

**COUNCIL MEETING MINUTES
CITY OF UNIVERSITY HEIGHTS, OHIO
MEETING HELD VIA ZOOM | 824 3059 9528
MONDAY, MAY 3, 2021**

Mayor Michael Dylan Brennan called the meeting to order at 7:01p.m.

Roll Call:

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

Also Present: Law Director Luke McConville
Finance Director Dennis Kennedy
Clerk of Council Kelly Thomas
Executive Fire Captain Andrew Boylan
Police Lt. Todd Kinley
City Engineer Joseph Ciuni
Communications / Civic Engagement Michael Cook

Council Meeting April 19, 2021

There were no corrections or additions to the April 19, 2021 Council minutes.

MOTION BY MR. ERTEL, SECONDED BY MRS. WEISS to approval of the April 19, 2021 Council Minutes. On roll call, all voted “aye,” except Mrs. Pardee, who “passed.”

Comments from Audience

Mr. Joe Outman, 3781 Westwood Road stated that in light of the recent background behind tonight's city council meeting, and the proposed motion to censure Mayor Brennan for using what some regard is intemperate language towards a citizen, Mr. Outman asked that any council member who has a plan, however tentative or theoretical to run for mayor this November, identify herself or himself in advance of the vote so that citizens can understand the larger context of this rebel resolution and vote for against it.

Mr. and Mrs. Flick, 3806 Claire Ridge Oval brought to Council's attention a safety issue in front of their home. During the winter, they discovered a very large sinkhole where the tree lawn meets the street and over time it has grown in size where it is now a safety hazard. Several calls have been made to City Hall and although temporary fixes have been made the hole has remained and increased in size. The Flicks requested that a permanent repair be done immediately so that no one is injured and noted their concern that the tree lawn tree roots are also being damaged by this sink hole.

Mr. Ronald Collier, 4446 Silsby Road. Bar Nine Wine Spirits recently sold their property to the Green Road Liquor Store and is planning on turning it into a wine bar. Mr. Collier said he was concerned that it might attract a crowd that may cause issues in University Heights similar to the problems of clubs in downtown Cleveland.

Mr. Steven Wertheim, 4355 Braintree Road and Board Member of Reaching Heights, a local nonprofit that works to connect the community to our public schools with information and events. Mr. Wertheim reported that graduation will be streamed live on YouTube and will be held outside this year at the Heights High Stadium on Thursday, June 3 at 6pm. There will also be a pilot Community Learning Center launch program at Noble Elementary School in the next school year. The concept is to make the elementary school a hub for education and services to the noble neighborhood. Ideally, each school in the district will serve the community in this way in the future.

Mr. Brian King, 3018 Westwood Road, thanked the Council for considering the Resolution this evening proclaiming May as Bike Month in University Heights. Bicycling has a multitude of benefits and it is important to remind everyone that biking is a valid form of transportation. The Heights Bicycle Coalition will be holding a town hall tomorrow evening to discuss cycling, along with events celebrating Bike Month. All are welcome to join and more information can be found at heights bicycle coalition.org or on Facebook or Instagram.

Mrs. Annie Rawlinson, 3949 Bushnell Road voiced her pleasure when the Community Park was built on

Fenwick and then later named the Walter Stinson Park. While walking through the park during the Fall and Summer season and remembering all the work the former Mayor Susan Infeld did to get it completed Mrs. Rawlinson thought that maybe the gazebo could be named the Susan Infeld gazebo. Mayor Brennan stated that he would follow up with Mr. Cook regarding Mrs. Rawlinson suggestion.

Dr. Jeffrey Epstein, 4321 University Parkway. Dr. Epstein inquired to the city's position on using residences as houses of worship in that he knew that there was a strong position where they were not allowed. And over the past several months, Dr. Epstein said he had conversations both with Mayor Brennan and administrative executives regarding the house in 4316 University Parkway. Each night and more streets are congested by multiple cars stretching from Bromley to the end of the block. These cars have occasionally blocked driveways partially. There has been a minor fender benders. Dr. Epstein said it came to a head to him one night when he had the bedroom windows open. And a stranger walked from the elementary school through his property, the neighbor's property and through a property across the street. The question I have for this council and the Mayor is why hasn't the attorney for the city executed a cease and desist of this property? Law Director, Mr. McConville replied that he was asked late last week by the Mayor to send a cease and desist letter to 4316 University Parkway, and that letter will go out this week. Mr. McConville further stated that he could assure Dr. Epstein that the city's position for what he was describing is not permitted. There are strategies in place that begin with a cease and desist letter to enforce the city's ordinances.

