

**COUNCIL MEETING MINUTES
CITY OF UNIVERSITY HEIGHTS, OHIO
MONDAY, DECEMBER 20, 2021**

A reception was held at 6pm to honor the service of Council Members Sandra Berry, Phillip Ertel and Susan Pardee.

Vice-Mayor Michele Weiss called the meeting to order at 7:04p.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
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 4, 2021

There were no corrections to the December 4, 2021 minutes.

MOTION BY MRS. PARDEE, SECONDED BY MRS. WEISS for the passage of the December 4, 2021 Council Minutes as presented. On roll call, all voted “aye,” except Mr. Rach, who “passed.”

Additions and Removals from the Agenda; Referrals to Committee

Mr. Gould announced that Council became aware the previous week that the City’s Prosecutor Stephanie Scalise was moving onto a new position effective December 31, 2021. To ensure the continuity of the city’s prosecution mechanism and for a smooth transition into the January 2022 docket Mr. Gould moved to add Ordinance 2021-65 to the agenda.

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD to add Ordinance 2021-65 as agenda item “P” acknowledging and accepting the appointment of Michael E. Cicero as Prosecutor and Assistant Law Director, authorizing a contract for compensation and declaring an emergency. On roll call, all voted “aye.”

Mr. McConville stated that Ordinance 2021-65 has been added to the agenda as item “P”.

Mrs. Weiss stated that Council received very late this afternoon the agreement the for the Fraternal Order of Police Labor contract and there were multiple changes. Mrs. Weiss asked if that had to be passed before the end of the year (2021).

Mr. McConville stated that he did not know the answer that question, but he did know that the City’s Labor Attorney Jeremy Iosue was planning on being at the meeting around 7:45pm. Council may want to ask him that question. If for some reason it does need to be passed by the end of this year then it may be appropriate to have him go through each and every one of the changes and if not necessary for passage at this meeting then Council can either table or proceed as Council sees fit.

MOTION BY MR. GOULD, SECONDED BY MRS. WEISS to table until just before item “f” the remainder of item four so that Council can revisit the additions or removals prior to the “F”. On roll call all voted “aye.”

Comments from Audience

There were no audience comments.

Mayor's Report

Mr. McConville read Mayor Brennan report as follows.

I regret that I cannot be in attendance this evening. Thank you to Mrs. Weiss for chairing this evening's meeting. My wife Gina tested positive for covid yesterday after experiencing some mild symptoms, she feels generally fine today, I tested negative and have no symptoms these were home tests that's that seemed to be prone to false negatives. If Gina has Covid it seems unlikely that I would not have Covid too technically. As I am fully vaccinated and boosted CDC guidelines would allow for me to be present for tonight's City Council meeting provided I have no symptoms and remain fully masked. I believe refraining from attending today's meeting together with missing regrettably the celebration of Council members Sandra Berry, Phil Ertel and Sue Pardee is the prudent course. The coveted numbers out there are daunting, over ten thousand new cases in Ohio on Saturday over 800,000 dead in the United States leading the world. Ohio has now had more cover deaths in 2021 than we did in 2020. There are still over 50 million, Americans eligible for the vaccine that have declined to take it this contributes to the current problem. I urge the public as our hospitals did in a full-page ad in today's Plain Dealer to get vaccinated. You may not only save your life, you may save the lives of others who need hospital care. Regarding this evening's business I am in support of all items on tonight's agenda. I do suggest that Ordinance 2021-54 be heard on first reading rather than on emergency and would not oppose committee consideration of the paid emergency Administrative Leave Policy related to the Covid 19 Pandemic though further administrative review of the Ordinance would also suffice. Further the agenda may be amended tonight to consider Ordinance 2021-65 regarding the appointment of Michael Cicero as City Prosecutor and Assistant Law Director. Please know I support Mr. Cicero's appointment and look forward to having him on the team as Prosecutor. At this time, I thank our outgoing city's Prosecutor Stephanie Scalise for her service to the City of University Heights. To the people of the city and to the cause of justice. Congratulations to Mrs. Scalise in joining the Ohio Alliance to end sexual violence as Senior Legal Assistant for victims where she will advocate for the survivors of sexual violence. My chief regret in not being in attendance tonight is that I am missing the last meeting of outgoing council members Sandra Berry, Phil Ertel and Sue Pardee. All three of these people have not only been thoughtful members of our City Council, all three have devoted their professional careers to public service. Mr. Ertel in the courts, Mrs. Pardee in education and Mrs. Berry in the courts and in education. Mrs. Berry due to the nature of our council vacancy appointments I did not get to vote for you but I would have. Your time here may have been short but it was impactful and exemplary you were a reliable partner in our formation of the Citizens Committee on Policing Policies and your contribution to its success was crucial at a time in our Nation's history when the crisis of the pandemic met its twin in a long coming reckoning over racial injustice in our country. You were essential to helping move our community forward at a time when it was neither politically popular nor expedient the good work of public service the necessary work is something that has been a hallmark of your long and distinguished career I am grateful that you were here to do that for the community thank you. Mr. Ertel you have long been the conscience of this city and the memory of this body, your deep roots and standing in the community. Your service, your willingness to the very end to advocate for your neighborhood and your neighbors have all been inspiring to us all and certainly to me. With your retirement this year from Shaker Municipal Court and your last meeting tonight, you have more than earned the time off to travel and recreate as much as you helped make University Heights a fun place to live. With the last redo of the pool at Purvis Park, thank you. Mrs. Pardee nothing, I could say tonight would be enough almost five years ago now I asked you out for coffee to ask your support for my run for City Council because I thought you would be running for Mayor, by the end of our coffee you had given me so much more to think about. It led to the collaboration we had for two years as Mayor and as Vice Mayor of this city. We got a lot done together and we have a lot to show for it. While the work continues, your work here is now almost done. I hope Phil and Saundra will understand when I say that I will miss you the most Sue. Thank you it has been an honor to serve with all three of you. You have all served with distinction, may we live up to your example, may the wind always be at your back as the road rises up to meet you and this is not goodbye. See you at the Walt and at the pool. Thank you, this concludes my report.

