

**MINUTES SPECIAL COUNCIL MEETING  
CITY OF UNIVERSITY HEIGHTS, OHIO  
JULY 13, 2015**

**Mayor Infeld called the regular meeting to order at 8:02 p.m.**

**Roll Call:**

**Present:** Mrs. Susan Pardee  
Mr. Mark Wiseman  
Mrs. Adele Zucker  
Ms. Nancy E. English  
Mr. Steven Sims  
Mrs. Pamela Cameron (not at roll call)

**Absent:** Mrs. Pamela Cameron

**Also Present:** Law Director Luke McConville  
Finance Director Larry Heiser  
Police Chief Steve Hammett  
Fire Chief Douglas Zook  
Service Director Jeffrey Pokorny  
Clerk of Council Kelly M. Thomas  
Building Commissioner Eric Tuck-Macalla

**MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to excuse the absence of Mrs. Cameron. On roll call, all voted “aye.”**

**Pledge of Allegiance**

**Agenda Item:**

- A. Motion to Approve Planning Commission’s recommendation for Heights Jewish Center, 14270 Cedar Road to operate a Summer Camp in a U-2 District. Camp dates and times are; June 22, 2015 to August 13, 2015 from 9:00am – 4:00pm; Monday through Friday for ages 4 – 11**

Mr. Martin Lipman, President of the Heights Jewish Center stated that this item is in reference to a summer youth program that the Synagogue has for youth. The program was originally brought before the Planning Commission by an individual who had planned to rent space from the synagogue for the camp but giving the timing of approval the Heights Jewish Center decided to run the camp their selves. Mr. Lipman added that at the Planning Commission meeting the concern about safety and having a safety plan in place. Mr. Lipman noted that a safety plan was created and was shared with and approved by Police Chief Hammett.

Chief Hammett stated that Mr. Lipman did present a basic traffic safety plan. As long as everyone follows and stick to the plan it will work. The plan will enhance the safety of pedestrians a well as minimize the probability of any type of traffic accident.

Mr. Ertel asked how many children would be in attendance.

Mr. Lipman responded that there would be approximately 55 children in the two (2) divisions.

Mr. Cameron asked what the staffing ratio would be.

Mr. Lipman stated there would be a staff of twelve (12) so that there would be extra for when addition children come to the camp.

Mr. Wiseman asked Mr. McConville what would happens if City Council chose not to take action of the items pertaining to Heights Jewish Center; this item regarding the summer camp and item b regarding operating a driving school, the summer as well as item b.

Mr. McConville stated that the Heights Jewish Center is a religious use in a residential zone and that is covered by chapter 1274 of the City's Ordinances and noted that the inquiry at the Planning Commission was two-fold. Initially it was to determine whether the use in the case of camp use fell under the existing the Special Use permit that's already being used to have religious use in a residential zone. In the case of the camp, the Planning Commission decided that it did fall within the existing Special Use permit. Secondly, if the use does not fall within the existing Special Use permit, the decision is then whether to grant or deny a Special Use permit for the proposed use.

Mr. McConville continued to state that the review by City Council would be the same. Council would have the ability to affirm what happened in the Planning Commission meeting or alternatively move in a different direction depending on what the Planning Commission did. So in this case, Council could with respect to the camp Council could affirm Planning Commission's decision to decided that the use falls within the existing Special Use permit or decide that it does not fall within the existing Special Use permit and then secondarily, if it does not fall within the existing Special Use permit, whether to grant or deny a Special Use permit for the proposed use. That was the two-step inquiry that happened at Planning Commission in respect to the proposed uses. The review by Council would be the same; Council has the ability to affirm what happened at Planning Commission or alternatively move in a different direction depending on what the Planning Commission did. Again in this case Council could with respect to the camp affirm Planning Commission's decision in deciding that the use falls within the existing Special Use permit or decide that it does not and then consider whether or not to grant a Special Use permit for the proposed use.

Mr. Wiseman asked what if Council chose not to take any action, is that an option.

Mr. McConville replied that he did not think that was an option because the applicant is before the Council to get an answer.

Mr. Sims followed up and stated that in not taking any action to him would suggest that he (?) has an impression that this was not even a matter that needed to go before the Planning Commission. That's part of the question, Mr. Sims stated that he was very supportive of it; but how should it be decided what the Planning Commission should hear and what the Planning Commission shouldn't hear.

Mr. McConville replied that those decisions are initially decided administratively. The administration looked at the use and was concerned that it did not necessarily fall within the existing Special Use permit and wanted it to be reviewed. The primarily concern was safety.

Mr. Wiseman stated that he felt that the (city) was entering the slipperiest of slopes and he was struggling to find out how City Council can bring a religious organization, any religious organization; temple, church, synagogue and say these are religious items or business items. Mr. Wiseman noted as far as he was concerned if Heights Jewish Center wants to have day camps, he guessed that every religious organization has day camps in the summer for the children and he wasn't sure why they have come to a hearing of Planning. If the Council feels like there is a parking issue, they could introduce them to the Police Chief, Building Commissioner without doing this. Mr. Wiseman stated that he was hesitant and that is why he asked if Council could take no action because he was hesitant to say they have a right to have a day camp. As far as Mr. Wiseman was concerned they have a ineligible right to run a day camp because it is a religious use of a religious building and Mr. Wiseman thought it was slippery, where does the City stop telling a religious organization to come in and justify how many people are there on Monday, how many on Tuesday and where are you parking. Mr. Wiseman continued to say that it seemed to him that this isn't something that should even be looked at as a Council.

Mayor Infeld replied that she appreciated what Mr. Wiseman was saying but in this case the reason why the Administration moved this to the Planning Commission was because an individual approached the City about operating a camp as a for profit business in the Heights Jewish Center building. The individual informed the City that rent would be paid and that it would be a money making enterprise for him, so to the City it sounded like a business. Since then the synagogue decided to take over the operation of the day camp, so the situation has changed. But at the time that the decision was made to send this to the Planning Commission the City administration had different information and it was a different set of circumstances. It is now a different situation, but at the time it was presented and at the time the decision needed to be made as to which body would here this proposal it was a different setup than it is now.

Mr. Wiseman reference a letter Council received in their meeting packet was a June 21, 2015 email from the Heights Jewish Center's lawyer. The letter indicated that there was no longer a program being run by the gentleman for profit but it was something that the synagogue was doing. So at that point the City knew that the synagogue would be running the day camp as their business. Mr. Wiseman added that he didn't anyone could say a day camp really is a business and not part of the synagogue functions.