Ms. Winifred Weizer, 2177 Jackson Boulevard. Ms. Weizer stated that she was a 30 plus year resident of University Heights and has been involved in various committees on the city over the years. Ms. Weizer said she did not relish what Council is considering to do tonight. She did think that there has to be some level of professionalism from all of our elected officials and that she fully realized that constituents can be problematic and sometimes are. However, if you decide to run for an elected office, you're held to a higher standard. What she was really concerned about was having a Mayor, if it's true, that would say to a realtor who is attempting to close on a deal for a person to move into the city. That and if the quote was correct. If people don't like your rules, they need to live in another city. If that's right, that is very troubling and very problematic. And if that was the case, she certainly hoped that that would never happen again. The mayor of the city should be more welcoming than that. Mayor Brennan thanked Ms. Weizer for her comments and stated that he never said anything of the sort and appreciated the opportunity to clarify that.

Mr. Boris Kagarlitski, 2252 Wrenford stated for the record that some of the Mayor's action last year when the COVID started cost him significant financial loss when we wanted to do a project. Because of the manner the ARB meetings were delayed and resulted in a significant cost of money. Mr. Kagarlitski said that unfortunately, when he reached out to the Mayor to address it, he did not feel welcomed at all, the Mayor stated that he was wasting your time. That was not something that an elected official should ever say to a constituent. Mr. Kagarlitski said he voted for the Mayor and that he supported him. But he was also quite alarmed that this was the case. Mayor Brennan stated that the delays were by the State of Ohio, in that the City was prohibited from holding meetings and once the State of Ohio allowed the electronic meeting the City scheduled the meeting, and it was not even schedule it on the regular meeting day to accommodate Mr. Kagarlitski because of Passover.

Mayor's Report

One week ago on April 26 2021 I issued the following apology statement to all members of City Council, to Cleveland.com, the Sun Press and the Cleveland Jewish News. All media outlets published this in full last week. I also said that I would read the statement into the record at tonight's meeting. I will do that now. For immediate release April 26 2021 statement from Mayor Michael Dylan Brennan. I endeavor to be everyone's Mayor and to build a diverse and inclusive community among the responsibilities of elected office comes maintaining a high standard. Regarding a recent phone conversation with a resident, I have fallen short of this standard. I regret this incident occurred. I regret has become a distraction from the issues our city faces, the work we are doing and the community we are building. Ultimately, I'm responsible for this distraction. And for this I am sorry, I offer my sincere apology to every resident of University Heights. It's incumbent upon a leader to acknowledge when they are wrong. The language I used was inflammatory and I regret using it. This is not the tone that I've endeavored to set. In this instance, my words did not meet the standard our community expects or deserve. And for this I am sorry. I then concluded the apology statement by indicating as follows. This statement will be read into the record at the next City Council meeting on Monday, May 3. This apology statement has now been read into the record. I have no further comment on this issue. This concludes my report

Mayor Brennan stated in turning to the agenda for the evening, under Robert's Rules of Order it was not appropriate for him to preside over Item A of the agenda, accordingly he passed the gavel to the Vice Mayor for this item. Mayor Brennan stated he would resume chairing the meeting with the next agenda item, Item B.

Law Director, Mr. McConville interjected that the Vice Mayor had asked him to read the Resolution by title only and then to turn the floor over to her.

Agenda Items:**A) Resolution 2021-14 Censure Mayor Michael Dylan Brennan for Use of Offensively Coarse, Unwarranted and Inappropriate Language and For Conduct Unbecoming of the Office of Mayor**

Mr. McConville read into the record the reading of Resolution 2021-14. A Resolution Censure Mayor Michael Dylan Brennan for Use of Offensively Coarse, Unwarranted and Inappropriate Language and For Conduct Unbecoming of the Office of Mayor

Vice Mayor Weiss stated that before she actually read the Resolution into the record she wanted to say a few words. Vice Mayor Weiss said it truly pained her to have to present this Resolution. But after multiple outward outbursts, the Council must do this. Elected officials or servant leaders should be examples to the community. Elected officials should be held to the highest possible standards. Additionally, servant leaders need humility, apologizing for actions that are deemed wrong by others can be rectified. But doubling down on transaction transgressions cannot be tolerated. Council and the Mayor should work in harmony as a team. That does not mean they cannot disagree, but it needs to be done respectfully. Vice Mayor Weiss said she would not stand by when her constituents and colleagues are not respected. And that is why this was being presented.