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

Mrs. Weiss reported that she and Councilman Rach will be meeting with the new Council members this week. Mrs. Weiss added that they were looking very forward to working with them to discuss processes and what their goals are for the coming year. The Law Director will also be having an orientation with the new members and that will be scheduled shortly. Councilwoman Blankfeld will be starting the Series of Discoveries in conjunction with the Administration to arrange programming that Council or Councilwoman Blankfeld feels is needed in the community. Council had an excellent Council of the Whole meeting and the outcome of that was that there is more to do and more conversations have to be held.

Agenda Items:

Mrs. Weiss stated that Council Members Berry, Ertel and Pardee would each be receiving Resolutions and that a lovely ceremony was held just prior to this meeting where everyone was able to say some personal thank you and share memories. Mrs. Weiss added that she knew that each and every Council Member truly cherished their time together with Council Members Berry, Ertel and Pardee and that they will all be sorely missed.

A) Resolution 2021-58 Honoring Council Member Saundra Berry

MOTION BY MR. GOULD, SECONDED BY MR. RACH to approve Resolution 2021-58 Honoring Council Member Saundra Berry. On roll call, all voted “aye.”

B) Resolution 2021-59 Honoring Council Member Phillip Ertel

MOTION BY MRS. BLANKFELD, SECONDED BY MR. GOULD to approve Resolution 2021-59 Honoring Council Member Phillip Ertel. On roll call, all voted “aye.”

C) Resolution 2021-60 Honoring Council Member Susan Pardee

MOTION BY MRS. BERRY, SECONDED BY MRS. BLANKFELD to approve Resolution 2021-60 Honoring Council Member Susan Pardee. On roll call, all voted “aye.”

Mrs. Pardee thanked the people of University Heights for 12 good and eventful years serving on City Council, six of those as Vice Mayor. Mrs. Pardee said that she worked hard to learn, research before making a vote, and served to the best of her ability. Mrs. Pardee told stories of how when Council was first talking about a change in the pick up of trash how she followed a automated rubbish pickup truck around their rubbish route in Akron. She did this so that she would learn how the automatic arm worked and how long it took at each house. And when McDonalds was coming to University Heights, how she sat outside the McDonald’s on Mayfield Road in South Euclid to first hand hear how loud the drive-thru speaker was and the timing of how fast the traffic moved through the drive-thru. Mrs. Pardee add that she also spent many years visiting houses, looking at potholes, driving the city to check on the snow plow removal. In all it has been interesting!

In regards to Council and the Mayor, Mrs. Pardee said that this was such an extraordinary group – passionate, accomplished, bright and above all – a group of people who LOVE University Heights.

Mrs. Pardee recognized her husband, Eric Pardee as her biggest supporter and always believing in her work on City Council.

