it requires a lot of maintenance to keep them operational. He added that with the exception of the two 2007 trucks, the ages of the trucks are 19, 20, 21 and 23 years old. Mr. Vild added with this truck down, he is depending more on the older trucks which could break down at anytime as well.

Councilman Consolo asked what the options are since funds are not available. Mayor Infeld stated that if the truck is repaired, the cost would eat into any potential surplus. Mr. Consolo inquired as to the amount of the surplus. Ms. Esarey stated that she is currently working on closing September in order to have accurate numbers.

Councilman Bullock stated that the truck has to be repaired in order to continue delivering service to the residents. Therefore, Mr. Bullock stated that his option would be to fix the truck and look for something else within the budget to cut. Mr. Consolo suggested that the administration present recommendations as to where the funds could come from. Mr. Fisher mentioned that the City will receive $60,000 from the tower lease, if approved.

MOTION BY MR. CONSOLO, SECONDED BY MS. GOLDBERG to authorize repairs to Rubbish Truck 21-4 by Waste Removal Equipment in the amount of $7,525.85. On roll call, all voted “aye.”

Mayor Infeld requested that a resolution be added to the agenda for Sustainability Week.

I. Resolution No. 2010-60 October 2-10, 2010 - Sustainability Week

Resolution No. 2010-60 supports Sustainability Week in the heights area from October 2-10, 2010. She noted that the consortium of organizations which are based in Cleveland Heights, University Heights and Shaker Heights educates the public about sustainable growth and mobilizing Greater Cleveland to create a green and sustainable economy by the year 2019.

MOTION BY MR. ERTEL, SECONDED BY MRS. PARDEE to approve the passage of Resolution No. 2010-60. On roll call, all voted “aye.”

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

An executive session was not required.

Directors’ Reports:

Finance Director Jennifer Esarey reported that there is a Finance/Audit Committee meeting scheduled for Tuesday, October 5, 2010 at 7:00 p.m. in Council Chambers.

Chief of Police Gary Stehlik reported that the Police Department is working with Gearity Professional Development School on its Walk-A-Thon to ensure a safe event on Wednesday, October 6, 2010 when students are encouraged to walk to school.

Chief Stehlik also reported that Mayor Infeld and he attended the AAA Community Traffic Safety Leadership Awards luncheon. The City received an award for six consecutive years without a pedestrian fatality. Mr. Bullock congratulated Chief Stehlik on the award.

Vice Mayor Goldberg mentioned that she received an inquiry about a burglary on Groveland Road. Chief Stehlik was going to check into it and report back.
Building Commissioner: David Menn reported that the list of registered contractors and all building permits are now on the City’s website under forms.

Councilman Consolo inquired if snow plow contractors have to be licensed. Chief Stehlik responded that every snow plow vehicle has to be registered with the police department. He noted that there is a minimal charge, but snow plow contractors are required to register so that they can be advised of the rules. Mr. Consolo suggested that the requirement for snow plow contractors to be registered be posted on the website along with the regulations.

City Engineer: Joseph R. Ciuni reported that the Federal Emergency Management Agency (FEMA) is requiring that a new ordinance to be passed before December 3, 2010 adding new flood maps which are in effect. He requested that the matter be considered by the Service and Utilities Committee for passage by Council. Mr. Ciuni stated that the Law Director has reviewed the sample ordinance and drafted it in proper form. Mayor Infeld stated that the ordinance will be in packets this week.

Senior Services Manager: Walter Stinson reported that there are senior programs scheduled for the four Thursday afternoons in October and plans are underway for November. He noted that the programs are being publicized through the newsletter, the Sun Press, the City’s website and by a telephone campaign. Mr. Stinson noted that the attendance of the programs draw an average of 24 participants. He added that new people have started attending.

Mayor Infeld mentioned that the University Heights Library is considered to be the senior services branch and the library sponsors senior programming on Wednesdays. She added that the City’s programs on Thursdays enhances that programming.

Committee Reports:

Building Committee: Chairman Frankie B. Goldberg reported that she will schedule a meeting at the end of October.

Civic Information Committee: Chairman Frank Consolo reported that there will be a link on the City’s website to Cuyahoga County’s prescription drug program. Cards are available at City Hall. Mayor Infeld mentioned that Mrs. Pardee found another prescription drug program that is available through the National League of Cities.

Governmental Affairs Committee: Chairman Susan D. Pardee reported that three (3) meeting are scheduled before each of the next three council meetings with various planners. On October 18, 2010 at 6:30 p.m., Council will meet with Paul Alsenas, Cuyahoga County Planning Commission. On November 1, 2010 at 6:30 p.m., the Council will hear from Kevin O’Brien from Cleveland State University, and on November 15, 2010 at 6:30 p.m., the Council will hear from David B. Hartt of D.B. Hartt, Inc.

Mrs. Pardee mentioned that the committee is still working on the political sign ordinances.

Service and Utilities Committee: Chairman Phillip Ertel reported that his committee will meet soon.

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

__________________________________________
Susan K. Infeld, Mayor

Nancy E. English, Clerk of Council