MINUTES COUNCIL MEETING
CITY OF UNIVERSITY HEIGHTS, OHIO
MARCH 6, 2017

Mayor Infeld called the regular meeting to order at 7:02p.m.

Roll Call:

Present:	Mrs. Susan Pardee
	Mrs. Pamela Cameron
	Mr. Steve Sims
	Mr. John Rach
	Mr. Mark Wiseman
Absent:	Mr. Phillip Ertel
	Mrs. Michele Weiss
Also, Present:	Law Director Luke McConville
	Clerk of Council Kelly M. Thomas
	Police Chief Steven Hammett
	Service Superintendent Jeffrey Pokorny
	City Engineer Joseph Ciuni
	Building Commissioner Larry Brown

MOTION BY MR. SIMS, SECONDED BY MRS. CAMERON to excuse the absence the absence of Mr. Ertel and Mrs. Weiss. On roll call, all voted "aye."

Approval of Minutes from Regular Meeting February 21, 2017

Mr. Wiseman noted on page 3 to correct the County Planning Council to County Planning Commission.

There were other corrections or additions to the February 21, 2017 Council minutes.

MOTION BY MRS. PARDEE, SECONDED BY MR. RACH to approve the Council minutes from February 21, 2017 as corrected. On roll call, all voted "aye," expect Mr. Sims who "passed."

Comments from Audience

- Mr. Daniel Raze and his daughter Lauren, property owner of 2351 Warrensville Center Road – provided the Council with a brief history of Northwood Elementary School which is now the new Community Park and suggested that the park be named Northwood Park due to its rich history in the City.

- Ms. Anita Karizian, read an article she wrote regarding the history of University Heights, dating back to when it was Idlewood Village and suggested the new community park be named after the City's first Mayor Howard.

Mayor's Report to Community

Mayor Infeld provided the following report.

- March newsletter is out
- Meeting on Tuesday, March 7 at 6:30pm to discuss regarding the idea to create a public square at Cedar/Taylor gateway
- Semi Annual Household Hazardous Waste Collection and Paper Shredding Project
- Masterplan presentation to Council by the County Planning Commission will be on March 20

Agenda Items:

Mayor Infeld stated the need to add a Resolution 2017-09 placing a moratorium on small cell towers and related equipment in the City of University Heights to the agenda.

MOTION BY MR. WISEMAN, SECONDED BY MR. SIMS to add Resolution 2017-09 placing a moratorium on small cell towers and related equipment in the City of University Heights to the agenda. On roll call, all voted "aye."

A. Motion Authorizing the Purchase of a new M2-106 Freightliner Cab and Chassis with a 25yd. Heil DuraPack 5000 Rear Loader Rubbish Packer via the ODOT Coop Purchase Program and the National Joint Powers Alliance (NJPA) Purchasing Cooperative

Mayor Infeld stated that this was discussed in great detail at the February 27, 2017 Council meeting and is notated in the 2017 budget.

Mr. Pokorny stated it was time to replace the 1986 Crane Carrier rubbish packer. Mr. Pokorny informed everyone that the rubbish truck has two separate parts; (1) the cab and chassis, (2) the rubbish rear loader and packer. Mr. Pokorny recommended that the cab and chassis be purchased via ODOT Coop Purchase Program from Cleveland Freightliner Inc. of Parma, Ohio for $92,283 and the rear loader via National Joint Powers Alliance (NJPA) from Bell Equipment Company of Gahanna, Ohio for $64,552 for a grand total of $156,835.

Mr. Wiseman asked what would be done with the old 86' rubbish truck; if it doesn't have a high resell value would it be worth keeping for it for use on other vehicles.

Mr. Pokorny replied it will be placed on gov.deals for purchase and that the truck is to the point where it won't be running much longer and won't have any parts worth putting in other trucks. Mr. Wiseman added the he thought funds should be place in the budget for the painting of old vehicles so that their appearance is better.

Mr. Sims asked if the truck will be winterized like in the past.

Mr. Pokorny answered that the truck will be undercoated in house by city employees.

