

**MINUTES COUNCIL MEETING
CITY OF UNIVERSITY HEIGHTS, OHIO
OCTOBER 2, 2017**

Mayor Infeld called the regular meeting to order at 7:03p.m.

Roll Call:

Present: Mrs. Pamela Cameron (7:05pm)
Mr. Phillip Ertel (7:35pm)
Mr. John Rach
Mr. Steven Sims
Mrs. Michele Weiss
Mr. Mark Wiseman

Absent: Mrs. Susan Pardee

Also Present: Law Director Luke McConville
Finance Director William N. Sheehan III
Clerk of Council Kelly M. Thomas
Police Chief Steven Hammett
Service Superintendent Jeffrey Pokorny
Community Development Patrick Grogan-Myers
Engineer Joseph Ciuni

MOTION BY MR. WISEMAN, SECONDED BY MRS. WEISS to excuse the absence of Mr. Ertel, Mrs. Cameron and Mrs. Pardee. On roll call, all voted “aye.”

A moment of silence for the victims and families from the mass shooting in Las Vegas.

Approval of Minutes from Meeting September 5, 2017

Mr. Rach stated on page 1 for approval of minutes where it said Mr. Rach had one correction on page 3 the word “note” should be “not”

Mayor Infeld added the last name (Sadock-Savino) to the public comment from resident who lives at 2436 Warrensville.

MOTION BY MRS. WEISS, SECONDED BY MR. RACH to approval the September 5, 2017 Council minutes as corrected. On roll call, all voted “aye.”

Approval of Minutes from Meeting September 18, 2017

There were no corrections to the September 18, 2017 Council minutes.

MOTION BY MRS. CAMERON, SECONDED BY MRS. WEISS to approval the September 18, 2017 Council minutes. On roll call, all voted “aye.”

Comments from Audience

Mr. Bill Kushner, 23016 Cedar Road, Beachwood asked who would be enforcing various ordinances such as curfew; would it be University Heights Police or Beachwood Police. Mr. Kushner also voiced his concerns about the traffic exiting out on to Fenway and noted that he would prefer to have all the traffic exit out back to University Heights and the South Green Road exit. Mr. Kushner added that Council should take action now to prevent issues.

Ms. Allison Hibbard, 2389 Charney was regarding her father receiving notice from the city that he had to apply for a renter’s permit and inspection. Ms. Hibbard stated that she does reside in the home and that her father lives in Pittsburg. Ms. Hibbard has lived in the home for the last 6 years and no money is exchanged between herself and her father, therefore it is not fair to consider this rental property and for her father to be required to pay rental permit fees and have inspections performed on the property – it is unconstitutional. Mr. Sims asked how did the property come to the City’s attention. Ms. Hibbard replied from an exterior inspection.

Ms. Debra Rubinstein, 2133 Fenway was present regarding her concerns for Swenson’s being built in the proposed location and asked how it would look once built being that it is so close to the property line; having an eatery close at 1:30am is not conducive to the neighborhood.

Mr. Mike Berkley, 23010 Cedar Road was also present because of Swenson's and asked about the pollution of light and noise. Mr. Berkley noted his disapproval of the amount of transparency from both cities (University Heights and Beachwood).

Mr. Fred Margolis, 2168 Campus spoke about the Cedar Green shopping center not being maintained, he can hear the dumpster being dropped when the rubbish is picked up. Mr. Margolis added that he will be closely monitoring everything.

Mr. Mike Bishop and another John Carroll University student introduced themselves as Senators from the Student Union and reported that they are working with outreach to the communities.

Mayor's Report to Community

- Gearity Professional Development School is looking for volunteers to help tutor students from 3:15pm – 4:30pm.
- In regards to the audience concerns and questions about Swenson's City believes it is being a good neighbor.