Mr. Ertel thank you and wished everyone good luck and added that this is a great group and that he fully expected them to get a lot done.

Mrs. Berry stated that over the last two years she appreciated getting to know everyone and feeling comfortable. Mrs. Berry said that in knowing this council and the council members that would be coming in University Heights is in good hands along with Mayor Brennan.

D) Motion to Approve Revised Price Quote #12115 from Starfish for Remediation Project in an amount not to exceed \$22,775.00

Mr. Patrick Hanrahan, Starfish and Mrs. Chris Hudak, Co-Chair Technology Advisory Commission were both present.

Mrs. Hudak reviewed the IT issues as noted by Starfish that need to be addressed in order to bring the city to a point where the IT platforms are protected and secure. Mrs. Hudak recommended that Council approves everything listed on price quote #12115.

Mr. Gould noted that the discovery work had previously been approved and completed, so why is there need for another 20 hours to do that work again.

Mr. Hanrahan replied that the Windows 2008 platform was not correct so it has to be redone. Part of the REA report is to make sure that every device that connects to the city’s network is registered correctly. Mr. Hanrahan noted that Starfish will only bill for the actual hours worked. Another area is the discovery of URL’s where Starfish will conduct an extensive search for misspellings of the city’s web name.

Mrs. Pardee explained that the process was that the REA full report or what was thought to be a full report was received. Then the Technology Advisory Commission met and the co-chairs led the group through a discussion of the different elements of the REA report and felt that there were things that should be done immediately and that for lack of a better word perhaps the low-hanging fruit could be done quickly and fairly inexpensively. The Mayor then went ahead and asked Starfish for the provided quote. Mrs. Pardee added that the REA representative Paul Hugelberg is willing to come to a Technology Advisory Commission and will provide as much time as necessary to answer any questions.

Mrs. Weiss stated that the next steps would be to have a meeting with REA to look at the long-term IT goals.

MOTION BY MRS. PARDEE, SECONDED BY MR. GOULD to approve the Revised Price Quote #12115 from Starfish for Remediation Project in an amount not to exceed \$22,775.00. On roll call, all voted “aye.”

- E) Motion to Approve Price Quote #12137 from Starfish for Emergency Support and Service for a 3-month period of January, February and March in an amount not to exceed \$16,650.00**

Currently Starfish supports the city’s spam filter, desktop pattern, server matching, monitor and antivirus. Starfish also has on loan to the city a server that support and maintains the cloud backups for disaster recovery.

MOTION BY MRS. PARDEE, SECONDED BY MRS. BLANKFELD to approve Price Quote #12137 from Starfish for Emergency Support and Service for a 3-month period of January, February and March in an amount not to exceed \$16,650.00. On roll call, all voted “aye.”

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

Mr. Gould stated he did not have time to review the red lines that was circulated today and several colleagues had not reviewed them either. The question is whether or not there would be any repercussions for the union members or police officers if Council did not pass the agreement at this meeting and if it can be decided at the next Council meeting after everyone has had the opportunity to review it.

Mr. Iosue replied that there would not be any repercussions other than once the contract is finished that the wage increases or anything else may take another two weeks.

Mrs. Weiss noted that was her concern.

Mr. Gould stated that the retro activity would be applied by the Finance Director so that the officers will not be out money as a result of this being placed on the January 3rd agenda.

Mr. Iosue replied that Mr. Gould was correct.

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD to table Ordinance 2021-64 Authorizing the Mayor to Enter into A Collective Bargaining Agreement with Fraternal Order of Police, Ohio Labor Council, Inc. Patrol Officers and Declaring an Emergency to allow the Council members time to review the proposed contracts. On roll call, all voted “aye”

- G) Ordinance 2021-52 Authorizing the Chairperson of the Civil Service Commission to Enter into a Joint Firefighter/Resolution 2021-51 Modifying C.O. 220.01(d) to require agendas to be presented on Thursdays before Council Meetings and Declaring an Emergency (on second reading)**

Fire Chief Perko stated that University Heights has a maximum capacity of 100 applicants and that was due to the competitive nature of the number of applicants that were processing many of them would line up before the doors of city hall would even open to try to be the first one to get applicants turned in since tie breaking scores are determined by the time stamp that they were returned. Unfortunately, in public service that amount of competitiveness or number of candidates seeking applications are not to that extent currently. Chief Perko reviewed the pros and cons that he had in his memo and stated that the pros definitely have outweighed the cons. This has been discussed in multiple Civil Service meetings as well as in a Safety Committee meeting.

