



**CITY COUNCIL MEETING ~ 7:00PM  
AGENDA**

**MONDAY, MARCH 7, 2022**

**LOCATION:**

**City Meeting Room  
(former Wiley Middle School Library  
next door to Board of Education)  
2181 Miramar Blvd.  
University Heights, Ohio**

**Per current CDC guidelines, the City requires that all participants and attendees wear masks or face coverings, even if fully vaccinated.**

Under the City Charter and state law, University Heights City Council meetings are open to the public. Rather than attend in person, at this time we encourage the public to view the meeting on the City of University Heights YouTube channel, which may be accessed here: <https://bit.ly/3quuble>

People wishing to make public comment are encouraged to submit their comments in writing to be read into record during the “Comments from the Audience” portion of the meeting. Please submit your full name and address with your public comment. Noting the traditional 5-minute limit, please limit your written public comment to 650 words. Please email your comment to [info@universityheights.com](mailto:info@universityheights.com) by 4:00pm on the day of the meeting, or in the alternative, mail or drop off your comment to City Hall at 2300 Warrensville Center Road such that it is received by the deadline.

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NOTE: Executive Session may follow meeting to discuss legal, personnel and real estate matters.  
(Motion Required)

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1. Roll Call
2. Pledge of Allegiance;
3. Reading and Disposal of the Journal;
4. Additions and Removals from the Agenda; Referrals to Committee;
5. Comments from the Audience;
6. Reports and Communications from the Mayor, and the taking of action thereon;
7. Reports and Communications from the City Council, and the taking of action thereon;

8. Reading and Disposition of Ordinances, Resolutions, Motions, and Consideration of agenda items;
  - A. Motion to confirm the nominations of Hallie Turnberrez and Brad Glazer to the University Heights Civil Service Commission
  - B. Presentation by Ben Greenberg and Spiro Sintsirmas Regarding Ohio Revised Code Section 3767.41 and Receiverships Created Thereunder for Elimination of Residential Blight and Public Nuisance Structures.
  - C. Resolution 2022-14 Resolution of Necessity Declaring the Intent to Appropriate and Acquire the Fee Simple Interest in Certain Real Property Titled to University Square Parking LLC, known as 14060 Cedar Road, bearing Permanent Parcel No. 721-01-003, City of University Heights, County of Cuyahoga, State of Ohio, as more fully described herein, for the Purpose of Eliminating Bligh (on second reading)
  - D. Ordinance 2022-15 Authorizing Permanent Appropriations for Current and Other Expenditures of The City of University Heights, Ohio for the Period Commencing January 1, 2022 and Ending December 31, 2022 (on second reading)
  - E. Motion to Approval Bid from Terrace Construction as the best and lowest bidder for the Cedar Road Sewer Repair Program in an amount not to exceed \$107,853.00 and the entering into contract for the same
  - F. Motion to Enter Executive Session for the purpose of Discussing Legal Proceedings, Personnel and Real Estate Matters
  
9. Reports and communications from the Directors of the Department of Finance, the Department of Law, the Department of Public Safety, the Department of Public Service, and other department heads as applicable, and the taking of action thereon;
  - a) Finance
  - b) Law
  - c) Public Safety (Police/Fire)
  - d) Service
  - e) Building
  - f) Housing and Community Development
  - g) City Engineer
  - h) Communications / Civic Engagement
  - I) Economic Development

10. Reports of standing committees and the taking of action thereon;

**BUILDING/HOUSING**

Chairperson Barbara Blankfeld

Committee: Chris Cooney, John Rach, Brian King (alt.)

**COMMUNITY OUTREACH**

Chairperson Brian King

Committee: Michele Weiss, Barbara Blankfeld, Sheri Sax (alt.)

**ECONOMIC DEVELOPMENT**

Chairperson John Rach

Committee: Michele Weiss, Barbara Blankfeld, Justin Gould (alt.)

**FINANCE**

Chairperson Michele Weiss

Committee: John Rach, Justin Gould, Barbara Blankfeld (alt.)

**RECREATION**

Chairperson Chris Cooney

Committee: Brian King, Sheri Sax, Michele Weiss (alt.)