MOTION BY MR. SIMS, SECONDED BY MRS. CAMERON Authorizing the Purchase of a new M2-106 Freightliner Cab and Chassis with a 25yd. Heil DuraPack 5000 Rear Loader Rubbish Packer via the ODOT Coop Purchase Program in an amount not to exceed $92,283 and the National Joint Powers Alliance (NJPA) Purchasing Cooperative in an amount not to exceed $64,552 for a total amount not to exceed $156,835. On roll call, all voted "aye."

B. Motion Authorizing the Administration to Advertise for bids for the 2017 Road Program

Mayor Infeld reported that this project has the largest dollar amounts ever allocated to street improvements and that there are 15 different projects listed in the 2017 Road Program. Mayor Infeld commented that one of the projects is for the improvement of the sidewalks at Cedar and South Taylor Roads. Noting that for safety reasons the sidewalks in that intersection need to be fix because they are not in good shape; particularly on the north side of the intersection and are truly hazardous to pedestrians. The Administration did submit this project to Cuyahoga County for CDBG (Community Development Block Grant) funds; but wasn't awarded any funding. Thus, the project was added to the 2017 Road Program for the fixing of the sidewalks and making them level. All funds will come from the General Fund in large part due to surpluses generated from operations in the previous year. The 2017 Road Program represents a $1.2mil program.

Mayor Infeld also noted the City will continue its program to install curbs on main and heavily travelled streets so that as travelers enter and exit the City they see streets that are nicely paved with curbs. Once all the main streets have been completed the side streets will begin getting full curb replacement.

Mr. Sims asked for clarification regarding if the City were to participate with ODOT or with the County and if those entities were to provide the majority of the funding; would that then make a difference as opposed to if there was a situation where they were merely supplementing the City's funding. And, if that were the case, would it then mean the City would be subject to their (ODOT/County) bidding requirements?

Mayor Infeld stated that ODOT's and the County's bidding requirement are much stronger than the City's.

Mr. Ciuni added that Ordinance that Council passed earlier in the year with specific language regarding minority bidders, the required verbiage will still be noted in the legal ad and the reporting forms will be a part of the bidding package.

Mayor Infeld added that there may also be Davis Bacon requirements with ODOT and Cuyahoga County – funded projects which the City doesn't have.

Mr. Sims asked if the City Hall and Police Department parking lots were being resurfaced or replaced.

Mr. Ciuni replied the parking lots will be replaced.

Mr. Rach asked for the listing of street conditions and rating.

Mr. Ciuni replied he would make that available to Council.

Mayor Infeld added that the utility work that occurs in the City impacts the condition of the streets and the City can't control those situations.

MOTION BY MR. RACH SECONDED BY MRS. CAMERON Authorizing the Administration to Advertise for bids for the 2017 Road Program. On roll call, all voted "aye."

C. Resolution 2017-09 placing a moratorium on small cell towers and related equipment in the City of University Heights

Mayor Infeld stated that there was a lot of concern and activity regarding this by surrounding communities.

Mr. McConville stated at the Ohio State House a bill was passed which impacts municipalities ability to control their own right-of-ways by making it easier for small cell towers to put up their own stand-alone towers. In particular, for University Heights, it's damaging because the Ordinances that requires an applicant to locate that type of equipment on existing poles or if they claim they can't do that they have to go before the Board of Zoning Appeals and prove that their technology won't work on an existing structure. Mr. McConville added that legislation was set to be effective on March 21 and in the meantime, there is a lot of coordination between municipalities all over the state who believe that that legislation was unconstitutional based on a variety of theories including "home rule" so there is like to be litigation filed prior to the effective date of the legislation. Mr. McConville continued to say that there would also be an influx of applications. One strategy is placing a moratorium on the small cell towers that are going up which will allow the city to wait and see what happens with the litigation and in the meantime, study the legislation and potentially enact some measures to allow the city to continue to protect the right-of-way.

Mr. Sims recalled that approximately 8 years ago, a utility company was going through the communities and installing boxes to add to their capacity to provide digital technology and it was his (Mr. Sims) impression that the cities could do little or nothing to regulate or have any way of impacting the instillation. Mr. Sims added that in lieu of that Council decided that the best they could do was to have something in place to address camouflaging the boxes. Secondly, Mr. Sims asked if there was a timeline on the moratorium for an appeal to see how the legislation unfolds? And; if Council passes this Resolution would it then apply to the applicants who have already submitted application?