The Regional Civil Service Eastside Regional test pros and cons were reviewed with the University Heights Civil Service secretary as well. Chief Perko respectfully recommend that moving forward with the process.

Mrs. Thomas, Secretary for the city's Civil Service Commission reviewed the current process of receiving applications and the pros and cons of moving to regional testing. Overall there would be many more pros than cons.

Chief Perko stated that although the contract is good for 1 year, per the city's civil service rules the candidate list could be extended up to an additional year.

Noting that this was a one-year contract, Mrs. Weiss asked if desired would the city would be able to get out of the agreement if the process doesn't work for us where it could be brought back in-house in 2023?

Mrs. Pardee asked if there was a timing issue for this approval?

Chief Perko replied yes because there is a Regional Civil Service commission meeting the first week of January where they want to take a vote who is participating in exam and to choose a testing company. After that they will move forward with the marketing plan and all the other particulars.

MOTION BY MRS. BLANKFELD, SECONDED BY MRS. BERRY to approve Ordinance 2021-52 Authorizing the Chairperson of the Civil Service Commission to Enter into a Joint Firefighter/Resolution 2021-51 Modifying C.O. 220.01(d) to require agendas to be presented on Thursdays before Council Meetings and Declaring an Emergency. On roll call, all voted "aye."

- H) Ordinance 2021-53 Authorizing Temporary Appropriations for Current and other Expenditures of the City of University Heights, Ohio for the Period Commencing January 1, 2022 and Ending on or before March 31, 2022 and Declaring an Emergency (on second reading)**

Mr. Kennedy stated that he made a couple of revisions to the body of the ordinance itself to clearly identify that it is a temporary appropriation. Council has a requirement to pass a permanent appropriation measure not later than April 1, 2022. Mr. Kennedy added that he also changed several of the departments that were discussed at the last Council meeting such as he had funded the Prosecutor and the Law Director since they were approved by Council. The temporary appropriations were reduced down to just the first quarter with the exception of items that need to be paid during that first quarter like the fire truck capital payment that's due in February 2022. The appropriations that are listed on the attached schedule represented what Mr. Kennedy thought would be needed for the first quarter. The permanent budget will be finalized and once approved and filed with the county these appropriations will be displaced.

Mrs. Weiss noted that Mr. Gould comments from the previous Council meeting were addressed and incorporated with this revision.

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD to Ordinance 2021-53 Authorizing Temporary Appropriations for Current and other Expenditures of the City of University Heights, Ohio for the Period Commencing January 1, 2022 and Ending on or before March 31, 2022 and Declaring an Emergency. On roll call, all voted "aye."

- I) Ordinance 2021-54 Approve City Engineering Services with GPD Group and Approve Contract Cost for Year 2022 and Declaring an Emergency**

Mr. Ciuni stated that this was before Council at the previous meeting but was tabled because there wasn't a contract with the ordinance. Mr. Ciuni said that he and Mr. McConville worked together in drafting a contract. The presented contract is identical to the previous contract and he urged for the approval.

Mr. Rach commented that with inflation going at a rate of 6%, the proposed increase of 1% is great.

Mr. McConville added that even more significant, Mr. Ciuni has agreed to a two-year appointment and the rate's locked in for the two-year period.

Mr. Gould know that this is the form of an ordinance but it's still authorizing a contract stated that he would like to change very minorly section one to read that the Council hereby authorizes to the Mayor to enter into the attached Professional Services Agreement with Joseph Ciuni and the GPD Group within 30 days for the

provision of services so that Council is authorizing the signature within a month and also authorizing this specific agreement.

MOTION BY MR. GOULD, SECONDED BY MRS. WEISS authorizing the Mayor to within 30 days enter into the attached Professional Services Agreement. On roll call, all voted “aye.”

MOTION BY MRS. BLANKFELD, SECONDED BY MR. GOULD to Approve Ordinance 2021-54 Approving City Engineering Services with GPD Group and Approving Contract Cost for Year 2022 as amended. Roll call on suspension of the rules, all voted “aye.” Roll call on passage, all voted “aye.”