Mayor Infeld stated that she understood Mr. Wiseman's concerns but that again the situation as initially presented was different than what it is now. What is before Council now is the recommendation from the Planning Commission which can be approved, denied or tabled. Mayor Infeld added that she would not suggest tabling the issue because the applicant was present and expects an answer and the applicant deserved an answer tonight on the Planning Commission's recommendation to allow the use.

Mr. McConville stated that there was a legal memorandum prepared for Planning Commission members that walked through some case law that exist in Ohio and elsewhere in which the courts have basically said that inquires as to whether a function is a religious use or not is what the courts have called a "matter of degree" and there is not entirely uniform case law on various different functions. From that standpoint in Mr. McConville's legal opinion it is appropriate for the administration to be identifying a particular use as one that should be referred to the Planning Commission for the assessment of a matter of degree.

Mrs. Cameron asked – upon the receipt of the letter via email and the July 7, 2015 Planning Meeting there was approximately ten (10) days in which the administration could have provided the synagogue with information that they no longer needed to move forward with this because the situation had changed. At the point when the information from synagogue's attorney, what was the administration feeling in terms of moving forward.

Mayor Infeld replied that the Planning Commission has established rules about notifying the public as to future meetings and that advance notification had already been done at that point. Mayor noted that she appreciated Mrs. Cameron question and concern about the process.

Mr. Wiseman asked what the status of the operation of the day camp would be if this item was tabled. Mr. Wiseman stated that he understood that the City sent a cease and desist letter to the applicant.

Mr. McConville stated that Council is the ultimate decider of this issue. So if it is tabled the administration has the discretion to shut down the day camp under the interpretation that it doesn't a Special Use permit for the use or work with them as long as the administration is satisfied that they are operating in a manner that safe. Mr. McConville added that he thought that there would still be a question as to whether the use is permitted under the Special Use permit, if Council tables the issue - Council is the decider of the matter, so it would still be an open question.

Mrs. Zucker asked what this would do to the parents and children that are already involved in the day camp and its existence.

Mayor Infeld stated that she believed that the applicant deserved an answer. As the applicant went to a lot of effort to meet with the City administration as this project's presentation was changing. Mayor Infeld commented that the applicant was always upfront with sharing information and that she appreciated that. The applicant went through all efforts in going before and provided testimony to the Planning Commission and deserves an answer. Mayor Infeld recommended that Council voted on this issue in one way or another.

**MOTION BY MR. ERTEL, SECONDED BY MRS. ZUCKER to approve Planning Commission's recommendation for Heights Jewish Center, 14270 Cedar Road to operate a Summer Camp in a U-2 District. Camp dates and times are; June 22, 2015 to August 13, 2015 from 9:00am – 4:00pm; Monday through Friday for ages 4 – 11. On roll call, all voted "aye."**

**B. Motion to Approve Planning Commission's recommendation for Heights Jewish Center, 14270 Cedar Road to operate a Driving School, dba New Direction Driving School in a U-2 District. Classes to be held Monday through Thursday, 6:00pm – 9:00pm. Maximum of 15 students**

Mr. Martin Lipman, President of the Heights Jewish Center stated that the driving school is classes only. There are two (2) sets of classes, one for the young men and one for young ladies. There is no actual driving at all that takes place on the Heights Jewish Center property. The classes are separate because these children who attend religious high schools which have separate education for the young men and young ladies. There are no options within the area with this type of separate classes, so this provides a service for the community in this way. Mr. Lipman noted that he knows many young adults, particularly young men who opt to wait to get their license until they are old enough to not have to take this training because they can't attend with girls. This is no different than running any other classes within the synagogue, which is done all the time.

Mayor Infeld corrected one of Mr. Lipman's comments and noted that at the Planning Commission meeting she mentioned that single sex high schools within the region tend to offer the proper sex classes after school. So single sex driving classes do exist and can be found. Heights Jewish Center request is to operate New Directions Driving School at the Heights Jewish Center. Mayor Infeld noted that another item that come from the Planning Commission recommendation for the approval of this use was that the synagogue would work with the Building Department because there are different State building code requirements when that is an educational component to the use of the building.

Mr. Lipman stated that the synagogue was surprised when about that because synagogues do have an education use just as churches, temples, there is always education occurring in these buildings.

Mayor Infeld asked Building Commissioner Erick Tuck-Macalla to explain the difference between the use as it is now and then adding the educational component.

Mr. Tuck-Macalla explained that educational use is for school age children that are congregating together for an educational purpose with more than twelve (12) individuals. There's a difference between the use of the building, it lies outside of the building zoning code. Education happens at the synagogue as it does in other places of worship. Generally the use group for this is an "A" which is for assembly use group. When you bring together more than 12 or more children on a regular basis educationally it becomes an "E" educational use group. This group is less restricted than the "A" use group. Mr. Tuck-Macalla stated he didn't see the Heights Jewish Center changing their building structure and the building department would like to go into the building and look and then issue a certificate of occupancy and indicate that it as a "A" use group along an "E" use group.

Mrs. Cameron asked Mr. Tuck-Macalla if for instance the synagogue were to have for example bible study and then a couple of different age groups with a total of more than twelve (12) children would that constitute an educational use group.

Mr. Tuck-Macalla replied yes, the building department would inspect and score the building to issue a certificate of occupancy. The building then could be used for assembly or education.

Mrs. Cameron asked who responsibility is it to notify the City so that a certificate of occupancy with the correct use group identified can be obtained.

Mr. Tuck-Macalla responded that generally the building owner, but in this case the City is suggesting to Heights Jewish Center that it be done.

Mr. Wiseman asked Mr. Tuck-Macalla if he had been inside Heights Jewish Center for the purpose of inspecting the building.

Mr. Tuck-Macalla replied that he had been inside Heights Jewish Center but not to inspect it to issue a certificate of occupancy but because of an Board of Zoning application where a creamery wanted to rent use of the kitchen.

Mr. Wiseman asked if Heights Jewish Center has a current certificate of occupancy.

Mr. Tuck-Macalla responded no.

Mr. Wiseman asked if Heights Jewish Center ever had a certificate of occupancy.