Mr. McConville replied, yes it would apply to previous applicants, but noted that the City hadn't granted any approvals and isn't obligated to respond them (applicants) for a period of time. Therefore, Council doesn't have to pass this Resolution at this meeting because the City would still be able to state it wouldn't issue a permit to an applicant. In response to Mr. Sims original comment Mr. McConville stated that it was likely that it would be difficult to prevent something from happening in keeping those small boxes from popping up and that the City should be able to put some small road blocks in place to let parties know that they have to comply with the City's ordinances.

Mayor Infeld described that the towers would resemble shorter phone poles and the equipment would sit on those poles in mini boxes similar to the AT&T ground boxes that Mr. Sims spoke about. Those ground boxes had been approved in the past by the PUCO. University Heights as well as other cities at that time were trying to regulate their placement. The placement has been controlled in a sense where they aren't in the front lawns of residents but at the end of the streets in the public right-of-way. Currently more boxes are being installed at the end of Wrenford Road near Purvis Park and on Fenwick Road at the new community park. There are Ordinances in place that detail the camouflage or the planting of bushes to detract attention from the boxes. Mayor Infeld added what the Administration doesn't want to happen is the look of a stockade with poles going up and down the street; particularly around a commercial area, i.e. Fairmount Circle, John Carroll, etc. Mayor Infeld asked Building Commissioner Brown if the applications that he was receiving were for the shorter poles to match existing poles or taller.

Mr. Brown replied the applicants are trying to use the existing poles, but it' not just the pole because there will be the large ground box that holds the electric service.

Mr. Wiseman asked if the issue was that the applicants may be applying to erect new poles possibility 78ft in height and in the public right-of-way where the telephone and street light poles are and the City would have no control over that. Mr. Wiseman asked if the City had a contract with AT&T for their poles and if they could erect new 70ft. poles.

Mr. McConville replied that Mr. Wiseman was correct, the City is essentially stripped of its control. Also, the City does not have a contract with AT&T but in order for them (AT&T or any other applicant) to erect new/additional poles they would have to come to the City for approval, which then gives the City the ability to say it's not issuing the applicant a permit. The existing legislative structure may be adequate and was effective in dealing with the first round of applications last year where it required the applicant to place the box on an existing structure. This is probably realistically the best-case scenario, and the Administration wants to preserve that.

Mr. Sims asked if the moratorium would cover everything it would need to cover in regards to a small-scale tower.

Mr. McConville replied yes.

Mayor Infeld added that the City is not stopping applicants, but want the City's ordinances to remain in effect.

MOTION BY MR. SIMS, SECONDED BY MR. WISEMAN Resolution 2017-09 placing a moratorium on small cell towers and related equipment in the City of University Heights on emergency such reason being this Resolution must be enacted as necessary in order to place a moratorium in effect prior to House Bill 331 going into effect. Roll call on suspension of the rules, all voted "aye," and roll call on passage, all voted "aye."

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

There was no need to hold an executive session.

Directors' Reports

Mr. Rach commented that the Civic Information and Governmental Affairs Committees are working with the Cedar/Taylor Merchants Association in trying to secure a Planning Commission meeting. The application was submitted on January 27, 2017 and still haven't received a date for the meeting. Mr. Rach read City Ordinance 1220.09 regarding meetings and notices where it states the Planning Commission shall hold a public meeting on an officially filed application within 45 days after the applicants official filing date. According to Mr. Rach calculations a Planning Commission meeting would have to be held by March 13 to meet the 45 days and added that he hoped that the meeting would be schedule to occur by that time. If the notices were mailed out to the surrounding neighbors on March 7 the notification requirements would also be met for a March 13th meeting.

Mayor Infeld replied that at the February 6 Council meeting she reported to community that the City had multiple projects that had to be presented to the Planning Commission and that she was trying to consolidate those projects because it is very difficult to get the Planning Commission Members, who are citizen volunteers for that committee to meet due to their professional and private schedules. Mayor Infeld added that the Cedar/Taylor project is administratively considered a relatively small project, as well as the Bellefaire JCB project which was almost ready to be represented to the Planning Commission. Mayor Infeld said that at the previous Council meeting she reported to the community the same information and that the Administration was close to getting a date and waiting for the other small project to be indicated as being ready to be heard. Since that time, Council was advised that the Planning Commission members were being polled for a series of meeting dates. Unfortunately, due to member's availability the meeting will not be able to take place until the end of March or early April.