J) Ordinance 2021-55 Providing for Paid Emergency Administrative Leave Related to the Covid-19 Pandemic and Declaring an Emergency

Mr. McConville stated that this ordinance is almost identical to one that Council passed in 2020 and again in 2021. The ordinance follows or tracks very closely the form that's been adopted by the County. It provides the opportunity for employees who have exhausted other forms of leave and who are in some way impacted by a Covid related illness to have additional paid time off through the entirety of the year. That is the same benefit that the County is awarding. Mr. McConville reiterated for the benefit of the record that the remarks that the Mayor made during his Mayor's report that he read made note that the Mayor was recommending that it not be adopted this evening at a minimum and that he would welcome a referral to committee for further discussion if council felt that was appropriate.

MOTION BY MRS. BLANKFELD, SECONDED BY MR. RACH to approve Ordinance 2021-55 Providing for Paid Emergency Administrative Leave Related to the Covid-19 Pandemic and Declaring an Emergency. Roll call on suspension of the rules, all voted “aye.” Roll call on passage, all voted “aye.”

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

Mrs. Weiss spoke on behalf of all of Council and stated that Mr. McConville services are valued and that he makes time whenever it is needed. Mrs. Weiss said that she definitely supported the reappointment of Mr. McConville as Law Director.

Mrs. Blankfeld echoed Mrs. Weiss' statement and added that the level of professionalism and dedication and attention to detail and patience Mr. McConville provides is extraordinary. Mrs. Blankfeld said that she was delighted that Mr. McConville will continue as the City's Law Director.

Mr. Rach noted he had a logistical question. Since Mr. McConville's term would take effect January 1, 2022 and since Council would be approving this today in thinking back this has been done at the first meeting in January. Is this before Council now so that there is no lapse between the January 1, 2022 and the first Council meeting on January 3, 2022.

Mr. McConville replied that it was being done at this time to bring it in line with the other department head appointments. Mr. McConville said that he believed that his current appointment expires in January but he was not sure if it was in the middle of January or at the end of January. Council could read the ordinance into the record and then either table it or place it on second reading for the next meeting.

Mr. Rach said would love to have Mr. McConville as Law Director forever but with three new incoming council members he felt that they should have a vote on this since he would be the Law Director for the incoming council.

Mr. McConville stated that there would not be a lapse in service.

MOTION BY MR. RACH, SECONDED BY MRS. BLANKFELD to amend the agenda to read that Ordinance 2021-56 Reappointing Luke F. McConville as Law Director Effective January 3, 2022 and on first reading.

Mr. Gould asked how would this then differ from the idea of wanting to allow the incoming members of council to have a voice for the department heads in that council just approved the City Engineer prior to that the beginning of that cycle, is there a difference?

Mr. McConville replied that that's was a technical difference where Mr. Ciuni's contract is up as of the end of the year and if not approved there would be a lapse of service.

Mr. Rach said he was looking at the Law Director working for the administration but also working for the council. So, he felt that the council would have a voice in that particular appointment.

Mr. McConville noted for a historical perspective, the reason his ordinance was not lined up with other department heads was because he was not originally hired in January, he was hired in February. Mr. McConville assured that by waiting until January that there would be no lapse in service because the current ordinance extends into January.

On roll call, all voted “aye.”

Ordinance 2021-56 was placed on first reading as amended.

L) Resolution 2021-57 Requesting the County Budget Commission to Advance Taxes from the Proceeds of Tax Levies for The Period January 1, 2022 to December 31, 2022 Pursuant to Section 321.24, Ohio Revised Code and Declaring an Emergency

Mr. Kennedy stated that this was an annual statutory requirement that will advise the County that the city authorized them to give the city advances on tax collections both for the first and the second half of the year. Without this being filed with the County Budget Commission the city would have to wait for the final settlement. This resolution will allow the city to get money in January and February where the County would be allowed to transfer those monies to the City as they are collected as opposed to waiting until final settlement.

MOTION BY MRS. WEISS, SECONDED BY MRS. BLANKFELD to approve Resolution 2021-57 Requesting the County Budget Commission to Advance Taxes from the Proceeds of Tax Levies for The Period January 1, 2022 to December 31, 2022 Pursuant to Section 321.24, Ohio Revised Code and Declaring an Emergency. On roll call, all voted “aye.”