Mr. Tuck-Macalla answer not that he has been able to find. But that was not uncommon, in years past they were not issued or kept up to date. Mr. Tuck-Macalla added that it is his duty to make sure that all buildings have a certificate of occupancy.

Mr. Sims asked Mr. Tuck-Macalla if he was associating the certificate of occupancy with Heights Jewish Centers desire to hold classes or is this needed to be in the building at all.

Mr. Tuck-Macalla answered that all building including new building have a certificate of occupancy, a copy of the certificate is maintained in the Building Department files. When a building changes occupancy classifications a new certificate is issued. Mr. Tuck-Macalla noted that an existing building owner can request a new certificate of occupancy, in that case the building will be scored and the reviews the existing conditions and risk. This is what will occur with the Heights Jewish Center.

Mr. Sims believes that the City wants to make sure that buildings are safe and the City does whatever it has to do. But Mr. Sims stated that he did not understand how a certificate of occupancy is related to a driving school. Why is the driving school in front of City Council, why can't the building department

just go inspect the building and determine whether it meets the code in order to receive a certificate of occupancy.

Mr. Tuck-Macalla replied that is what he wants to do.

Mayor Infeld stated she asked Mr. Tuck-Macalla to explain the different occupancy certifications that the State Building Code has, i.e. house of assemble, educational use.

Mr. Sims stated that it looks almost as if the City is working to regulate what activities go on in a building. If there is an certificate of occupancy that is needed, Mr. Sims stated that he didn't see tying it to the driving school, if it only tied to the driving school what if tomorrow a decision is made to operate bakery, does the building department have to go back in an issue a new certificate.

Mr. McConville spoke in regards to procedure. At the Planning Commission level the Planning Commission made the determination that this was not a use encompassed by the existing Special Use permit but that they (Planning Commission) wanted to grant a Special Use permit that had conditions on it. The condition that was placed on it was that the Building Commissioner go in and inspect for the "E" Educational Use. In answer to the question of why is the City going in to inspect the Heights Jewish Center building, it is because the Planning Commission tied the condition that the City/Building Commissioner go in to inspect the building for the "E" Special Use permit. In summary the Planning Commission tied that specific condition onto the Special Use permit after determining that this particular use was not encompassed in their existing Special Use permit.

Mr. Wiseman stated if the City feels as though a certificate of occupancy that needs to be issued to the Heights Jewish Center for whatever they are doing why doesn't the City just call them and ask them if the City could look at the synagogue to see if it fits all the uses rather than brining them in and sending a letter stating they have to stop this. Why should the question be in front of Council, the whole thing – the driving school is to educate the children; boys separate from girls. Mr. Wiseman stated his concern that at some point it will be something else – "oh we hear you have a class on Tuesday at 8:00 now this class. . . I go to a Synagogue and they have movie night once a month, if Heights Jewish Center starts showing movies will they now have to come in and get a movie permit. It seems that we (City) is using a baseball bat where maybe a toothpick would achieve what the City should achieve.

Mayor Infeld replied that she appreciated what Mr. Wiseman was saying but the City is limited by the Zoning code and the Zoning code doesn't allow commercial use in a religious institution so some determination had to be made about the driving school. Was the driving school a business use that is regulated by the Secretary of State and so the Administration was trying to decide what the use was? This was the standard that would be applied to anybody. Mayor Infeld added that she was hearing that Mr. Wiseman was uncomfortable with applying this standard in particular to this applicant. But in the case the applicant was here for a response to the Planning Commission's approval of this operation with the condition that no actual driving would take place on the site and that they would also work with the Building Department regarding the State Building Code requirements when you have this type of use in a building. The City is strictly just applying the State Building code in the City's ordinances regarding zoning.

Mrs. Cameron asked how did it come to the Administration's attention that the Jewish Center chose to arrange for a driving school.

Mayor Infeld replied that when the Jewish Center came in to talk about the day camp she asked if they had any other uses and they replied yes that they had the driving school use as well as the creamery use and potential other uses. In essences they self reported, which is the proper thing to do.

Mrs. Cameron asked how many other institutions in the City have pro-offered that information to the Administration so that the information that is contained here can be replicated.

Mayor Infeld responded that she didn't see that information needed to replicate any way because the Administration is only applying the codes as they exist right now.

Mr. Sims asked about the maximum number of 15 students and if that was the number the Heights Jewish Center wanted or that the Planning Commission wants. To Mr. Sims it sounds like a class and why would the city care that there is a maximum in the class.

Mayor Infeld stated that that was information that Mr. Lipman provided during the presentation.

Mr. Sims asked if this was a condition, if it were 40 students in the class it wouldn't make bit of difference to the building or to the City's concern. Especially once a certificate of occupancy is issued.

This is just another level of regulation that Mr. Sims wasn't sure was absolutely needed in this instance. Mr. Sims added that he was ready to make a motion to approve this so that it is done administratively. But the point of the conversation, even though our legal counsel was trying to help Council understand the levels that are involved, which he (Mr. Sims) appreciated it but Mr. Sims asked how to gain direction over something that's allowed or not this is more or less trying to set some type of precedence. Mr. Sims stated that he did not enjoy over reaching and definitely can't enjoy over reaching into a religious situation, especially when you are talking about a class. Summer Camp was a little different, but a class is a totally different thing.

Mayor Infeld thanked Mr. Sims and asked Council to remember that this is a Driver's Education class that is regulated by the State of Ohio. This is not a religion class, it is a class that most 15-year-old take. The information that was presented at the Planning Commission meeting said a maximum of 15 students. So, when the motion was made by Mr. Siemborski and seconded by Mr. Fine they memorized the information that was presented that night, which was 15 students. Council can at anytime change the Planning Commission motion, accept it as is, accept it with changes, deny it or table it. Mayor Infeld continued to say the applicant was present and expecting an answer to the question before the City, so this is not even categorized as an Administrative decision – this is a Council decision.

Mr. Sims asked the applicant whether or not they want to cap the number of students for the driving school program.

Mr. Lipman stated that the 15 was an approximation and not a maximum number. Mr. Lipman addressed Mr. Sims comments and stated that every time we (Heights Jewish Center- HJC) and someone says we had a class at the JCC but were kicked out, can we hold the class at HJC? Would the HJC then have to go before the Planning Commission and City Council to say we are having the class, because synagogue typically have community classes and have it debated.