Agenda Items:

A. Presentation regarding Cedar Taylor Gateway

Mayor Infeld stated that Cedar/Taylor is one of the gateways to University Heights. The City of Cleveland Heights developed a plan with an architect 5 or 6 years ago and the City has been following that plan regarding what types of improvements will happen to this gateway area. University Heights pattern for project plans is to get community input. Thus far there have been 4 public hearings allowing for residents to have an input regarding the Gateway. University Heights began the project with the project study which is very nice and was developed by Cleveland Heights. The Cleveland Heights plan was presented to the community as the base plan. After a couple of meetings with audience comments University Heights hired a firm to develop a conceptual drawing. University Heights has been touching on many of the items that are listed in the Cleveland Heights study.

Mr. Grogan-Mayer suggested that people visit the City's website where there is on-line feedback for residents and businesses. The vision has greenspace on the northeast corner of Cedar and South Taylor with a place for people to gather. This effort will be coordinated with Cleveland Heights.

Mayor Infeld commented that the east side of South Taylor which is the University Heights portion is mismatched with the northeast and southeast corner making it difficult for people to cross the eastside from north to south. So part of the city's last remaining public improvement projects will be to draw this intersection out into the street a little more to even out the distance curb to curb making crossing the street easier and create a public gathering space. This space was recommended in the Cleveland Heights study.

Mr. Grogan-Mayer spoke to the opportunity to have the "bike shares program" in the city.

Mayor Infeld mentioned planned bike lanes on South Belvoir and Warrensville Center. The bike share program ties in with the NOACA study, the City's Masterplan and the Cleveland Heights' Masterplan. The project for the walk way right of improvements will be presented to the Planning Commission.

Mrs. Weiss stated that she was happy that this corner is finally being taken into consideration; however, Council approve this project unanimously on 4/3/2017. That plan was a little different but Council was never given the opportunity to go to Planning Commission. Mrs. Weiss said her real issue was why wasn't this administered until now. The Finance Committee set aside \$25,000 in the city budget for beautification projects to the four city's gateways. With the idea that one gateway would be completed in 2017 and in the next three years the other gateways would be done. Mrs. Weiss stated she didn't want to mismanage tax payer's dollars on an art piece when that section of Cedar/Taylor has a lot of use. There are unoccupied buildings that have potential use features, there is also a lot of collaborate use with Cleveland Heights. Mrs. Weiss added that she didn't want to invest money on the corner with an art piece and bench that might be gone in a few years. The Governmental Affairs and Civic Information committee's ideas were for the entire stretch of both sides Cedar/Taylor; both side and the business district. Lastly Mrs. Weiss noted her concerns and hesitations in placing a sign at that gateway if there isn't a strategic plan for the other gateways. The gateways don't have to match, but there needs to be a long-term vision. Mrs. Weiss also stated that this (project) cost \$89,000 and was never approved by Council and is over the Mayor's spending limit.

Mrs. Cameron commented that she was concerned about the lack of notices that are provided to the community and Council leaving question as to the sprite of the sunshine laws. Mrs. Cameron stated that the Council are voted elected officials.

Mr. Grogan-Mayer stated that notice of the public hearing was posted to Facebook, the City's website and newsletter.

Mr. McConville added that the City satisfied the requirement for public notice.

Mr. Sims asked how many meets had been held, how many residents attended and requested a more comprehensive vision.

Mr. Sims asked how much effort had been made to incorporate business. Noting Council serves and makes suggestions to move things along and that hasn't been taken in consideration. Mr. Sims stated that University Heights is a small community and the only way to grow is to work together. Personally, Mr. Sims see branding as very important and consistency in that branding is necessary to give University Heights its own identity.

In regards to branding Mayor Infeld stated that there would be public input

Mr. Rach spoke to his concerns for the lack of collaboration with other boards, such as the Board of Zoning Board, Planning Commission, etc. Mr. Rach also noted his disappointment that the Merchants Association wasn't invited to the public meetings along with other key players and that it is a different from the study. Lastly, Council never wanted a pocket park; this project is supposed to support businesses and the plan should follow the vision. Mr. Rach said that he was in support of benches to support businesses but when it comes to the land, the land should be used to bring in revenue.