M) Ordinance 2021-61 Accepting the Material Terms of the One Ohio Subdivision Settlement Pursuant to the One Ohio Memorandum of Understanding and Consistent with the Terms of the July 21, 2021 National Opioid Settlement Agreement, and Declaring an Emergency

Mr. McConville stated that this was the second of the national opioid settlements, in this case the settlement has been reached with Johnson and Johnson – Janssen. It will be operated in the same way as the prior opioid settlement that City Council approved. The Ohio Attorney General is asking for municipalities throughout the State to indicate their intention and support of the settlement by indicating that they will enter into a participation agreement. The desire is to get 95 of all of the municipalities in Ohio to express their willingness to participate because that threshold number causes the total dollar amount of the settlement to go up by a certain percentage the total amount in the neighborhood of between \$14,000 and \$17,000 depending on how many municipalities indicate their participation. University Heights is not actually a participant in the litigation so this is in some ways a bit of a windfall for us and as was the case last time the funds that will be provided to the city will be earmarked for purposes that are deemed to assist or enhance the fight against the opioid epidemic.

Mrs. Weiss asked if anyone knew whether the city purchased Narcan and if there was any training on how to deal with situations dealing with drug use.

Mr. Kennedy stated that the city had not received any of the distributions yet.

Mr. McConville added that certainly Narcan would be something that we would want to use the funds for and training may be services that we can offer to residents in terms of treatment and recovery.

MOTION BY MRS. WEISS, SECONDED BY MRS. BLANKFELD to Ordinance 2021-61 Accepting the Material Terms of the One Ohio Subdivision Settlement Pursuant to the One Ohio Memorandum of Understanding and Consistent with the Terms of the July 21, 2021 National Opioid Settlement Agreement, and Declaring an Emergency. Role call on suspension of the rules, all voted “aye.” Roll call on passage, all voted “aye.”

N) Ordinance 2021-62 Authorizing the City Fire Chief to Enter into A Letter Agreement with Wellness Works LLC for Provision of Services to Provide A Wellness Program for Firefighters and Declaring an Emergency

Fire Chief historically the entirety of my career heart attacks has been the leading cause of death and firefighters and over the last couple of years that has been superseded by cancer. The last round of data that has come out for the 2019 report indicated that suicide is starting to trend at the same levels of those two other items. The International Association of Firefighters which represents the union body and the International Association of Fire Chiefs that represents the management body joined forces many years ago to start a joint wellness fitness initiative. Chief Perko noted that this was something that was discussed a number of years ago here in University Heights and the department applied for a federal grant seeking seed money to start its own wellness and fitness program that was in 2014 and awarded in 2015. But and once it was completed in 2012 the initiative went idle until 2018 when it was reinvigorated and was actually approved into the fire union collective bargaining agreement to establish and maintain this program. The mission of the program is to make it mandatory, but non-punitive and to follow the number of components in it. In 2018 the department started its our journey into how to best accomplish the different components. And although not able to start them all at one time, it was an understanding that it would be a process. The agreement that this ordinance refers to is a continuation of that process. The components are: a medical examination with the intent where all uniform personnel work to improve his or her health and wellness competing owning against themselves. Another component is a variety of different medical tests and stress tests cancer screenings that follow the national fire protection association standards. There is a fitness component that demonstrates the need for high levels of aerobic fitness muscular endurance, muscular strength power flexibility to perform safely and effectively on the job. That is the one item that has been done continuously since 2018. The department is also contracted with John Carroll University in conducting the fitness assessments. The third component is an injury and rehab component because statistics show firefighting is one of the highly most dangerous occupations and it is not always traumatic injuries that lead to the number of injuries and claims. It is more slips falls, ankle twists and lower back injuries. Implementing an injury and rehab program is important to reducing the number of claims and provides knowledge for the firefighters for injury prevention and rehabilitation. The fourth item is behavioral health, suicide rates are starting to reach alarming rates and public safety that includes the fire service. In order to maintain a high level of job performance uniformed personnel must be able to cope effectively and balance the emotional physical mental stress of work, personal life and long shift hours. The ability to cope becomes compromised in these stresses and act to unbalance his or her mental emotional health, and possibly creating challenges to operate efficiently in the field.

MOTION BY MRS. PARDEE, SECONDED BY MRS. BLANKFELD to approve Ordinance 2021-62 Authorizing the City Fire Chief to Enter into A Letter Agreement with Wellness Works LLC for Provision of Services to Provide A Wellness Program for Firefighters and Declaring an Emergency. Roll call on the suspension of the rules, all voted “aye.” Roll call on passage, all voted “aye.”

O) Ordinance 2021-63 Authorizing Permanent Appropriations for Current and Other Expenditures of the City of University Heights, Ohio for the Period Commencing January 1, 2021 and Ending December 31, 2021 and Declaring an Emergency

Mr. Kennedy stated that this was in order to set the final appropriations so that he can file this with the County. This would be the subject to the city’s audit beginning in February 2021.