Mayor Infeld stated she appreciated Mr. Lipman's concern and referred to the Law Director for further guidance because of her concern of open-ended and blanket approvals for any use whatsoever because it not what the city zoning code allows so all the city is trying to do administratively is to manage Heights Jewish Center's request via the City's ordinances. The administration is not in a position to ignore the ordinances that are in place.

Mr. Lipman clarified that Heights Jewish Center never really made a request for the driving school. It got on the agenda by the City.

Mr. McConville responded and referenced his earlier advice about the case law. It is entirely reasonable for administration to look at these things on a at hoc basis from the standpoint of the matter of degree. And, to Mr. McConville's judgement it was reasonable for the administration to question whether a commercial driving school that requires State certification for the purpose of State Licensure falls within religious use and under that basis referring the question under the code to the Planning Commission for consideration.

Mr. Lipman asked if that make it Heights Jewish Center's responsibility that every time there a program at the synagogue that the City be contacted and the Law Director to see what his legal opinion is.

Mayor Infeld replied that when Mr. Lipman placed that question before the City there was a separate meeting outside of the whole Planning Commission process particularly because he had asked for that exact clarification. And at that time Mayor Infeld stated she informed Mr. Lipman that the City had concerns about safety in that general area. The public recreational use is right next to the synagogue's religious use. There's a shared parking lot and driveway for ingress and regress. It is a concern of the City, there are a lot children there, it would be a good idea for the City and the Police Department to know about the uses. Because there may be times when the uses conflict and the City may need to station police there to direct traffic. This is a different situation than what was brought up at the Planning Commission meeting about a synagogue that does not share part of the facility i.e. parking lot and driveway with a large intensive recreational public use. Anytime the activity level at the synagogue changes it would be helpful to the City to know that to ensure safety for all the children.

Mrs. Cameron asked Mr. McConville if Council is approving the use permit in terms of the driving school. If it is a school and the building inspector issues a class use permit certificate would that be generalized to any class variety, i.e. judo, music, songs, religious instruction or would it be specific to the driving school.

Mr. McConville replied that the inspection would be in general nature.

Mrs. Cameron clarified that once the certificate is issued and permitted by the City as a Class certificate it (the use) is good.

Mayor Infeld pointed out that the Heights Jewish Center property is not zoned for commercial activity, so if any commercial activity happens inside the building it triggers City ordinances that require the synagogue to come before the Planning Commission. These are the ordinances that the City operates within.

Mr. McConville stated that Mayor Infeld's point was also correct.

Mrs. Cameron replied that she was speaking specific to a school, not to anything that they charge a fee for.

Mayor Infeld again stated that the ordinances do not allow commercial use in a religious building that is zoned accordingly. Anytime the synagogue shares information about other alternative uses than that will trigger a Planning Commission meeting.

**MOTION BY MR. SIMS, SECONDED BY MS. ENGLISH to Approve Planning Commission's recommendation for Heights Jewish Center, 14270 Cedar Road to operate a Driving School, dba New Direction Driving School in a U-2 District. Classes to be held Monday through Thursday, 6:00pm – 9:00pm.**

Mayor Infeld asked Mr. Sims if he was striking the portion of the Planning Commission recommendation that talked about the building department reviewing the property for both use categories or did he want it to remain.

Mr. Sims replied that that was going to be done as part of the day camp so it could remain.

Mr. McConville stated that there was no such requirement for the day camp. The day camp was approved as a use out of the existing Special Use permit. So in this instance procedurally, Planning Commission said this use is not encompassed under the existing Special Use permit and that they were going to grant the Special Use with conditions. The conditions are as contained in the description including the maximum of 15 students, the building department reviewing the property for both assembly and use group, assembly use group and educational use group and that there be no on site driving instruction.

Mr. Sims stated that he was not presuming that there will not be and the other conditions were not objectionable to him because it will establish the generalization that Mrs. Cameron mentioned. The only thing Mr. Sims stated he would strike would be the maximum of 15 students.

**MOTION BY MR. SIMS, SECONDED BY MS. ENGLISH to Approve Planning Commission's recommendation for Heights Jewish Center, 14270 Cedar Road to operate a Driving School, dba New Direction Driving School in a U-2 District. Classes to be held Monday through Thursday, 6:00pm – 9:00pm. On roll call, all voted "aye," except Mrs. Zucker who voted "nay."**

**C. Motion to Approve Planning Commission's recommendation for Heights Jewish Center, 14270 Cedar Road to operate a Creamery in a U-2 District**

Mr. Lipman stated that Mr. and Mrs. Dousch were aware that they needed to be at the meeting so he would speak in their behalf. The creamery is a commercial operation, producing non-dairy ice cream out of one of the Heights Jewish Center's kitchens. The creamery is a wholesale operation and will not be retail at all. There will be one (1) truck that comes once a week and another truck that will come once a month. No one will be picking up the ice cream from the Heights Jewish Center, Mr. and Mrs. --- will be delivering the ice cream themselves using a minivan. The Department of Agriculture has been contacted for the necessary inspections, the Building Commissioner has been contacted for the necessary City inspections. The Dou--- are seeking a Special Use permit in order to be able to operate within the synagogue.

Mr. Wiseman asked Mr. Lipman if this was a business not associated with the synagogue.

Mr. Lipman replied that they are renting the space from the synagogue.

Mayor Infeld noted to Mr. Lipman that she was aware that there is a requirement from the Sewer District for additional permitting but that the Building Department and City Engineer will work with everyone regarding that.

**MOTION BY MS. ENGLISH, SECONDED BY MRS. CAMERON to approve the Planning Commission's recommendation to grant the Special Use permit to Shannon Road Ice Cream LLC to operate a Creamery in the Heights Jewish Center, 14270 Cedar Road in a U-2 District subject to the approval of the State of Ohio licensing authorities and the City's Building Department. On roll call, all voted "aye."**

Mr. Wiseman stated that it was his impression that Mr. Tuck-Macalla had already inspected the Heights Jewish Center so that condition has already been met.

Mr. Tuck-Macalla stated that he inspected the present conditions and there was some equipment that was not present at that time. The hood and suppression system was tested and they have certificates but the oven beneath the hood was missing and needs to be supplied. The oven and hood system work together so the hood system suppression will need to be permitted, retested and possibility reconfigured. Mr. Tuck-Macalla stated that he was also asking that the grease trap be cleaned and certified.