Mr. Wiseman added that Council had budgeted money for the exact same thing, had an architect come up with a plan and was told to pay to be on the Planning Commission agenda and then after 45 days had passed they were told that they don't go before the Planning Commission because they are Council. No one from the Administration has mentioned Council's plan. Mr. Wiseman said he did not understand the Administration willful disregard for Council's efforts stated he was concerned about the City's money because now it appears to him that the Mayor believes that if she can keep every individual cost under \$5,000 Council never has to approve what is happening.

Mayor Infeld responded to concern several Council members express that the Administration is ignoring what the Council wants to happen at the Cedar/Taylor gateway – what Council presented was the Cedar/Taylor merchant's plan which was formed and paid for by the City of Cleveland Heights. University Heights is doing the exact same thing in look at the study that was paid for by Cleveland Heights, being aware for the elements, communicating all of that to the community at meetings – the plans are the same. There has not been enough community feedback to say what the signage will be. All the City has done is ordered some benches, a planter and the service department will possibility plant some trees. Council should not have any fears that their advocacy for the merchants has not gone astray, in fact it has improved by having residents review it at the public meetings. Council in fact has been at some of the meetings.

Mrs. Weiss said that only a handful of residents attended the meetings. This just demonstrates the lack of collaboration and transparency to Council. How can Council get the Administration to understand that projects over \$5,000 have to come before them?

Mr. Sims added that residents should be involved.

Mr. McConville stated he wrote a legal opinion that indicated that there was a standing issue in that the Administration was the party that would have the standing to make application to the Planning Commission and that that would have an Administrative act whether entering into contract, directing personnel, etc. But with respect to the right-of-way that is a function of the Charter that indicates that connection with any use of the right-of-way or the development of any structure or building goes to the Planning Commission for review and approval.

B. Approval of Planning Commission recommendation decision made at the September 27, 2017 Planning Commission Meeting to approve the University Square Key Bank Lot Split

This item was removed from the agenda because the Planning Commission tabled the recommendation of the University Square Key Bank Lot Split

C. Approval of Planning Commission recommendation decision made at the September 27, 2017 Planning Commission Meeting to approve the University Square Parking Garage Lot Line Adjustment

This item was removed from the agenda because the Planning Commission tabled the recommendation of the University Square Garage Lot Line Adjustment

D. Approval of Planning Commission recommendation decision made at the September 27, 2017 Planning Commission Meeting to approve the Dedication Plat for Cedar/Green Intersection

Mr. Ciuni stated that the County Engineer discovered that the City has public improvements (signal poles, handicap ramps, traffic poles) on private property at the intersection of South Green Road and Cedar which is not permitted per code so the property lines have to be moved. Mr. Ciuni noted that he did not know when the signals were placed there, but the plat lines have to be corrected to move those signals away from the private property and into the public right-of-way.

Mrs. Weiss asked if the movement of the property lines would cost the City any money.

Mr. Ciuni replied that it appears that the owners of those two small sections of private property, one owned by BP (466 sq. ft.) and the other by Speedway (154 sq. ft.) will just transfer with no cost to the City. Although either owner has the right to charge the City fair market price based on the appraisal price.

Mr. McConville stated the City is taking the tack of approaching the owners to give the City the land. If the owners are not willing to give the land to the City free and clear, then there are statutory processes that would need to be started; if the parties are not able to reach a settlement amount based on the appraisal then eminent domain would occur.

MOTION BY MR. WISEMAN, SECONDED BY MRS. CAMERON to approve the Planning Commission recommendation made on September 27, 2017 to approve the Dedication Plat for Cedar/Green Intersection. On roll call, all voted "aye."

E. Approval of Mr. Micah Muskal, 2452 South Belvoir appeal to the Board of Zoning ruling made at the BZA meeting on September 13, 2017 denying Mr. Muskal a Special Permit to park his commercial truck in his driveway

Council received copies of emails received from South Belvoir residents who are in favor of Mr. Muskal parking his work van in his attached driveway.

Mr. and Mrs. Muskal were present. Mr. Muskal stated he was present to request a special permit to allow him to park his work van in his driveway.

Mrs. Cameron asked Mr. Muskal what recourse he would have if Council were to uphold the Board of Zoning ruling.

