

**MINUTES SPECIAL COUNCIL MEETING  
CITY OF UNIVERSITY HEIGHTS, OHIO  
MEETING HELD VIA ZOOM  
WEDNESDAY, JULY 15, 2020**

Mayor Michael Dylan Brennan called the special meeting to order at 6:31p.m.

Roll Call:

Present: Mrs. Michele Weiss  
Mrs. Sandra Berry  
Mrs. Barbara Blankfeld  
Mr. Justin Gould  
Mrs. Susan Pardee  
Mr. John Rach

Absent: Mr. Phillip Ertel

Also Present: Law Director Luke McConville  
Clerk of Council Kelly Thomas  
Finance Director Dennis Kennedy

**MOTION BY MRS. BLANKFELD, SECONDED BY MR. GOULD to excuse the absence of Mr. Ertel. On roll call, all voted “aye.”**

**Agenda Items:**

- A) Mayor’s Report on the subject of the use of masks and facial coverings to counter COVID-19

At the time of our last scheduled special meeting, the announcement of the mandatory mask order for Cuyahoga County and other RED ALERT LEVEL 3 Ohio counties was barely a day old, and the forthcoming order was not quite yet in hand. We received it later that evening.

Since then, our police chief, our law director, and our prosecutor, and I together have reviewed the July 8 order of the State Department of Health. It describes masks as mandatory: in any indoor location not a residence; outdoors and unable to consistently maintain a distance of six feet or more away from individuals who are not members of their household; and in connection with public or shared transport. There are a series of exceptions, all found on page 5 of the order.

Also since last Wednesday, Cuyahoga County has established reporting mechanisms, both online and a telephone hotline for people to report mask issues as they encounter them. For the record, that phone number is 216-698-5050, and the website, [cuyahogacounty.us/maskexperience](http://cuyahogacounty.us/maskexperience).

On Monday, we received an email from the county indicating five complaints made about masks not being worn at businesses, either by the staff, the customers, or both. The county then is following up with those businesses to ensure compliance. The county has advised us that we will be updated twice a week on these calls.

I have received multiple calls and emails from residents asking what we as a city are doing to enforce the order, or beyond that, to break up social gatherings at private residences, issue fines, and so on.

All this is happening while a national conversation has emerged about the role of policing, spurred on by the needless killing of George Floyd at the hands of Minneapolis police officers. As a country we are asking ourselves, when is it appropriate to call the police? Are there other services we ought to be calling? Are there other services we ought to be creating as an alternative to the police? Is calling the police always the answer?

Often it is, or it has been. For how long have we been saying “if you see something, say something?” Here in University Heights, we have encouraged our residents to call the police to report even the most seemingly minor of offenses. Your neighbor has parked his car over the sidewalk? Call the police. Those students are playing their music too loud. Call the police. That dog might bite someone. Call the police. I get emails from residents about how they saw someone speeding on their street two days ago, or saw someone not come to a complete stop at a stop sign. Technical offenses, resulting in no actual injury, except annoyance, and a sense

that things may not be as serene as they ought to be, or as safe as they ought to be – this, in spite of the relative scarcity of motor vehicle incidents injuring pedestrians, bicyclists, and others using the road.

In this case, the county has created an alternative to calling the police. They have created this hotline. We can report incidents, we can make complaints, about the things we observe relative to the mandatory mask order. I encourage all residents to avail themselves to using the hotline, and to use it instead of calling the police.

So, when it comes to masks, when is it appropriate to call the police? If you wish to report an incident, not merely a missing or poorly worn mask, but something more than that, such as a disturbance of the peace. For example: a storekeeper who asks a customer to wear a mask or leave, and refuses to do either, creates a scene, becomes threatening. Then then that is appropriate to call the police. 911 if it is an emergency, 216-932-1800 if it is a non-emergency.

Our police will come if called. As always, calls are prioritized. We don't tell residents not to call about the illegally parked car. But we don't always get to it before the car is moved, if there is something of higher priority happening. Incidents involving noncompliance of mask wearing, our response time will depend on the severity of the situation, relative to the severity of other calls. Do not, and I repeat, do not call 911 and make it seem more severe than it is. Do not make false reports, do not induce panic. Just tell it like it is, answer best you can the questions of the dispatcher if you call.