Mrs. Cameron asked Mr. Tuck-Macalla if all of the stated inspections are subject to the issuance of the use permit for the creamery.

Mr. Tuck-Macalla replied yes.

**D. Motion to Approval Planning Commission's recommendation for the Kolllel YCM of University Heights project Final Site Plans. Proposed location 2476 – 2492 South Green Road.**

Mr. Jack Bialosky and Mr. Paul were present.

Mr. Bialosky stated that the building is 94,000 sq. ft. with a footprint of approximately 48,000 sq. ft. and sits on the corner of East Carroll and South Green Road. The building is a Kolllel, which is basically a school with sanctuary space that sits approximately 120 people on the first floor, there is a mezzanine over a portion for gender separation for about 48 people and the basement has a social space.

Mr. stated that there are spaces for 33 cars in the lot and they are working with the Fire and Police Departments regarding the traffic plan.

Mr. Bialosky added that while it is a institutional building, it is intended to fit into residential neighborhood so it has a low gable roof with a ridge height of 28 ft., The building will be of masonry construction with glass clear story and glass operable windows. The only change is the initial walk-out terrace in front of the building has been eliminated, so there is not a recessed area in front of the building. Mr. Bialosky stated that both the Planning Commission and Architectural Review Commission had reviewed the plans and were satisfied with the project.

Mrs. Pardee asked Mr. Bialosky if he was speaking of the recessed area off the lower level. If so will that area be landscape and will there be a door coming off the lower level.

Mr. Bialosky replied yes, because of a function of cost as well as making the project simpler. Now the storm sewer line can tie into East Carroll and it won't be necessary to go across South Green Road to tie into the storm sewer line. The area will now be landscaped and there will not be a door directly coming out from the lower level.

Mr. Wiseman stated that Council approved the project once and asked why they were back in front of Council.

Mr. Bialosky informed Mr. Wiseman that this was for final site plan approval. The first approval was for the use because this will be an institutional building in a residential neighborhood. Once the use permit was approved, then the variances were approved and granted by Council. Then came back for site plan approval from Planning Commission and Architectural Review Commission - both entities are advisory to City Council.

Mr. McConville stated that Mr. Bialosky was correct in his comments.

Mayor Infeld asked City Engineer, Mr. Ciuni to address the change in the tie in for the sewer lines to East Carroll as opposed to across the street on South Green Road.

Mr. Ciuni stated that he needs to see and review a updated set of plans because the sewer is now going to a different street and site plan has changed due to the removal of the lower patio. Mr. Ciuni stated that he was recommending approval but in order to obtain permits he needs to see an updated set of plans.

Mr. Wiseman asked if updated plans are forthcoming.

Mr. Bialosky replied yes.

**MOTION BY MR. WISEMAN, SECONDED BY MR. SIMS to approval Planning Commission's recommendation for the Kolllel YCM of University Heights project Final Site Plans pending the approval by the City Engineer, Mr. Ciuni of the remainder of the plans and at the proposed location 2476 – 2492 South Green Road**

Mr. McConville spoke of the Planning Commission concern regarding the monument sign and asked that that be clarified.

Mr. Bialosky clarified that the site approval does not include the monument sign.

Mayor Infeld added that approvals also have to be given by the Building Commissioner also.

Mr. Wiseman amended his motion to read.

**MOTION BY MR. WISEMAN, SECONDED BY MR. SIMS to approval Planning Commission's recommendation to City Council for the approval of the Kolllel YCM of University Heights project Final Site Plans pending the review and approval by the City Engineer and Building Commissioner for the final plans; excluding the Monument sign at the proposed location 2476 – 2492 South Green Road. On roll call, all voted "aye."**

**E. Motion to Approval Planning Commission's recommendation for Community Public Park Final Site Plans**

Mr. Rob Hable from Braun and Steidl was present and stated that this presentation is a continuation of a series of community meetings to determine the use of the 6 acre parcel to the west of City Hall. Part of those community meetings it was determined that a park would be created and that is how the outline template was created. The template illustrated the type of things, structures and activities, etc. that might occur, the landscape, the architects and the architectural structures will all be ready to go out for bidding soon. The design plans and materials have been presented to both the Architectural Review Board and the Planning Commission.

Mrs. Pardee asked what the anticipated construction time period.

Mr. Hable replied that they anticipate going out to bid in the summer with a fall start. A lot of the earth work and the setting up of structures would be done in the winter months. Then in the spring the final touches such as landscaping would be made. Weather depended the park would be opened sometime in the spring or summer 2016. It will take months and years for some of the plantings to mature.

Mrs. Pardee asked about the time duration for the construction on Fenwick Road at the corner of Northwood due to the some of the utility work and other things.

Mr. Hable replied that he could provide a specific answer but that it would be written into the specifications that the contractor has to coordinate with the city and the utilities to make sure the road is passable, that the appropriate measures, signage, detours, etc. are made for protection.

Mrs. Pardee asked about the construction affect on the homes close to the construction, noting some of the areas that are setup for instance, chemical contamination.

Mr. Hable stated that doesn't seem to be a problem in regards to any type of environmental issues. Mr. Hable acknowledged that the building that was previously there was demolished and any asbestos issue was removed at that time. The site is clean. The project will tie into and utilize the current sewer system and use the existing pipes. Mr. Hable noted that his company has called for the existing sewer pipes to be cleaned out. There is also a bio swale at the far west end of the site towards Fenwick. Mr. Hable acknowledge that the area around Fenwick is where water sheets across so it will be populated with plantings that absorb and cleanse the water that comes in from a storm and then discharges into the sewer system. Mr. Hable added that the engineering calculations didn't state that those efforts weren't needed but because there had been problems it was decided to do it.

Mrs. Pardee asked for confirmation that the fencing would be board on board around the perimeter for the residents.

Mr. Hable replied no and stated that the existing chained linked fence that surrounds the property was determined to be in suitable condition. The existing tree vines will be used along with the in-filling of additional tree vines to create just enough buffer but not to block the view.

Mayor Infeld added that out of several community meetings what came about in terms of the fencing for most people was to keep their view the way it currently is; others said they would like to have a variety. Some residents said they didn't have anything blocking their view now and don't want anything blocking their view, others said they have a little blocking and would like to see. Mayor Infeld stated that she thought there was a good handle on the sentiments of the resident's whose back yards will meet the park. That altering the plantings and introducing some variety seemed to be acceptable uniformly to the residents, although it was initially mentioned in the past that there could be different types of fencing.