**SAFETY**

Chairperson Justin Gould

Committee: Brian King, Sheri Sax, Chris Cooney (alt.)

**SERVICE AND UTILITIES**

Chairperson Sheri Sax

Committee: Chris Cooney, Justin Gould, John Rach (alt.)

**COMMITTEE OF THE WHOLE**

Vice Mayor Michele Weiss

11. Reports of special committees, and the taking of action thereon;

12. Unfinished and miscellaneous business;

13. Adjournment



## Ohio Revised Code

### Section 3767.41 Buildings found to be public nuisance.

Effective: January 1, 2018

Legislation: House Bill 49 - 132nd General Assembly

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(A) As used in this section:

(1) "Building" means, except as otherwise provided in this division, any building or structure that is used or intended to be used for residential purposes. "Building" includes, but is not limited to, a building or structure in which any floor is used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and in which the other floors are used, or designed and intended to be used, for residential purposes. "Building" does not include any building or structure that is occupied by its owner and that contains three or fewer residential units.

(2)(a) "Public nuisance" means a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

(b) "Public nuisance" as it applies to subsidized housing means subsidized housing that fails to meet the following standards as specified in the federal rules governing each standard:

(i) Each building on the site is structurally sound, secure, habitable, and in good repair, as defined in 24 C.F.R. 5.703(b);

(ii) Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system is free of health and safety hazards, functionally adequate, operable, and in good repair, as defined in 24 C.F.R. 5.703(c);

(iii) Each dwelling unit within the building is structurally sound, habitable, and in good repair, and all areas and aspects of the dwelling unit are free of health and safety hazards, functionally adequate,



operable, and in good repair, as defined in 24 C.F.R. 5.703(d)(1);

(iv) Where applicable, the dwelling unit has hot and cold running water, including an adequate source of potable water, as defined in 24 C.F.R. 5.703(d)(2);

(v) If the dwelling unit includes its own sanitary facility, it is in proper operating condition, usable in privacy, and adequate for personal hygiene, and the disposal of human waste, as defined in 24 C.F.R. 5.703(d)(3);

(vi) The common areas are structurally sound, secure, and functionally adequate for the purposes intended. The basement, garage, carport, restrooms, closets, utility, mechanical, community rooms, daycare, halls, corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas are free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, smoke detectors, stairs, walls, and windows, to the extent applicable, are free of health and safety hazards, operable, and in good repair, as defined in 24 C.F.R. 5.703(e);

(vii) All areas and components of the housing are free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint, as defined in 24 C.F.R. 5.703(f).

(3) "Abate" or "abatement" in connection with any building means the removal or correction of any conditions that constitute a public nuisance and the making of any other improvements that are needed to effect a rehabilitation of the building that is consistent with maintaining safe and habitable conditions over its remaining useful life. "Abatement" does not include the closing or boarding up of any building that is found to be a public nuisance.

(4) "Interested party" means any owner, mortgagee, lienholder, tenant, or person that possesses an interest of record in any property that becomes subject to the jurisdiction of a court pursuant to this section, and any applicant for the appointment of a receiver pursuant to this section.

(5) "Neighbor" means any owner of property, including, but not limited to, any person who is



purchasing property by land installment contract or under a duly executed purchase contract, that is located within five hundred feet of any property that becomes subject to the jurisdiction of a court pursuant to this section, and any occupant of a building that is so located.

(6) "Tenant" has the same meaning as in section 5321.01 of the Revised Code.

(7) "Subsidized housing" means a property consisting of more than four dwelling units that, in whole or in part, receives project-based assistance pursuant to a contract under any of the following federal housing programs:

(a) The new construction or substantial rehabilitation program under section 8(b)(2) of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(b)(2) as that program was in effect immediately before the first day of October, 1983;

(b) The moderate rehabilitation program under section 8(e)(2) of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(e)(2);

(c) The loan management assistance program under section 8 of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f;

(d) The rent supplement program under section 101 of the "Housing and Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat. 667, 12 U.S.C. 1701s;

(e) Section 8 of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f, following conversion from assistance under section 101 of the "Housing and Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat. 667, 12 U.S.C. 1701s;

(f) The program of supportive housing for the elderly under section 202 of the "Housing Act of 1959," Pub. L. No. 86-372, 73 Stat. 654, 12 U.S.C. 1701q;

(g) The program of supportive housing for persons with disabilities under section 811 of the "National Affordable Housing Act of 1990," Pub. L. No. 101-625, 104 Stat. 4313, 42 U.S.C. 8013;



(h) The rental assistance program under section 521 of the "United States Housing Act of 1949," Pub. L. No. 90-448, 82 Stat. 551, as amended by Pub. L. No. 93-383, 88 Stat. 696, 42 U.S.C. 1490a.