Mrs. Muskal replied they would have to work on figuring something out because that is their only vehicle.

Mrs. Weiss said she would be in favor of overruling the Board of Zoning decision and allow the Muskals to park the work van in the driveway for one year. Mrs. Weiss said the City should be sympathetic to residents who maintain their property and are running a home business.

Mr. Wiseman said it appears there is overwhelming support from the neighborhood and stated he would also be in favor of allowing Mr. Muskal to park his work van in his driveway since it would be a temporary one year bases.

Mr. Sims noted that the Muskals moved to University Heights in January of 2017 and asked where they lived prior.

Mr. Muskal stated that they moved from Cleveland Heights and parked the van at his parent's home.

Mr. Sims continued to say Cleveland Heights as well as the surrounding community have similar Ordinances regarding parking commercial vehicles in driveways for a reason. Mr. Sims said he was sympathetic to Mr. Muskal's problem and that it is his property but that there are community standards. If Mr. Muskal is allowed to park his commercial van in the driveway it would create a precedent of who should and who shouldn't be allowed to park their commercial vehicle in the driveway. Mr. Sims added that if he were to be in favor of Mr. Muskal it would be under very strict guidelines; where it would only be permitted for one year with no renewals allowed. The fabric of the community is very important.

Mr. Ertel agreed with Mr. Sims and commented that people live in University Heights because of what it is and not what it's become. Mr. Ertel stated he wasn't sure he'd approve it for one year.

Mr. Wiseman noted there was a difference between a box truck and a pickup truck that has been fitted to work as a business vehicle and that he would refrain from going down the road where everyone's pickup truck is considered a service vehicle because they drive it to work. Mr. Wiseman stated that Mr. Sims made some good points about community standards but also noted that he thought Mr. Muskal's intention was to get a car before the 1-year special permit expires.

MOTION BY MRS. WEISS, SECONDED BY to approval of Mr. Micah Muskal, 2452 South Belvoir appeal to the Board of Zoning ruling made at the BZA meeting on September 13, 2017 denying Mr. Muskal a Special Permit to park his commercial truck in his driveway with the stipulation that the Special Permit is only for 1-year.

Mr. McConville stated that by operation of the City's code this will come up for renewal every year to the Board of Zoning Appeals; ill respective because it is a special use permit.

Mayor Infeld said this falls under the City's criminal code and it would be unheard of for the City to grant a special permit to something that is in the criminal code in terms of traffic enforcement. Mayor Infeld asked Mr. McConville to speak to this.

Mr. McConville stated that this Ordinance has language in it that it may be enforced by either the Building Department or the Police Department. A homeowner can receive a citation from the Building Department which would go to the Board of Zoning Appeals if they wish to appeal the citation, or a citation under the criminal code by the Police Department so this is an unusual hybrid.

Mayor Infeld stated that the citation was issued by the Police Department.

Mr. McConville stated if that is the case then in his opinion it should not be adjudicated by City Council.

Mrs. Weiss said it already went to Board of Zoning.

Mayor Infeld stated that the discussion that was held at the Board of Zoning Appeals was of tremendous concern of that body as to this opening the door to commercial vehicles being parked in driveways; how would there be a difference between someone driving the Dorito truck home or their commercial vehicle home. To allow a commercial vehicle to be parked in a residential driveway opens the door to a very big community change. Why the exception, the City has never allowed this before. Mayor Infeld commented to Mr. Muskal that she understood his hardship of not having another car. The issue is that the police issued a ticket and the Mayor's concern was that if the City removes that ability of the police to cite at this property and not others that is showing a level of favoritism. Council should carefully think of the consequences of lifting this law. One of the discussions at the BZA meeting was that residents pay a lot of taxes, pay landscapers and have an expectation. Another concern is that as the police patrol the city looking at the driveway, etc. to make sure things look ok and having a commercial vehicle parked in the driveway can block their view.

Mr. Wiseman asked Mr. McConville if Council had the power to act.