Mrs. Pardee noted that there does seem to be a lot of trees on the Faversham Road side of the park but there doesn't seem to be as much on the opposite side. There are lower bushes and other things.

Mr. Hable stated that there are evergreens along the perimeters, both sides of the property will be fairly evenly filled-in. Mr. Hable explained the other plantings that will be within the park to allow for different heights in the buffering affect depending on what level of activity would be occurring in the different sections of the park.

Mayor Infeld added that the landscape architect is responsible for a lot of the planting patterns has suggested the with the various plantings birds, butterflies, etc. will be attracted.

Mrs. Pardee asked if there would be baby changing areas in both the men's and women's restrooms and if there would be solar lighting.

Mr. Hable replied that there will be baby changing stations in both restrooms and noted that both restrooms will be unisex. In terms of the lighting Mr. Hable stated that there would not be solar lighting because the buildings are so small and the restrooms is in a area where there are a lot of trees so there really would be a benefit to having solar lighting. There will be some glass clear story to allow natural light in along with the use of very high efficiency LED lights, etc.

Mr. Hable reviewed the composition of some of the structures, such as the pavilion and gazebo. Mr. Hable also explained the layout of the various walking pathways.

Mrs. Pardee asked if the restrooms, water fountains be shut down in the wintertime and whether the restrooms would be locked during the night.

Mayor Infeld replied yes, the water and restrooms will be shut down and winterized in the same matter that Purvis is shut down for the off season. The restroom will be locked at night because the City Ordinances state that public parks close at dusk.

Mr. Hable explained the playground equipment will be more colorful for the younger children and more structured for the older children. Mr. Hable added that the goal is to develop something where the children can create their own games. The idea is to allow the children to form their own activities. There will be a water play area (not spray water), natural element play areas, etc. There will be open field areas for open play. The pathway that goes around the park will be 8' wide and asphalt, it is designed so that emergence vehicle would have access to the entire park if necessary.

Mr. Hable stated that there will be angle rear (backed in) parking on the Fenwick side. Mr. Hable explained that this is much safer than parallel parking or stall parking.

Mr. Wiseman stated if Fenwick is a two-way street, if you are driving south of Fenwick it would be hard to back in.

Mr. Hable replied that the parking on Fenwick is designed for persons driving north on Fenwick.

Mr. Ertel asked what type of material would the one-third mile pathway the goes along the perimeter be made of.

Mr. Hable replied that that pathway would be asphalt and the other pathways would be made of various materials, concrete, a limestone pathway (softer), etc.

Mayor Infeld added that all pathways are intended to be accessible to allow access to the restrooms, gazebo, playground areas and other pathways within the park.

Mrs. Pardee asked Mayor Infeld if the City applied to the Ohio Department of Natural Resources for Playground equipment.

Mayor Infeld responded yes.

Community Development Coordinator, Patrick Grogan stated that the City won't hear the results until the end of the year.

Mr. Wiseman asked what the timeframe is from ground breaking to finish.

Mr. Hable estimated that the if work is started in the Fall it should be useable around Memorial Day 2016 or approximately 6 months.

Mr. Sims noted that the park isn't that large but asked Police Chief Hammett if from a security standpoint and concerns about any possible situations are the any features in the plan that would support the needs of the Police Department.

Chief Hammett replied yes, a cruiser would be able to have access in the event of an emergency, during the warmer months there will be bike details and the park will be check during the evening/night. In regards to the parking areas Chief Hammett said he had no concerns and as far as the rear angled parking on Fenwick, statistics have shown that backing in parking is safer than backing out parking. It is just as safe as pulling in parking.

**MOTION BY MRS. PARDEE, SECONDED BY MR. ERTEL to approve the Planning Commission's recommendation for the Public Park as present and compliance with all required permits from the Building Department. On roll call, all voted "aye."**

**F. Motion to advertise for Bids for the Community Public Park Construction Project**

Mayor Infeld stated that that process would include advertising in newspapers, on-line, various media and allowing contractors an opportunity to look at the project specifications and make a educated guess on the construction cost and submit a bid document. The process could take 5 to 6 weeks from initial advertise date. Mayor Infeld added that the project will be advertised for a few weeks giving people time to recognize this work is available; specifications will be available to contractors so that they can look and study what the requirements are in terms of construction.

Mrs. Zucker asked if this information would be on the City's website so that the public can be aware.

Mayor Infeld replied yes, information that the City is seeking bids of the park will be placed on the website.

Mr. Sims asked the park architect, Mr. Hable if in the bidding process will there is any plan to have a pre-bid meeting or anything for contractors that propose to bid.

Mr. Hable stated that when the project goes out to bid there will be a notification sheet to bidders that will specify the pre-bid meeting that will allow contractors to review the drawings, ask questions. During the bid process questions will be accepted from contractors and if something needs to be clarified it will be done via addendum so that all bidders receive the same information for the due process of the bid.

Mr. Sims asked who would prepare the bid documents.

Mr. Hable replied that the technical drawings and specifications will be prepared by his office, Braun and Steidl along with their consultants. Braun and Steidl will also work with the City for the front end of the project manual that would contain all the bidding information so if the city/community has specific required information they need to include.

Mr. Sims continued to ask if the bid would go to a single private contractor who would be responsible for the bases of being the general contractor with a bunch of other sub-contractors.

Mr. Hable replied correct.

Mr. Sims commented on Mr. Hable's comment regarding the front end provisions or conditions that the City would be responsible. Mr. Sims stated that he would like to believe University Heights is a diverse community and that it is possible to achieve a diverse participation on this project. University Heights does not do many projects of this size but Mr. Sims stated that both the sub-contractors that are working on it as well as the work forces that are utilized could be representative of the demographics of the community. Mr. Sims added that he didn't know how that would be incorporated into what we tell the bidders, but he thought that it was absolutely essential that they recognize that that is an important concern for us.

Mr. Hable responded that many community have a structured requirement that they would included. Mr. Hable stated that he wasn't sure how University Heights is structured for that, but that he would confer to make sure that would be encouraging to include that. If there is no wording or law requiring that, Mr. Hable stated that they would certainly encourage the inclusion of diversity.

Mayor Infeld stated the City has some language.