Mr. Rach commented that by law the meeting has to be on the calendar within 45 days of application and that he was receiving pressure from the community for the meeting to occur. Mr. Rach stated his feelings that if Council cannot get a meeting as outlined in the City's ordinances, which Council is sworn by oath to uphold; then he finds it very hard for someone who was here for development purposes to have a fair hearing if the city's own Council can't get a meeting as outlined in the Ordinances.

Mayor Infeld replied that administratively the city relies on the ability of the Planning Commission to meet and there are multiple projects coming before this commission. Mayor Infeld added she did not know what to do when the Planning Commission can't meet within the required time frame.

Mr. McConville replied he wasn't aware of a remedy that was set forth within the Ordinances. But, also that he didn't see judiciable controversy because the Mayor is not saying a meeting wouldn't be held; what she was saying was that a meeting will be held when the Planning Commission members can meet. Mr.

McConville added that the first four proposed meeting dates he himself would be unable to attend and; that is part of the logistical reality that the Administration is dealing with. Mr. McConville said that there is a technical violation and that he wasn't aware of a remedy that provided for by Ordinance, and that he didn't see a judicial controversy where if Council were to sue the Mayor, he thought a Judge would throw the case out.

Mrs. Pardee commented that she appreciated that the members of the Planning Commission are busy people with busy schedules, but so are the members of the Board of Zoning and the Architectural Review Commission but those two bodies have standing commission meeting dates. And although University Heights has historically had a low need for Planning Commission meetings but sometimes is worth considering a new way of doing things, it might be worth wild to consider a standing date for the Planning Commission. So, that it would be on the calendar and then the Administration could dismiss the meeting if not needed. That may also be beneficial to applicants.

Mayor Infeld said that she had also heard that recommendation from David Hartt when the City was considering updating the Planning and Zoning Code. Mayor Infeld said that would take legislative action and that it may also change the composition of the Planning Commission because when the current Planning Commission members agreed to serve it was under the existing conditions.

Mr. Wiseman said he was having a hard time understanding why the meeting couldn't be scheduled within the 45 days. The expectation is that the Administration fellows the ordinances that are set forth and then have a better explanation as to why the ordinances were being followed.

Mayor Infeld emphasized that there are multiple projects that the Administration was trying to consolidate so that there wouldn't be a lot of meetings, not that the Planning Commission was having a hard time with the availability to meet.

Mrs. Pardee said she was interested in the City being a welcoming environment for businesses, housing and projects and her concern was that if the Planning Commission meets once things are ready and the process drags on its not the most professional or easy environment to attract business expansion, entrepreneurship investment in the city. Mayor Infeld said that the City Council can change the current legislation to reflect a different meeting schedule such as what Mrs. Pardee described for the ARB and BZA.

City Engineer Joseph Ciuni reported that Cleveland Heights will be resurfacing Cedar Road in March and Perk is the contractor.

There were no other Director reports.

Standing Committee Reports:

Council Committee of the Whole: Mr. Sims reported that the Committee of the Whole met to discuss the topic sanctuary cities. Several difference opinions expressed including the idea that there was already legislation in placed via ordinances that should cover the concerns Council has that would also be covered in being a sanctuary city including the city's legislation around the LGBTQ community. There was also the concern that the city wouldn't have the resources to implement a sanctuary city in the way that the legislation was being proposed and the possibility of losing financial resources in terms of grants, especially those of a Federal nature. Mr. Sims added that the discussion also included the Police Chief Hammett presentation regarding police involvement with ICE (Immigration Customs and Enforcement) and protecting undocumented residents who may be victims or witnesses to crimes. Finally, the committee discussed the difference between a sanctuary city and a welcoming city. The Committee of the Whole decided to refer the discussion of welcoming cities to the Governmental Affairs Committee and made no recommendation regarding further consideration of being a sanctuary city.

There were no other committee reports.

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

There being no further business, the meeting was adjourned.

Susan K Infeld

Susan K. Infeld, Mayor

Kelly M. Thomas

Kelly M. Thomas, Clerk of Council