Mr. McConville replied that the applicant does have the right to apply for a special permit to the BZA, he doesn't have to be cited to make that application. That issue has been heard and is now before Council pursuant to city code. The applicant has the right to be before City Council and City Council has the right to act on their appeal. Mr. McConville issued a word of caution to Council in that the city does have criminal citation of this for time to time. Mr. McConville said it was his understanding that that activity picks up in the wintertime when people are parking snowplows in their driveways and more of a presence of commercial

vehicles on the city streets. The concern is the creating exceptions on the civil side through of zoning process is going to cause us difficulty in enforcing that issue in front of the City's municipal court. That will be an issue our prosecutor will have to deal with. This would also create an avenue for those who are cited criminally to run to the BZA and that is not the intent of the Ordinance.

Mr. Rach asked Mr. Muskal who inform him to go to BZA.

Mr. McConville again stated that Mr. Muskal had the right to appeal but Council does not have rights to dispose of their criminal citation, that is something they will have to handle separately.

Mr. Sims said he wasn't comfortable with this issue at all and noting Mr. McConville spoke if a variance were granted because this was a special permit that would come up for approval every year Mr. Sims asked if there was any way to change that via legislation so that it would come back before Council.

Mr. McConville replied that Mr. Sims was speaking to two different concepts. The City code does allow for the granting of variances. Variances, generally speaking are permanent in nature and run with the land so this is not a variance. Special permits are temporary and are considered under different standards and comes up for renewal before the BZA after a year. Mr. McConville said he wouldn't disturb that and that it is a meaningful review.

Mr. Sims asked if there was any way to insist that the renewal come back before the Council?

Mr. McConville explained that after a year the special permit would expire and then automatically come up for renewal to BZA. And then if the BZA doesn't approve it then it's not approved. The applicant would then have the option of doing nothing or appealing back to the Council.

Mr. Wiseman added Mr. and Mrs. Muskal if they would agree not to seek renewal if the Council were to approve Mr. Muskal appeal.

Mr. and Mrs. Muskal agreed that they would not ask to renew the special permit that would allow them to park the commercial vehicle in the driveway for one year.

Mrs. Cameron commented that the Muskals couldn't be held to their answer.

Mr. Ertel said that was an important question.

Mayor Infeld stated again that this would be the start of setting a precedent for this issue of parking commercial vehicles in driveways and she did not know how Council could deny future appeals of this matter once this Pandora box gets opened. The City and this Ordinance has been on the books for a long time. It's not appropriate to have commercial vehicles parked overnight in residential areas in this City.

MOTION BY MRS. WEISS for the approval of a Special Permit for one year for Mr. Micah Muskal, 2452 South Belvoir to appeal the Board of Zoning ruling that was made at the Board of Zoning Meeting September 13, 2017 denying Mr. Muskal the Special Permit to park his commercial vehicle in his driveway.

Mr. McConville asked Mrs. Weiss to remove her motion and allow him to cite how the motion should read.

Mrs. Weiss withdrew her motion.

Mr. McConville asked for there was a motion to grant a Special Use permit for the right to park a commercial vehicle on a residential property for one year located at 2452 South Belvoir.

Mrs. Weiss agreed to make that motion.

MOTION BY MRS. WEISS, SECONDED BY MR. WISEMAN to grant a Special Use permit for the right to park a commercial vehicle on a residential property for one year located at 2452 South Belvoir. On roll call, there were 3 "ayes" and 3 "nays" The motion failed.

F. Resolution 2017-36 Approving the Admission of the Municipality of Beachwood as a New Member of the Norma Self-Insurance Pool, Inc. (on Emergency)

Mr. Sheehan explained NORMA benefits the City in several ways: avails the City the opportunity to take on a whole variety of insurance products, if the City was not part of NORMA it wouldn't be able to get some of the coverages; it allows City to get much higher limit on coverages, currently the City receives \$15mil for one occurrence \$20mil for more than one occurrence; and, because the City is in a pool NORMA allows the cities to smooth out the claims - if one city gets hit hard they don't have the full effect of that on their premium because it gets spread out over the pool; and NORMA gives the city input on who the city hires to defend claims; and gives the city a voice (seat) on the Board.

