

**COUNCIL MEETING MINUTES
CITY OF UNIVERSITY HEIGHTS, OHIO
MONDAY, JANUARY 3, 2022**

Vice-Mayor Michele Weiss called the meeting to order at 7:04p.m.

Roll Call:

Present: Mrs. Michele Weiss
Mrs. Sherri Sax
Mrs. Barbara Blankfeld
Mr. John Rach
Mr. Justin Gould
Mr. Christopher Cooney
Mr. Brian King

Also Present: Law Director Luke McConville
Clerk of Council Kelly Thomas
Finance Director Dennis Kennedy
Fire Chief Robert Perko
City Engineer Joseph Ciuni
Communication and Civic Engagement Michael Cook

Approval of Council Minutes:

Council Meeting December 20, 2021

There were no corrections to the December 20, 2021 minutes.

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD for the passage of the December 20, 2021 Council Minutes as presented. On roll call, all voted “aye,” except Mr. Cooney and Mr. King, who “passed.”

Additions and Removals from the Agenda; Referrals to Committee

No additions or removals from the Agenda. No referrals to committee.

Comments from Audience

Mayor Brennan read a letter from previous Assistant Law Director/Prosecutor Stephanie Scalise in to the record.

I wish to send my most sincere thanks to the City of University Heights, to Mayor Michael Dylan Brennan, Law Director Luke McConville, Police Chief Dustin Rogers, and the esteemed members of the City Council for allowing me the privilege of serving the city as its Prosecutor from 2019 until last month. The citizens of University Heights are hardworking and counting people. The members of this Police Department are unparalleled professionals and being their lawyer was an honor. After much consideration, Mrs. Scalise felt the need to make a brief public comment to correct some implications that she thought were unintentionally made the last Council meeting. Mrs. Scalise said that she did not know why this body seemed to think that she made \$70,000, a review of her W2 showed that she was paid \$11,200.24 in 2019, and \$57,750.92 in 2020. Mrs. Scalise’s last pay checks though from 2021 indicated about \$62,000, likely because she was paid additional funds for a project that was completed. During her tenure as Prosecutor she was on call 24/7 and did not take a single day off during which the Police Department could reach her in an emergency. Mrs. Scalise added that her home was opened at late night hours to obtain search warrants. She prosecuted all misdemeanor crimes, reviewed and made charging decisions for most felony crimes, prosecuted housing code and building code violations and provided ongoing training to both the Police Department and Housing and Community Development Departments. She ensured that every single crime victims’ rights were protected under Marcy's Law. As the Assistant Law Director, she was available to support the Law Director with any requests made of her. If she could wish for any result of this attempt to set the record straight. It was only that as this body conducts its business publicly, in the future be mindful that the employees you are talking about are dedicated public servants. Mrs. Scalise said that she left this job with confidence in the next City Prosecutor Michael Cicero. Mr. Cicero is an excellent lawyer and he will surely do great work for all.

Reports and Communications from City Council, and the taking of action thereon

A. Election of Vice Mayor and Oath of Office

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD to elect Councilwoman Michele Weiss as Vice Mayor. On roll call, all voted “aye.”

Mr. Gould stated that he has had the opportunity to serve on the Council for the past couple years, and really appreciated the work that Mrs. Weiss has done in the position of Vice Mayor.

Mrs. Blankfeld commented that Mrs. Weiss was extraordinarily well suited to the role of leading Council

Mr. Rach voiced his desire to “third” the motion and agreed with the comments from both Mr. Gould and Mrs. Blankfeld. Mr. Rach added that her role as Vice Mayor has been extraordinary. Mrs. Weiss is very organized, has attended every committee meeting and her passion towards University Heights is unparalleled.

Mayor Brennan administered the oath of office to Vice Mayor Michele Weiss.

B. Appointment of Mayor as Safety Director and Oath of Office

MOTION BY MRS. WEISS, SECONDED BY MR. RACH to appoint Mayor Michael Dylan Brennan as Safety Director. On roll call, all voted “aye.”