**MOTION BY MR. ERTEL, SECONDED BY MRS. CAMERON to advertise for bids for the Community Public Park Construction Project. On roll call, all voted "aye."**

**G. Motion to Approve Joseph Ciuni as Engineer for Tennis Courts**

Mayor Infeld stated that the City was awarded a grant for the Ohio Department of Natural Resources that will in part pay for the construction of four (4) new tennis courts at Purvis Park and would like to put the project out to bid in the fall. Mayor Infeld noted that the City's Engineer, Mr. Joe Ciuni is fully capable of providing the engineer drawings for the bid documents and noted that Mr. Ciuni does this for other cities.

Mr. Wiseman asked if this part of Mr. Ciuni's retainer as the City Engineer or in addition to that.

Mayor Infeld replied no and that there would be a cost of this. In the grant document the cost estimate for the engineer drawings was about \$14,000.

Mr. Wiseman stated that although he had no doubt that Mr. Ciuni knows how to draw tennis courts - would the City then have to hire someone to review his drawings as he would do if they were provide by another party.

Mayor Infeld replied that the City wouldn't necessary have to hire someone to review Mr. Ciuni's plans or could hire someone to review them. Mayor Infeld stated that the City could trust Mr. Ciuni's work based on the long years of experience with him and the trust that has been built.

Mr. Wiseman stated that this is a serious question because Mr. Ciuni reviews work from other engineers even though they had a lot of experience and he knows that they know what they are doing.

**MOTION BY MRS. ZUCKER, SECONDED BY MS. ENGLISH to approve Mr. Joseph Ciuni to serve as the City's Engineer for the Tennis Courts. On roll call, all voted "aye."**

**H. Resolution 2015-24 Adopting the 2016 Tax Budget (passage)**

Mr. Heiser stated that the tax budget is part of the city's yearly cycle. But the cycle is required to be submitted to the County by the Ohio Revised Code. The County reviews the information and then in the fall the City will receive a Resolution informing the City what it will collect based on the listed millage.

Mr. Sims stated that he was aware that the City is using the fact that the outstanding would be paid off and raise additional or the same revenue or would not increase the level of taxation to the resident for the park. Mr. Sims asked if that debt has been paid off.

Mr. Heiser replied yes, that debt has been paid off and the millage rate for this year is the same as last year, 13.2mil.

**MOTION BY MRS. PARDEE, SECONDED BY MR. SIMS approving Resolution 2015-24 Adopting the 2016 Tax Budget. On roll call, all voted "aye."**

**I. Ordinance 2015-25 Ordinance 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 \$7,000 (passage)**

Mr. Heiser stated that the City changed over to Compmanagement 3 years ago from Careworks and they have done a good job for us in lower the City cost. They are also preparing the City for the upcoming changes with worker comp.

Mrs. Cameron asked Mr. Heiser if he could provide an estimate of the savings.

Mr. Heiser in the past the Bureau of Workers Comp was use retrospective billing, now their billing will be prospective billing so the City will be billed twice in one year starting in 2016. Once 2017 comes it will balance out. Compmanagement changed the City over from being an individual retro to a group retro so now the City gets yearly checks back based on how we do as a community relative as a group and the group is good. As a percentage the City has saved approximately 40%.

**MOTION BY MR. ERTEL, SECONDED BY MRS. CAMERON approving Ordinance 2015-25 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 \$7,000. On roll call, all voted "aye."**

**J. Ordinance 2015-26 providing for the issuance and sale of bonds in the principal amount of \$1,800,000 for the purpose of paying costs of improving the city's park and recreational facilities by constructing and equipping a public park area and related improvements; and declaring an emergency (passage)**

Mr. Heiser, Finance Director stated that Ordinance 2015-26 was prepared by the City's Bond Counsel and reminded Council that at the previous Council meeting on June 17, 2015 the Law Director explained that even though the Ordinance has two readings there is also an Emergency Clause because of the referendum. Mr. Heiser continued to say that passage of Ordinance 2015-26 is the next phase to the issuance of the debt for the park. Since the project was not started right away and the resident's voted in favor of it, the first year of fund collections would serve as a down payment towards the cost of the project. The first payment will be made up front since the monies have been collected from the residents already.

Mr. McConville added that the rational in passing Ordinance 2015-26 on an emergency bases means that it would immediately become effective upon passage and not be subject to referendum because an emergency is specified and the Ordinance is then protected from referendum.

Mr. Wiseman spoke that this was essentially enacted by referendum.

Mr. McConville replied correct.

Mr. Wiseman commended and asked Mr. Heiser to clarify that the debt for the pool was paid off and the City is already collecting monies from this bond issue.

Mr. Heiser replied yes, that it was voted last fall season to start collecting for the new park.

Mr. Wiseman asked if the City was allowed to do that even though the project had not been approved.

Mr. Heiser answered yes, because the residents voted to approve the park and those funds for the first year's payment. If construction begins in September the debt would probably be issued sometime before November 2015 and since the funds will be available the first payment would be made upfront.

Mr. Sims asked who the Bond Counsel was and who would be selling the bonds.

Mr. Heiser replied Squire Patton Boggs is the Bond Counsel and Tim Reidy from Huntington Bank will broker the deal.

**MOTION BY MR. SIMS, SECONDED BY MRS. ZUCKER approving Ordinance 2015-26 - providing for the issuance and sale of bonds in the principal amount of \$1,800,000 for the purpose of paying costs of improving the city's park and recreational facilities by constructing and equipping a public park area and related improvements; and declaring an emergency. Roll call on Suspension of the rules, all voted "aye," and roll call on passage, all voted "aye."**

- K. Ordinance 2015-27 Amending Section 452.19 of the Codified Ordinances of the City of University Heights to establish a resident permit parking program on certain city streets as determined by the Chief of Police and the City Engineer, and designation of Bushnell (between Warrensville Center Road and Wrenford); Wrenford Road (North of Silsby Road); Silsby Road (between Warrensville Center Road and South Belvoir Boulevard); Traymore Road (between Silsby and Washington Boulevard) and Glendon Road (between Silsby and Washington Boulevard) as Restricted Areas (passage)**

Mayor Infeld stated that Ordinance 2015-27 was introduced at the June 15, 2015 Council meeting and stated that originally there was a Public Hearing scheduled for 7pm, just prior to this Council meeting regarding this topic. Mayor Infeld added that she had received three Council members contract her with emails saying that they didn't think the Ordinance was necessary. Mayor Infeld suggested that this be tabled while Council continues considering the appropriate course of action regarding the recommendation of the Police Chief and Engineer.