When the police come, their priority will be to seek compliance with the mask order. At this time our city has not passed our own mask ordinance, and though we could, we don't have to – more on that shortly. When the police are called, they all know the order of the state Department of Health. They are going to seek compliance with the order. Whether you stay on premises and put on a facial covering, or whether you leave. We know there will be some good faith errors. We know there could be some purposeful disobeying of the order. These incidents will be forwarded and reviewed by our prosecutor for charges. We don't need a new mask ordinance to enforce the July 8, 2020 order of the state Department of Health. Ohio Revised Code 3701.352 provides:

“No person shall violate any rule the director of health or department of health adopts or any order the director or department of health issues under this chapter to prevent a threat to the public caused by a pandemic, epidemic, or bioterrorism event.”

To be clear, the mandatory mask order states that it is issued pursuant to ORC 3701.13, so it is an order issued under “this chapter.” The state has long already declared an emergency due to the COVID-19 pandemic. The conditions are met. Violating this order and not wearing facial coverings may be a violation of ORC 3701.352.

So what about enforcement? In the same chapter, Ohio Revised Code 3701.99 (C) provides: Whoever violates section 3701.352 of the Revised Code is guilty of a misdemeanor of the second degree.

So what does that mean? It means non-compliance with the mask order may result in a misdemeanor charge carrying a penalty of up to 90 days in jail and a fine of up to \$750.

I wish to reiterate that our goal here is not to fill Shaker Heights Municipal Court's docket with these cases. Our goal is simply that people wear masks, follow the director's order, and take other reasonable steps so that we can all get through this pandemic as safely as we can.

That said, if in light of any of this, if this council would like to have its own review of masking, for an ordinance that isn't tied to the current state reporting system, or wants to have a set of fines we can avail ourselves to other than issuing an M2 charge, as a matter of home rule, we are not prohibited from doing more. But at this time, between county enforcement of complaints and city enforcement of disputes, I believe that we have the tools, and we have the laws on the books that we need to encourage compliance with the state order, and to enforce it as necessary.

The critical thing I would ask our residents, and of people working in or visiting our city, is this – and it was something Gov. DeWine said in his address to our state earlier this evening: wear your masks in public. Even when you don't have to. The broad consensus is that wearing masks helps. That faithful wearing of masks may help us avoid another lockdown. It will help us reduce the spread of this virus. It will result in fewer transmissions and ultimately in fewer deaths.

I ask everyone to do their part, to take precautions, including but not limited to following the order. May we all stay safe and be well.

Mr. Gould asked Mayor Brennan to forward the COVID reports to Council.

Mr. McConville added that there had been extensive discussions that included the Police Chief and City Prosecutor and that he was confident that the City's approach was affective and consistent with the community's values that the residents would expect for an issue of this nature.

- B) Motion Approving Resolution 2020-33 - Adopting the Alternative 2021 Tax Budget (on emergency)

Mr. Kennedy stated that this was an annual requirement where the City's budget needs are filed with the County's review of the City's need to levy property taxes. Once the County review the taxes rates and in September it will then send the City a certified tax rate for City Council to adopt within 15 to 20 days of receipt from the County.

Mr. Kennedy noted that the City's property taxes were not increasing and that both the inside and outside millage will stay the same. There will be a redistribution of the inside millage to direct more funding to the General, Police and Fire Funds.

**MOTION BY MRS. BLANKFELD, SECONDED BY WEISS approving Resolution 2020-33, Adopting the Alternative 2021 Tax Budget. Roll call on suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."**

- C) Motion to hold an Executive Session immediately following this Regular Meeting for the Purpose of Discussing Personnel, Legal and/or Real Estate Matters

Mayor Brennan stated that there was the need have an Executive Session for personnel matters with Mr. Iosue in regards to providing Council an update for the contracts with the various City Unions.

**MOTION BY MRS. WEISS, SECONDED BY MR. RACH to hold Executive Session for personnel matters with Mr. Iosue in regards to providing Council an update for the contracts with the various City Unions. On roll call, all voted "aye."**

**MOTION BY MR. RACH, SECONDED BY MR. GOULD to hold Executive Session for personnel matters with Mr. Iosue in regards to providing Council an update for the contracts with the various City Unions. On roll call, all voted "aye."**

**MOTION BY MR. GOULD, SECONDED BY MRS. WEISS to adjourn the Special Council meeting. On roll call, all voted "aye."**

There being no further business, the special meeting was adjourned at 7:01p.m.

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Michael Dylan Brennan, Mayor

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Kelly M. Thomas, Clerk of Council