(8) "Project-based assistance" means the assistance is attached to the property and provides rental assistance only on behalf of tenants who reside in that property.

(9) "Landlord" has the same meaning as in section 5321.01 of the Revised Code.

(B)(1)(a) In any civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, resolution, or regulation applicable to buildings, that is commenced in a court of common pleas, municipal court, housing or environmental division of a municipal court, or county court, or in any civil action for abatement commenced in a court of common pleas, municipal court, housing or environmental division of a municipal court, or county court, by a municipal corporation or township in which the building involved is located, by any neighbor, tenant, or by a nonprofit corporation that is duly organized and has as one of its goals the improvement of housing conditions in the county or municipal corporation in which the building involved is located, if a building is alleged to be a public nuisance, the municipal corporation, township, neighbor, tenant, or nonprofit corporation may apply in its complaint for an injunction or other order as described in division (C)(1) of this section, or for the relief described in division (C)(2) of this section, including, if necessary, the appointment of a receiver as described in divisions (C)(2) and (3) of this section, or for both such an injunction or other order and such relief. The municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action is not liable for the costs, expenses, and fees of any receiver appointed pursuant to divisions (C)(2) and (3) of this section.

(b) Prior to commencing a civil action for abatement when the property alleged to be a public nuisance is subsidized housing, the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action shall provide the landlord of that property with written notice that specifies one or more defective conditions that constitute a public nuisance as that term applies to subsidized housing and states that if the landlord fails to remedy the condition within sixty days of the service of the notice, a claim pursuant to this section may be brought on the basis that the property constitutes a public nuisance in subsidized housing. Any party authorized to bring an action against the landlord shall make reasonable attempts to serve the notice in the manner prescribed in



the Rules of Civil Procedure to the landlord or the landlord's agent for the property at the property's management office, or at the place where the tenants normally pay or send rent. If the landlord is not the owner of record, the party bringing the action shall make a reasonable attempt to serve the owner. If the owner does not receive service the person bringing the action shall certify the attempts to serve the owner.

(2)(a) In a civil action described in division (B)(1) of this section, a copy of the complaint and a notice of the date and time of a hearing on the complaint shall be served upon the owner of the building and all other interested parties in accordance with the Rules of Civil Procedure. If certified mail service, personal service, or residence service of the complaint and notice is refused or certified mail service of the complaint and notice is not claimed, and if the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action makes a written request for ordinary mail service of the complaint and notice, or uses publication service, in accordance with the Rules of Civil Procedure, then a copy of the complaint and notice shall be posted in a conspicuous place on the building.

(b) The judge in a civil action described in division (B)(1) of this section shall conduct a hearing at least twenty-eight days after the owner of the building and the other interested parties have been served with a copy of the complaint and the notice of the date and time of the hearing in accordance with division (B)(2)(a) of this section.

(c) In considering whether subsidized housing is a public nuisance, the judge shall construe the standards set forth in division (A)(2)(b) of this section in a manner consistent with department of housing and urban development and judicial interpretations of those standards. The judge shall deem that the property is not a public nuisance if during the twelve months prior to the service of the notice that division (B)(1)(b) of this section requires, the department of housing and urban development's real estate assessment center issued a score of seventy-five or higher out of a possible one hundred points pursuant to its regulations governing the physical condition of multifamily properties pursuant to 24 C.F.R. part 200, subpart P, and since the most recent inspection, there has been no significant change in the property's conditions that would create a serious threat to the health, safety, or welfare of the property's tenants.