Law Director, Mr. McConville administered the Oath of Office to Safety Director Mayor Michael Dylan Brennan.

Reports and Communications from the Mayor, and the taking of action thereon;

Mayor’s Report

In lieu of the ceremonies and the administering of oaths to new council members and myself as Mayor. Those formalities were done briefly yesterday, Sunday January 2, 2022 at Walter Stinson community park. A more celebratory ceremony will be rescheduled in a few weeks, when such a gathering can be done in a more responsible and safer way. In the interest of keeping this meeting brief this evening, I will forego the full statement that might coincide with the beginning of the second term of office. Much of that I will deliver in the form of a speech when we have our ceremonial swearing in on a date to be announced. Such statement with detail the administration's priorities for 2022 and beyond; which to some degree I've covered in Mayor's reports since the election. I will also go over much of this in detail when we released the budget. A budget is among other things, the statement of priorities and values. During the last campaign, I've listened to the community and make the case for a sustainable University House. The 2022 budget will reflect that. Prior to the current wave of COVID cases and the Omicron variant, I reported the target date of Monday, January 10 2022 to release the budget. At this time that is still our target date for release. I know there will be challenges relating to public meetings and how we hold them. This evening the challenge has been met in part by my excusing most Directors, Chiefs, Department Heads and personal attendance tonight. There are a few written reports that I'll read into the record. But for the most part, I hope to economize our time and minimize the number of people present in the room, to those required to be here under open meetings law. In closing, I welcome our new members. And I look forward to working together with both our incoming and returning council members to achieve our goals and fulfill our vision as articulated on the campaign trail this past election season and the good and thoughtful governance of the city. The people expect results and working together we will deliver. I look forward to the process, to progress and working with you in service to the community. Thank you, this concludes my report.

A. Oath of Office Administered to City Prosecutor and Assistant Law Director Michael E. Cicero

Mayor Brennan administered the Oath of Office to City Prosecutor and Assistant Law Director Michael E. Cicero.

Reading and Disposition of Ordinances, Resolutions, Motions and Consideration of Agenda Items:

Mr. McConville stated that the Ordinance would appoint him for a new term commencing February 1, 2022 and the term would be for 23 months instead of 24 months so that it will expire at the end of the calendar year. This will bring the position in with the other department heads that are appointed at the end of the calendar years.

MOTION BY MRS. BLANKFELD, SECONDED BY MRS. SAX to amend agenda item A to read Ordinance 2021-56 Reappointing Luke F. McConville as Law Director effective February 1, 2022 and Declaring an Emergency. On Roll call, all voted “aye.”

A. Ordinance 2021-56 Reappointing Luke F. McConville as Law Director Effective February 1, 2022, and Declaring an Emergency

Mr. McConville stated that he appreciated the Council's reappointment and confidence in him and that he looked forward to being their lawyer over the course of the next two years.

Mayor Brennan noted that he was happy to support Mr. McConville's reappointment and looked forward to signing the ordinance as soon as permitted.

MOTION BY MRS. BLANKFELD, SECONDED BY MR. KING approving Ordinance 2021-56 Reappointing Luke F. McConville as Law Director Effective February 1, 2022, and Declaring an Emergency. Roll call on the suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

B. Ordinance 2022-01 Reappointing Kelly M. Thomas as Clerk of Council Effective January 1, 2022, and Declaring an Emergency and Administering of Oath

Mrs. Blankfeld stated that within the Ordinance there was an effective date, but that she did not see an expiration date and asked Mr. McConville if the appointment term was typically for a period of one or two years. Mrs. Blankfeld added that she would like Mrs. Thomas to remain as long as she desires.

Mr. McConville said that the Ordinance was based on the same language that we used on our previous appointment, indicate that she'll serve at the pleasure of counsel. But if it was Council's preference the Ordinance could be amended to be for a term of two years.

Mr. Rach asked if the City's Charter stated that the terms was for two years.