**MOTION BY MR. SIMS, SECONDED BY MR. WISEMAN to table Ordinance 215-27**

Mrs. Cameron asked if the matter be referred to particular committee of Council for consideration.

Mayor Infeld replied that because the way the Ordinance is written she believed that Council as a Whole has to take action and it also requires a Public Hearing not from a committee but from Council as a Whole. This is something that can be reviewed now that it being tabled.

Mrs. Cameron noted that if this is the Police Chief and Administration view that this may be needed then she thought that Council then needs to consider it as a matter of Council and asked what would be involved in Council making sure that Council as a Whole adopted this issue.

Mayor Infeld replied that the Ordinance requires Public Hearings.

Mrs. Cameron asked if this is considered the first Public Hearing.

Mayor Infeld answered not necessarily; the Public Hearings are just required within 120 days of the presentation of the Ordinance. There is still time to think about it but at this point any signs that would need to be placed on streets wouldn't be there by the time school opens because the city needs lead time to order the signs. Mayor Infeld added that she didn't see any harm in calling a public meeting with the community to get some direct feedback on this issue. For right now, Mayor Infeld stated she thought tabling is the right thing to give Council time for consideration as Mayor Infeld heard from 3 of the 7 Council members stating that they didn't think this was necessary at this time. Mayor Infeld noted that she was paraphrasing the thoughts of those Council members as she didn't have the emails in front of her but that she would be happy to share those emails with the other Council members.

**MOTION BY MR. SIMS, SECONDED BY MR. WISEMAN to table Ordinance 215-27 Amending Section 452.19 of the Codified Ordinances of the City of University Heights to establish a resident permit parking program on certain city streets as determined by the Chief of Police and the City Engineer, and designation of Bushnell (between Warrensville Center Road and Wrenford); Wrenford Road (North of Silsby Road); Silsby Road (between Warrensville Center Road and South Belvoir Boulevard); Traymore Road (between Silsby and Washington Boulevard) and Glendon Road (between Silsby and Washington Boulevard) as Restricted Areas. On roll call, all voted "aye."**

- L. Ordinance 2015-28 Authorizing the Mayor to enter into a consent letter agreement with American Tower Corporation, giving the city's consent to the ground lease sublease and leaseback between American Tower Corporation and Verizon Communications Inc. (on emergency)**

Mr. McConville stated that American Tower has enter into a large transaction to take over their ground leases on a Nationwide bases and is seeking approve from the city to consent to the arrangement. In reviewing the existing ground lease and sublease in this respect, Verizon has negotiated for the right to enter into a sublease. As a practical matter the City will be getting the lease payment check from American Tower as opposed to Verizon. Mr. McConville noted that he spoke with the council for American Tower and suggested a renegotiation of the lease agreement but American Tower responded that they wouldn't do that. Verizon will continue to own the equipment.

Mr. Wiseman asked where the equipment is located, if this is an extension of the lease and how much money is the city receiving from them.

The equipment is behind the Fire Department and Mr. Heiser stated that this is not an extension, American Tower is just taking over.

Mr. McConville stated he did not know how much money the City was receiving from them and that this was just a sublease where American Tower is being substituted as the party.

Mr. Wiseman asked what would happen if the City said no.

Mayor Infeld replied that the original contract stated that this was the time period in which they could put forth this new arrangement.

Mr. McConville stated that the language in the sublease is not subject to the City's consent, Verizon has the right to sublease.

Mr. Wiseman asked how long has the lease been in effect.

Mayor Infeld stated it was a 30 year lease with 5 year increments.

Mr. McConville noted that if Council would like him to provide more detail he would be happy to research it further.

Mr. Wiseman asked at what time period are we in with the lease period.

Mr. Heiser stated that what lease time period the City agreed to is listed in the original agreement.

Mr. McConville clarified that what would change is that instead of Verizon paying the City the amounts under the agreement and instead of Verizon coming back in asked for renewal it would be the party American Tower who has entered into a transaction with Verizon to acquire these rights on the existing leases.

Mr. Sims stated that unless the City is talking about re-negating the lease and if the City is satisfied with the terms of the lease that was agreed to initially, he had no objections to transferring the sublease to another party if it is the exact same terms.

Mr. McConville responded that the terms will not change.

Mr. Wiseman comment that it was not necessary for Mr. McConville to research the lease any further and clarified that in 5 years American Tower will ask the City to extend the lease another 5 years.

Mr. Sims asked Mr. McConville if that is not the case for him to come back to Council, but whatever it is already incorporated in the lease.

Mr. McConville agreed.

**MOTION BY MRS. CAMERON, SECONDED BY MR. SIMS to approve Ordinance 2015-28 Authorizing the Mayor to enter into a consent letter agreement with American Tower Corporation, giving the city's consent to the ground lease sublease and leaseback between American Tower Corporation and Verizon Communications Inc. On roll call on Suspension of the rules, all voted "aye," and roll call on passage, all voted "aye."**

**M. Approve Change Order for large Street Patching by Chagrin Valley Paving**

Mr. Ciuni stated that the resurfacing of the 2015 Street – Washington, Hillbrook, Allison, Nordway and Westwood is substantially completed. All the new curbs on Silsby have been installed. Mr. Ciuni made note that in resurfacing the street it was discovered that the base surface did not require as much repairing as was expected so there are some remaining monies. The budget that was originally set by Council for street repairs \$750,000 and Chagrin Valley's low bid for this project was \$726,000 and some change leaving \$23,000 in the budget. Mr. Ciuni is requesting a change order for the \$23,000 to add to the \$75,000 there will be then be approximately \$100,000 for large area patch work to be done around the City.

**MOTION BY MRS. PARDEE, SECONDED BY MR. SIMS approving the Change Order for large Street Patching to be done by Chagrin Valley Paving in the amount of \$23,217.75. On roll call, all voted “aye.”**

There was no further business.

**O. Motion to adjourn the meeting**

**MOTION BY MR. ERTEL, SECONDED BY MRS. CAMERON to adjourn the meeting. On roll call, all voted “aye.”**

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Susan K. Infeld, Mayor

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Kelly M. Thomas, CMC