(C)(1) If the judge in a civil action described in division (B)(1) of this section finds at the hearing





required by division (B)(2) of this section that the building involved is a public nuisance, if the judge additionally determines that the owner of the building previously has not been afforded a reasonable opportunity to abate the public nuisance or has been afforded such an opportunity and has not refused or failed to abate the public nuisance, and if the complaint of the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action requested the issuance of an injunction as described in this division, then the judge may issue an injunction requiring the owner of the building to abate the public nuisance or issue any other order that the judge considers necessary or appropriate to cause the abatement of the public nuisance. If an injunction is issued pursuant to this division, the owner of the building involved shall be given no more than thirty days from the date of the entry of the judge's order to comply with the injunction, unless the judge, for good cause shown, extends the time for compliance.

(2) If the judge in a civil action described in division (B)(1) of this section finds at the hearing required by division (B)(2) of this section that the building involved is a public nuisance, if the judge additionally determines that the owner of the building previously has been afforded a reasonable opportunity to abate the public nuisance and has refused or failed to do so, and if the complaint of the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action requested relief as described in this division, then the judge shall offer any mortgagee, lienholder, or other interested party associated with the property on which the building is located, in the order of the priority of interest in title, the opportunity to undertake the work and to furnish the materials necessary to abate the public nuisance. Prior to selecting any interested party, the judge shall require the interested party to demonstrate the ability to promptly undertake the work and furnish the materials required, to provide the judge with a viable financial and construction plan for the rehabilitation of the building as described in division (D) of this section, and to post security for the performance of the work and the furnishing of the materials.

If the judge determines, at the hearing, that no interested party is willing or able to undertake the work and to furnish the materials necessary to abate the public nuisance, or if the judge determines, at any time after the hearing, that any party who is undertaking corrective work pursuant to this division cannot or will not proceed, or has not proceeded with due diligence, the judge may appoint a receiver pursuant to division (C)(3) of this section to take possession and control of the building.

(3)(a) The judge in a civil action described in division (B)(1) of this section shall not appoint any



person as a receiver unless the person first has provided the judge with a viable financial and construction plan for the rehabilitation of the building involved as described in division (D) of this section and has demonstrated the capacity and expertise to perform the required work and to furnish the required materials in a satisfactory manner. An appointed receiver may be a financial institution that possesses an interest of record in the building or the property on which it is located, a nonprofit corporation as described in divisions (B)(1) and (C)(3)(b) of this section, including, but not limited to, a nonprofit corporation that commenced the action described in division (B)(1) of this section, or any other qualified property manager.

(b) To be eligible for appointment as a receiver, no part of the net earnings of a nonprofit corporation shall inure to the benefit of any private shareholder or individual. Membership on the board of trustees of a nonprofit corporation appointed as a receiver does not constitute the holding of a public office or employment within the meaning of sections 731.02 and 731.12 or any other section of the Revised Code and does not constitute a direct or indirect interest in a contract or expenditure of money by any municipal corporation. A member of a board of trustees of a nonprofit corporation appointed as a receiver shall not be disqualified from holding any public office or employment, and shall not forfeit any public office or employment, by reason of membership on the board of trustees, notwithstanding any law to the contrary.

(D) Prior to ordering any work to be undertaken, or the furnishing of any materials, to abate a public nuisance under this section, the judge in a civil action described in division (B)(1) of this section shall review the submitted financial and construction plan for the rehabilitation of the building involved and, if it specifies all of the following, shall approve that plan:

- (1) The estimated cost of the labor, materials, and any other development costs that are required to abate the public nuisance;
- (2) The estimated income and expenses of the building and the property on which it is located after the furnishing of the materials and the completion of the repairs and improvements;
- (3) The terms, conditions, and availability of any financing that is necessary to perform the work and to furnish the materials;



(4) If repair and rehabilitation of the building are found not to be feasible, the cost of demolition of the building or of the portions of the building that constitute the public nuisance.

(E) Upon the written request of any of the interested parties to have a building, or portions of a building, that constitute a public nuisance demolished because repair and rehabilitation of the building are found not to be feasible, the judge may order the demolition. However, the demolition shall not be ordered unless the requesting interested parties have paid the costs of demolition and, if any, of the receivership, and, if any, all notes, certificates, mortgages, and fees of the receivership.