Vice Mayor Weiss read into the record Resolution 2021-14. Whereas, Censure is the formal expression of strong disapproval and denouncement of the actions or conduct of an elected official; Whereas, Censure has rarely been utilized by Council for the City of University Heights; Whereas, in his Statement issued on April 26, 2021, Mayor Michael Dylan Brennan admitted to the use of “inflammatory language” in a recent telephone conversation with a University Heights resident; Whereas, on December 7, 2021, in an apparent display of anger, Mayor Michael Dylan Brennan used offensively coarse, unwarranted and inappropriate language during a Council Executive Session; Whereas, during a Council Meeting on December 21, 2020, Mayor Michael Dylan Brennan again used offensively coarse, unwarranted and inappropriate language in an apparent display of anger, in response to comments made by a Member of Council during the Council Meeting; Whereas, the Mayor has exhibited a pattern of behavior in which he is apparently unable to control his temper, and in which he resorts to the use of offensively coarse, unwarranted and inappropriate language; Whereas, the Mayor’s offensively coarse outbursts have been highly disrespectful toward Members of Council and toward the citizens of the City of University Heights; Whereas, when confronted with his behavior during the Council Meeting on April 19, 2021 and when, during that same meeting, given the opportunity to apologize or at least acknowledge his misconduct, the Mayor refused, and even suggested that his offensively coarse outbursts were acceptable and justifiable; Whereas, the Mayor’s failure, when given the opportunity during public meetings, to acknowledge and apologize for his misconduct reveals poor judgment and a troubling lack of self-awareness; Whereas, it is critical that the public’s business be conducted within the bounds of decency and decorum, and in a manner that is respectful of others, even in instances where parties may disagree; Whereas, the City’s residents should both expect and demand that their public officials, in the performance of their duties, conduct themselves with a degree of professionalism, composure, dignity, courtesy and propriety that reflects well upon the City and that is consistent with the City’s high standards; Whereas, Mayor Michael Dylan Brennan’s conduct fails to meet the standards of the City and fails to comport with the dignity of his office; Whereas, City Council deems it necessary to formally condemn the actions of the Mayor and to express its strong disagreement with and disapproval of his conduct; Now, Therefore be it Resolved by the Council of the City of University Heights, Ohio that: Section 1. Mayor Michael Dylan Brennan is hereby censured for a pattern of behavior in which the Mayor expresses himself through sudden outbursts characterized by offensively coarse, unwarranted and inappropriate language while conducting the business of the City in: (1) the executive session of December 7, 2020; (2) the Council Meeting of December 21, 2020; and (3) in a phone call from a resident on April 14, 2021. Section 2. The Council finds and determined that all formal actions of this Council relating to the adoption of this resolution have been taken at open meetings of this Council, and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

Vice Mayor Weiss opened up the floor for Council comments.

Mr. Ertel stated that he thought that Council would be better served if they focused on the more substantive issues at hand.

Mr. Rach commented that this was something he thought long and hard over. Mr. Rach said he did not like this, he did not like that they had to do this. But that it comes with the role of being on City Council. Council is elected to hold a higher standard and be held accountable. Council, especially himself agrees with the Mayor 95% of the time, and there’s that 5% or 10%, that they don’t and that is good government. Mr. Rach said that he did not agree with this use of language and that he spoke to the Mayor about his feelings and spoke at length about how, that was something you just don’t do. Mr. Rach said that the Mayor agreed with

him but did not deny the language. Mr. Rach stated that it would make his job easy to vote on this if there was no public apology. Mr. Rach thanked the Mayor for putting forth his public apology and that he thought it was very heartfelt making this more difficult and requiring more thought. But, at this point that Mr. Rach said he just did not think it was appropriate to use that type of language and that having to make this type of decision really pained him but that it comes with the territory and he was ready to vote on this.

Mrs. Berry said she believed that the Mayor's heart was in the right place, most of the time. The Mayor does love University Heights and his staff and wants to do the best for the City. But Council cannot, especially for the children and others say that it's okay to use profane language, we have to set an example for the next generation.