Mr. McConville replied that he believed that there was a State Statute the created the two-year maximum appointment. And in keeping with that statute Council has always just reappointed within the two years.

Mrs. Blankfeld replied that she agreed with the way the ordinance read and that she just wanted to make sure that the ordinance and appointment was following in like previously.

Mr. Gould stated that he was grateful to have Mrs. Thomas as their Clerk and hopes that they get to work together for a long time.

Mayor Brennan commented that he was in support of the ordinance and look forward to signing it at my next opportunity. It will be a delight to have Mrs. Thomas back for two years or more.

MOTION BY MRS. BLANKFELD, SECONDED BY MRS. WEISS to approve Ordinance 2022-01 Reappointing Kelly M. Thomas as Clerk of Council Effective January 1, 2022, and Declaring an Emergency. Roll call on suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

Mayor Brennan administered the oath of office to Clerk of Council Kelly M. Thomas

C. Ordinance 2021-64 Authorizing the Mayor to Enter into A Collective Bargaining Agreement with Fraternal Order of Police, Ohio Labor Council, Inc. Patrol Officers Declaring an Emergency (second reading)

Mr. Rach asked if there were any changes since the first reading and previous Council meeting.

Mr. McConville replied that there had been no changes.

MOTION BY MRS. WEISS, SECONDED BY MRS. BLANKFELD to approve Ordinance 2021-64 Authorizing the Mayor to Enter into A Collective Bargaining Agreement with Fraternal Order of Police, Ohio Labor Council, Inc. Patrol Officers Declaring an Emergency. On roll call, all voted "aye."

D. Ordinance 2022-02 Authorizing the Mayor to Enter into A Collective Bargaining Agreement with Fraternal Order of Police, Ohio Labor Council, Inc. Sergeants and Lieutenants and Declaring an Emergency

There was no discussion regarding this agenda item.

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD approving Ordinance 2022-02 Authorizing the Mayor to Enter into A Collective Bargaining Agreement with Fraternal Order of Police,

Ohio Labor Council, Inc. Sergeants and Lieutenants and Declaring an Emergency. Roll call on the suspension of the rules, all voted “aye.” Roll call on passage, all voted “aye.”

E. Motion to Approve Retirement Health Savings Agreement with MissionSquare for the Fire Department

Fire Chief Perk provided a memo stating his full support for the approval of the proposed Retirement Health Savings Agreement with MissionSquare. The Fire Department’s collective bargaining negotiations that took place mid-year 2020 between the administration and IAFF Chapter 974 resulted in an MOU signed on October 31, 2020. The MOU served as an agreement that both parties would have ongoing discussions to establish a retirement health care account. The proposed Retirement Health Savings (RHS) Program provided by Missionsquare will serve to act as a public plan sponsor for a retiree health plan with responsibility to obtain investment alternatives and services for employees that choose to participate in RHS will assist employees separating from the city to disburse a final payout funds into the match RHS for any future healthcare needs. Entering this agreement with Mission square will serve to meet the intent of the MOU and the recently approved Collective Bargaining Agreement between the City and IAFF local 974. Additionally, a current member of IAFF Local 974 is retiring this week and could immediately benefit from the RHS if approved.

Mayor Brennan added that the Administration also supports the passage of this motion to approve the Retirement Health Savings Agreement with Missionsquare.

Mr. McConville explained that the contract contains an indemnification provision. And, as a matter of law in Ohio, a municipality cannot provide indemnity to any party unless Council appropriates funds for that obligation and an amount that is reasonable. As a practical matter, that means that municipalities simply don't provide indemnification, because they are not going to tie up funds to be held and that cannot otherwise be used, simply enter into a contract. Section 10 of the agreement would need to be modified slightly to indicate that it is full harmless provision and then the indemnification language would have to be stricken. With that change Mr. McConville said he was comfortable with the verbiage of the contract in terms of services that are provided.