Mr. Gould asked Mr. McConville if there was in conflict between the SAFEbuilt contract and the proposed appropriations.

Mr. McConville replied that he reviewed the contract language and the contract language did not create an appropriation issue. The contract indicated that the council would have the right to discontinue appropriations whenever it deemed it wanted in the case of a breach. Essentially what it said was notwithstanding the fact that the city is appropriating money for the full duration of the contract. The city has the right at any time to in the event of a breach to say it is terminating the contract and so the appropriation of the money for the remainder of the contract will be of no consequence.

MOTION BY MR. GOULD to table Ordinance 2021-63.

Further discussions were had regarding the SAFEbuilt contract and their performance of the contract duties.

Mr. Gould removed his motion from the floor.

MOTION BY MR. RACH, MRS. BLANKFELD to approve Ordinance 2021-63 Authorizing Permanent Appropriations for Current and Other Expenditures of the City of University Heights, Ohio for the Period Commencing January 1, 2021 and Ending December 31, 2021 and Declaring an Emergency. Roll call on the suspension of the rules, all voted "aye," except Mr. Gould, who voted "nay." Roll call on passage, all voted "aye," except Mr. Gould who voted "nay"

Mrs. Weiss announced the new Council Agenda item "P"

Mr. McConville commented that he knew that at least one council member was interested in hearing him address matters of statutory law that impact the preamble of the ordinance Mrs. Weiss was about to read. Because Mr Cicero is his law partner, Mr. McConville stated that he would be recusing himself from any part of the discussion of the ordinance itself. So prior to the ordinance being read he wanted to provide background on the ordinance and the preamble to that ordinance reflects.

Mr. Gould clarified that one of the things that he noted was that Mr. McConville stated that Mr. Cicero was his law partner and what Mr. Gould understood Mr. McConville said was that he was refusing himself. Mr. Gould added that he thought members of council may also have noted the potential appearance of a conflict but his understanding was is addressed by ordinance so Mr. Gould asked Mr. McConville to explain that matter.

Mr. McConville stated that it was addressed actually by Ohio statute and there are a couple of statutes at issue; one is 733.621 that ordinance that statute defines Chief Legal Officer as a City Law Director or a Village Solicitor and it says that a Chief Legal Officer meaning the Law Director of a municipal corporation may appoint as Prosecutor a person who is a partner of the Chief Legal Officer. That is a portion of that statute the pertinent portion of that statute qualifies that permissive language by saying that the Chief Legal Officer and the arrangement must comply with Ohio Revised Code section 2921.421. That statute sets forth essentially four components that are reflected either in the preamble or the ordinance. One is that the services have to be deemed necessary, second is that the City Council must determine that the compensation or other terms of employment of that individual be fair and reasonable. Third is that there be a written disclosure of the business relationship of the Chief Legal Officer and the Prosecutor and that the statute is specific in indicating that that can be by the Ordinance itself. That disclosure is made in the preamble in which it indicates that Mr. Cicero is a partner in Nicola, Gudbranson & Cooper, and is his law partner. Lastly there is language that indicates that the Chief Legal Officer not have any distributive any right to any distributive share of the amounts that are being paid to the Prosecutor and that in fact is the case, his w-2 income Mr. McConville has no interest or will not see no portion of that otherwise through their firm. It is solely and entirely his. Mr. McConville added that he had nothing more to say about Mr. Cicero or the proposed ordinance unless there were specific questions about the statute.

Mr. Gould stated that he had questions about the Charter, that he thought were important to the conversation. The Charter contemplates that there is a Law director, which is a position that Mr. McConville holds and it does not contemplate a City Prosecutor.

Mr. McConville replied that was correct.

Mr. Gould continued to say the City Prosecutor is created by Mr. McConville, as the Law Director appointing an assistant.

Mr. McConville replied that was correct and that it is done by Ordinance.

Mr. Gould commented that the structure is based on the Charter and the Ordinance that creates what really has been a practical function for the supervision of the Prosecutor and their work. The Law Director does not go to court with the Prosecutor, he does not review the Prosecutor's work, he does not approve the Prosecutor's charges, is that correct?