Mr. Gould echoed the sentiments of my colleagues and then reframe them as his own. As late as last week, Mr. Gould said his conversations with the Mayor personally were positive and that in the past he had been an enthusiastic supporter of the Mayor's vision of the City. Mr. Gould said he had worked collaboratively with the Mayor on issues of mutual importance and that he liked the guy. But that it was his duty here and not to the man but to do for the office and for the citizens which they serve. Mr. Gould said he thought it was important to lay on the record some of what he had done in preparation to vote today. In an effort to know more about what transpired with Porters, I spoke directly with them. And I heard their frustrations with the City's response to the issues on Miramar. Many of those concerns, especially those related to the Building Department have been echoed by this Council in the past. Mr. Gould said he heard from the Porters, a family who is exasperated with the issue that they're facing and who is exasperated by our response as a city. The Mayor told Council that Council may have understood his reaction if it had even begun to know what the Porters put the city through and what they put the city employees through. So, Mr. Gould said he spoke to multiple city employees. One described their interaction with the Porters as collaborative and productive. One was not aware of any abuse of police calls, services or personnel. One was exhausted and depleted after their call with Porters because of the overwhelming amount of information, the intensity in which it was shared. And the risk requested resolutions from reporters. But no employee described the abuse or mistreatment by Porters. Last week, Mr. Gould said he reached out and spoke directly with the Mayor spoke and that they had a candid conversation, where the Mayor expressed and explained his view of what happened. Mr. Gould said he was equally as candid with the Mayor about his feelings on the words that were used. Mr. Gould said that the central resolution addresses the escalation and continuation of unacceptable behavior. Unacceptable words used by the Mayor, started in an executive session that progressed to an open meeting of this Council. And it's culminated most recently with a conversation with a citizen. It was only after the censure resolution was announced that the mayor issued an apology, his initial response was, I said lots of things to you on that call, and I stand by each and every one of them. Even then, the apology that the Mayor made was to every resident and did not address the Porters specifically. As of late this afternoon, he has not reached out to the Porters to apologize for the words he used on that call. The Mayor described what transpired as a distraction, but for me, it is more than that; it is a liability. Mr. Gould said he had spoken to the Law Director about the potential challenges that some of those words puts the city in the Porter's fear that the Board of Zoning process will be used against them. One person who is not the Porters has requested that the city appoint a Special Prosecutor to investigate the Mayor statements. Mr. Gould said he did listen to the recording of the Mayor's call with Porters and that it was grainy and not a direct recording. Some details were different than were reported in the paper. The Mayor did not answer the phone by saying I know who you are, and you're the biggest jerk in University Heights. But that word was used, as were other words. Neither did the Mayor threatened to pass variances against the Porters. But he did suggest that the Board of Zoning might grant a variance to remedy a potential setback violation related to their attached garage. All to say Mr. Gould wanted the citizens he represents to understand the work that he did in coming to his decision on this and that he had concluded that the Porters were frustrated and acted as such. Council members work for courts, and governments and schools and consumer facing businesses. All members of Council deals with angry and frustrating people in these professional roles. As Council members, we field angry and frustrated calls from citizens. Sometimes we share those feelings with each other as colleagues, but we don't get to swear at or insult in response. The Mayor has acknowledged that he would not accept that response from his employees nor will we accept that response from him. And because of that escalation, because of that continuation, Mr. Gould stated that he felt that this Resolution was appropriate and that he would vote in favor of it.

MOTION BY MRS. WEISS, SECONDED BY MRS. BERRY Approving the passage of Resolution 2021-14 Censure Mayor Michael Dylan Brennan for Use of Offensively Coarse, Unwarranted and Inappropriate Language and For Conduct Unbecoming of the Office of Mayor. On roll call, all voted "aye" except Mr. Ertel, who voted "nay."

B) Resolution 2021-15 Proclaiming May 2021 Bike Month in The City of University Heights and Declaring an Emergency

Mayor Brennan read Resolution 2021-15 Proclaiming May 2021 Bike month in the City of University Heights for the record.

MOTION BY MRS. BLANKFELD, SECONDED BY MRS. BERRY for the Passage of Resolution 2021-15 Proclaiming May 2021 Bike Month in the City of University Heights on Emergency.