Mrs. Cameron asked what did Beachwood do prior to being a part of NORMA.

Mr. Sheehan replied he thought they had an individual policy with a different insurance company

MOTION BY MR. ERTEL, SECONDED BY MRS. WEISS 2017-36 Approving Resolution 2017-36 for the Admission of the Municipality of Beachwood as a New Member of the Norma Self-Insurance Pool, Inc. Roll call on suspension of the rules, all voted "aye," and roll call on passage, all voted "aye."

G. Resolution 2017-37 Recommending the Acceptance of the Municipality of Beachwood as a New Member in the Norma Self-Insurance Pool, Inc. (on Emergency) REMOVED BY FINANCE DIRECTOR

Mr. Sheehan stated this Resolution wasn't necessary.

MOTION BY MR. SIMS, SECONDED BY MR. WISEMAN to remove item G Resolution 2017-37 Recommending the Acceptance of the Municipality of Beachwood as a New Member in the Norma Self-Insurance Pool, Inc. from the agenda.

Mayor Infeld Requested that two items be added to the Agenda; Resolution 2017-38 Authorizing the Mayor to Seek Financial Assistance from The Ohio Public Works Commission (OPWC) State Public Works Program to Fund Washington Boulevard (from Wynn Road to Cedar Road) Resurfacing Project and Resolution 2017-39 for Cooperative Agreement between University Heights and Cleveland Heights to Submit Application to The Ohio Public Works Commission (OPWC) for the Washington Blvd. Rehabilitation Project. Both Resolution need to be passed on Emergency because of time deadlines to file applications.

MOTION BY MR. WISEMAN, SECONDED BY MR. SIMS to add both Resolution 2017-38 and Resolution 2017-39 to the agenda and on Emergency bases. On roll all, all voted "aye."

Resolution 2017-38 Authorizing the Mayor to Seek Financial Assistance from The Ohio Public Works Commission (OPWC) State Public Works Program to Fund Washington Boulevard (from Wynn Road to Cedar Road) Resurfacing Project and on Emergency

Mr. Ciuni reported this is the annual application that the City applies from the OPWC. The project will be shared with Cleveland Heights include the replacement of waterlines, resurfacing the roadway, replace curbs and aprons as needed. The project cost is approximately \$1.1mil with the funding breakdown of: \$500,000 from Cleveland Water; \$200,000 University Heights; \$50,000 Cleveland Heights and \$380,000 Public Works.

Mayor Infeld stated this would need to be placed in the 2018 Budget.

Mr. Sims asked if this was the section of the City where the houses and water lines were switched from Cleveland Heights Water to the Cleveland Water Department.

Mr. Ciuni replied yes.

MOTION BY MR. WISEMAN, SECONDED BY MR. SIMS to pass Resolution 2017-38 Authorizing the Mayor to Seek Financial Assistance from The Ohio Public Works Commission (OPWC) State Public Works Program to Fund Washington Boulevard (from Wynn Road to Cedar Road) Resurfacing Project on Emergency. Roll call of suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

Resolution 2017-39 for Cooperative Agreement between University Heights and Cleveland Heights to Submit Application to The Ohio Public Works Commission (OPWC) for the Washington Blvd. Rehabilitation Project

There was no discussion for this item.

MOTION BY MR. WISEMAN, SECONDED BY MRS. WEISS to pass Resolution 2017-39 for Cooperative Agreement between University Heights and Cleveland Heights to Submit Application to The Ohio Public Works Commission (OPWC) for the Washington Blvd. Rehabilitation Project on Emergency. Roll call of suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

H. 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 for Executive Session.

Directors' Reports:

Finance Department: Mr. Sheehan stated he has hired a new Assistant Finance Director who will start October 9, 2017.

Service Department: Mr. Pokorny reported leaf pickup has started, the Fall tree planting will begin on November 1 and the pool painting will tentatively begin on October 3, 2017.


There were no other Director reports.

Recreation Committee: Mrs. Cameron thanked everyone for supporting and attending the semi-annual "all geared up" event.

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, Mayor


Kelly M. Thomas, Clerk of Council