Mr. McConville said that was correct and provided a hypothetical walk through. The distinction is if a Prosecutor has an issue that is problematic in the workplace for example and they engage in a behavior that's a violation of policy where they do something or say something that might otherwise subject an employee to Discipline or reprimand. Mr. McConville said that it would be within his purview as the head of the department to discipline the employee. However, he has always believed and functioned and strongly believe that this is the intent of the whole bifurcation of the roles of Law Director and Prosecutor. The Prosecutor should be doing their job, that is performing the duties of the prosecutor with independence from the Law Director. There should be no cause for a Law Director to influence any decision a Prosecutor makes in a particular case relating to charges relating to a plea bargain, relating to whether or not to try a case or dismiss it or whatever falls within the Prosecutor's discretion. That person should operate within that role with a strong amount of independence.

P) Ordinance 2021-65 Acknowledging and Accepting the Appointment of Michael E. Cicero as Prosecutor and Assistant Law Director; Authorizing a Contract for Compensation and Declaring an Emergency

Mrs. Weiss read a provided statement from Police Chief Rogers in his absence. Chief Rogers stated that he was requested by the Legal Department to provide his perspective to Council in regards to a possible Prosecutor candidate Mike Cicero. Chief Rogers said that he had directly and indirectly worked with Mr. Cicero since May, 2004. It was Chief Roger's perspective that Mr Cicero would be an exceptional Prosecutor in that he is well known throughout the region as a true professional with an unparalleled knowledge and skill base. He works extremely well and collaboratively with those departments he prosecutes for in the event Mr. Cicero is selected to fill the City's Prosecutor vacancy he would fully support that decision.

Mr. Gould added that he thought that Council has highlighted in their committee work over the past several months how important it is to have an understanding of the people who are enforcing our laws. It is not enough that Mr. McConville alone drafts legislation for us, council needs the input of the person who's going to be prosecuting that and having that person right down the hall is great. Finally, that interaction that we get isn't built so to have the ability for the Prosecutor to speak to the Law Director to synthesize and to work together is great.

Mrs. Blankfeld added that by growing up in University Heights, Mr. Cicero has a lot of historical knowledge of what is going on in the city.

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD to approve Ordinance 2021-65 Acknowledging and Accepting the Appointment of Michael E. Cicero as Prosecutor and Assistant Law Director; Authorizing a Contract for Compensation and Declaring an Emergency. Roll call on the suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

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

Mr. McConville stated that he had a legal matter to update Council on.

MOTION BY MRS. PARDEE, SECONDED BY MRS. WEISS to Enter into Executive Session for the Purposes of Discussing Legal Matters. On roll call, all voted "aye."

Director's Reports

Finance Director – Dennis Kennedy reported that the department is working on the year end summary.

Law Department – Luke McConville congratulated Mrs. Berry, Mr. Ertel and Mrs. Pardee on their years of distinguished service on the behalf of the City. Mr. McConville also thanked Council for approving the appointment of his law partner Mr. Michael Cicero and noted that Mr. Cicero is excited to represent the city he grew up in and that it is a distinct privilege to be working for the city. Mr. McConville also thanked Mrs. Stephanie Scalise who did a lot of good work in her short period of time as prosecutor. Mrs. Scalise enhanced the city's reputation in the County and at the local Municipal Court.

Mr. Gould echoed Mr. McConville comments regarding Mrs. Scalise.

Fire Department – Chief Perko reported that there has been an increase in the number of structure fires in the region and wanted to urge everyone to make sure that they are using the proper extension cord, not plugging space heaters into any extension cords and keep all items away from space heaters. Chief Perko thanked Mrs. Berry, Mr. Ertel and Mrs. Pardee for all their support

Communications and Civil Engagement – Mike Cook reminded everyone that the sock drive continues until the end of December. Persons can drop off socks at City Hall, the University Heights public library and Police Department.

There were no other director reports.

Standing Council Committees:

Building and Housing – Mrs. Blankfeld stated that the committee recently met to discuss how the point of sale inspections are currently being processed and how that may be revisited and revised. The next meeting will be in 2022.

Community Outreach - Mrs. Pardee announced that there will be a Technology Advisory Committee meeting in January where Mr. Paul Hugelberg will be present at that meeting. Mrs. Pardee thanked everyone for their kind words.

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.

MOTION BY MRS. BLANKFELD, SECONDED BY MR. GOULD to exit Executive Session and return to Regular Session. On roll call, all voted “aye.”

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

There being no further business, the meeting was adjourned at 9:22p.m.

Michael Dylan Brennan, Mayor

Kelly M. Thomas, Clerk of Council