Mayor Brennan explained the financial payouts that occurs when an employee retires from the City and how if an employee had monies banked those monies could be rolled over into this RHS fund.

Mrs. Weiss asked if any other departments had a HAS available.

Mayor Brennan replied that that was the ending goal to have this available to all departments.

Mr. Gould commented that Section 10 seemed to be fairly broad where not only was it holding harmless and indemnifying for any act; including negligence, it appears that any and all acts by any individual associated with the entity. Mr. Gould said he wanted to clarify with the Law Director how this would be to be modified to meet an Ohio law and also the city’s interest if there's mismanagement, malfeasance, any of those items. It seems that they are being held harmless to any and all facts.

Mr. McConville said that he tried to impress upon colleagues, that identification provisions are superfluous because each party should simply be responsible for their own negligence or intentional misconduct and to let Ohio law govern on those issues.

Mr. Gould asked if it would be better for him to put the strike into the form of a motion or to make a motion to strike that portion from the agreement and pass the motion is?

Mayor Brennan replied that the Law Director has advised that he (Mayor Brennan) would not sign the agreement over his objection. Because it's inappropriate for the city to be indemnified and for any municipality to be indemnified, this is something that they are probably routinely asked to remove or alter.

Mr. McConville stated that in his view, it did not make sense for that issue to go back before Council. If Council though it was sufficient to pass the motion subject to the approval of the City's Law Department. The administration will negotiate directly with them if they won't remove the clause in order to wordsmith a provision that the City can live with. If the issue would be materially different it would be brought back to Council. But the motion and decision was up to Council.

MOTION BY MR. GOULD, SECONDED BY MRS. WEISS to approve the attached Retirement Health Savings Agreement with Missionsquare, provided that paragraph 10 is struck from the agreement for the Fire Department.

Mr. McConville clarified that the motion causes the city’s administration to indicate to the RHS provider, that the indemnification provision needs to come out, although that was what was authorized. That discussion was fairly routine with vendors because as a practical matter, the city cannot indemnify because you would have

to encumber funds to do that so municipalities just don't do that. That leaves the contract void of any indemnification provision, which means that each party would be responsible for their own acts. Mr. McConville said that he was comfortable with that scenario.

On roll call, all voted “aye.”

F. Motion to Enter Executive Session for the purpose of Discussing Legal Proceedings, Personnel and Real Estate Matters

There was no need for Executive Session.

Director’s Reports

Mayor Brennan noted that he had excused all Department Directors from attending the Council meeting due to the raise in Covid cases.

Fire Department – Mayor Brennan read Chief Perko’s report that highlighted the retirement of Firefighter Paramedic Michael J. Dimenico who has been serving the community of University Heights since 1989. His retirement will be effective January 9, 2022.

There were no other director reports.

Standing Council Committees:

Vice Mayor Weiss stated that Council Committee assignments would be finalized at the next Council meeting.

Building and Housing – Mrs. Blankfeld stated that a committee meeting will be scheduled to review Point of Sale inspections.

Economic Development - Mr. Rach reported that this committee would be working with the new zoning code representatives, once a schedule has been decided work can begin. There will be a steering committee with members from the Planning Commission, Board of Zoning Appeals and Architectural Review Board that will work with the Zoning Code representatives.

Finance Committee - Mrs. Weiss reported that there is a Joint Finance Committee and Finance Advisory meeting regarding the budget on January 19, 2022 at 7pm in anticipation of the January 10 draft budget.

Council Committee of the Whole – Mrs. Weiss stated that an Ordinance regarding the prohibition of fireworks will be presented at the next Council meeting.

Reports of special committees, and the taking of action thereon

None

Unfinished and miscellaneous business

None

MOTION BY MRS. BLANKFELD, SECONDED BY MR. RACH to adjourn the meeting. On roll call, all voted “aye.”

There being no further business, the meeting was adjourned at 8:04p.m.

Michael Dylan Brennan, Mayor

Kelly M. Thomas, Clerk of Council