Mr. McConville noted that the City's Charter does allow for Resolutions to be adopted on one reading, where they do not have an impact of law. Mayor Brennan asked if section three, the emergency clause should be removed. Mr. McConville said it did not matter, so either way would be fine.

Mayor Brennan asked if there was a motion to amend Resolution 2021-15 with the removal of section three. in Okay. Is there a motion to amend the resolution strike section three?

MOTION BY MRS. BLANKFELD, SECONDED BY MR. GOULD amended Resolution 2021-15 with the striking of section three. On roll call, all voted "aye."

MOTION BY MRS. BLANKFELD, SECONDED BY MRS. BERRY for the Passage of Resolution 2021-15 Proclaiming May 2021 Bike Month in the City of University Heights as amended. On roll call, all voted "aye."

C) Ordinance 2021-16 Adopting the City of University Heights Employee Policies and Procedures Manual, and Declaring an Emergency (on first reading)

Mayor Brennan stated that this was a product of administrative efforts primarily by himself, Susan Drucker, Dennis Kennedy and Labor Counsel. The legislation was before the Committee of the Whole last week and there was one section had been revised and is included in the packet.

Ordinance 2021-16 was placed on first reading.

D) Motion to Approve the Modification Agreement submitted on behalf of the Auditor of State's Office and James G. Zupka, CPA, Inc. for the City's Financial Audit for the Year Ending December 31, 2020 with an increased amount of \$1,400 to cover an additional 20 hours of field work. The Modified Contract amount for the 2020 Financial Audit not to exceed \$26,250.00

Mr. Kennedy stated that this was for an increase of \$1,400 to the contract that was recently approved for Zupka CPA Incorporated. Zupka has indicated that they will need to do some more testing in the Building Department because of the amount of staff turnover that occurred during 2020. This is not indicative of any problem, they just feel the need from a compliance standpoint, to do 20 more hours of testing.

MOTION BY MRS. BLANKFELD, SECONDED BY MRS. PARDEE to Approve the Modification Agreement submitted on behalf of the Auditor of State's Office and James G. Zupka, CPA, Inc. for the City's Financial Audit for the Year Ending December 31, 2020 with an increased amount of \$1,400 to cover an additional 20 hours of field work. The Modified Contract amount for the 2020 Financial Audit not to exceed \$26,250.00. On roll call, all voted "aye."

E) Motion to Approve Advertising for the 2021 Sewer Improvement Project

Mr. Ciuni reported that this project was for sewer repairs that need to be done on Cedar Road that were discovered with the City's annual TV program that was completed last year. Mr. Ciuni added that it was imperative that this be done prior to the street repaving job that is scheduled to start later this summer. Bids will have to be received for this project, with an estimated cost of approximately \$80,000. Again, this approval is just to advertise for bids. Once the bids are received and opened they will be brought back to Council for awarding the contract.

MOTION BY MRS. PARDEE, SECONDED BY MRS. BERRY to Approve Advertising for the 2021 Sewer Improvement Project. On roll call, all voted "aye."

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

Executive Session was not needed.

Director's Reports

Finance Department – Dennis Kennedy reported that the department is in the process of closing out the month.

Law Department – Luke McConville reported that the Citizens Committee on Policy Practices met to review the redline version of Lexipol's policies and that there was a lot of good dialogue and participation.

Communications/Civic Engagement – Michael Cook reported that the Summer Mosaic has been printed and will be out to the public soon.

Economic Development – Susan Drucker stated that RFP's for the City's Comprehensive Zoning Code Update are due on May 14, 2021 at 11:30am.

There were no other director reports.

Standing Council Committees:

Community Outreach Committee – Mrs. Pardee had no report but did asked Mayor Brennan about the status of the discussions that had occurred in have REA & Associates taking on the work of doing the strategic review of the City's technology situation and needs and who the point person was so that a member of the Tech Committee could be made aware. Mayor Brennan replied that the City was still waiting for REA & Associates to schedule their first meeting and that he had reached out to them several times with no response.

Safety Committee – Mrs. Berry stated that the Citizen Advisory Committee met on April 28, 2021 and Mr. McConville provided an excellent report along with all the help and support from Police Chief Rogers and Police Lt. McArtor. The next meeting will be on May 25.

There were no other committee reports.

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

There being no further business, the meeting was adjourned at 8:05p.m.

Michael Dylan Brennan, Mayor

Kelly M. Thomas, Clerk of Council