(F) Before proceeding with the duties of receiver, any receiver appointed by the judge in a civil action described in division (B)(1) of this section may be required by the judge to post a bond in an amount fixed by the judge, but not exceeding the value of the building involved as determined by the judge.

The judge may empower the receiver to do any or all of the following:

(1) Take possession and control of the building and the property on which it is located, operate and manage the building and the property, establish and collect rents and income, lease and rent the building and the property, and evict tenants;

(2) Pay all expenses of operating and conserving the building and the property, including, but not limited to, the cost of electricity, gas, water, sewerage, heating fuel, repairs and supplies, custodian services, taxes and assessments, and insurance premiums, and hire and pay reasonable compensation to a managing agent;

(3) Pay pre-receivership mortgages or installments of them and other liens;

(4) Perform or enter into contracts for the performance of all work and the furnishing of materials necessary to abate, and obtain financing for the abatement of, the public nuisance;

(5) Pursuant to court order, remove and dispose of any personal property abandoned, stored, or otherwise located in or on the building and the property that creates a dangerous or unsafe condition or that constitutes a violation of any local building, housing, air pollution, sanitation, health, fire,



zoning, or safety code, ordinance, or regulation;

(6) Obtain mortgage insurance for any receiver's mortgage from any agency of the federal government;

(7) Enter into any agreement and do those things necessary to maintain and preserve the building and the property and comply with all local building, housing, air pollution, sanitation, health, fire, zoning, or safety codes, ordinances, resolutions, and regulations;

(8) Give the custody of the building and the property, and the opportunity to abate the nuisance and operate the property, to its owner or any mortgagee or lienholder of record;

(9) Issue notes and secure them by a mortgage bearing interest, and upon terms and conditions, that the judge approves. When sold or transferred by the receiver in return for valuable consideration in money, material, labor, or services, the notes or certificates shall be freely transferable. Any mortgages granted by the receiver shall be superior to any claims of the receiver. Priority among the receiver's mortgages shall be determined by the order in which they are recorded.

(G) A receiver appointed pursuant to this section is not personally liable except for misfeasance, malfeasance, or nonfeasance in the performance of the functions of the office of receiver.

(H)(1) The judge in a civil action described in division (B)(1) of this section may assess as court costs, the expenses described in division (F)(2) of this section, and may approve receiver's fees to the extent that they are not covered by the income from the property. Subject to that limitation, a receiver appointed pursuant to divisions (C)(2) and (3) of this section is entitled to receive fees in the same manner and to the same extent as receivers appointed in actions to foreclose mortgages.

(2)(a) Pursuant to the police powers vested in the state, all expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance, and any expenditures in connection with the foreclosure of the lien created by this division, is a first lien upon the building involved and the property on which it is located and is superior to all prior and subsequent liens or other encumbrances associated with the building or the property, including, but not limited to, those



for taxes and assessments, upon the occurrence of both of the following:

(i) The prior approval of the expenditures by, and the entry of a judgment to that effect by, the judge in the civil action described in division (B)(1) of this section;

(ii) The recordation of a certified copy of the judgment entry and a sufficient description of the property on which the building is located with the county recorder in the county in which the property is located within sixty days after the date of the entry of the judgment.

(b) Pursuant to the police powers vested in the state, all expenses and other amounts paid in accordance with division (F) of this section by a receiver appointed pursuant to divisions (C)(2) and (3) of this section, the amounts of any notes issued by the receiver in accordance with division (F) of this section, all mortgages granted by the receiver in accordance with that division, the fees of the receiver approved pursuant to division (H)(1) of this section, and any amounts expended in connection with the foreclosure of a mortgage granted by the receiver in accordance with division (F) of this section or with the foreclosure of the lien created by this division, are a first lien upon the building involved and the property on which it is located and are superior to all prior and subsequent liens or other encumbrances associated with the building or the property, including, but not limited to, those for taxes and assessments, upon the occurrence of both of the following:

(i) The approval of the expenses, amounts, or fees by, and the entry of a judgment to that effect by, the judge in the civil action described in division (B)(1) of this section; or the approval of the mortgages in accordance with division (F)(9) of this section by, and the entry of a judgment to that effect by, that judge;

(ii) The recordation of a certified copy of the judgment entry and a sufficient description of the property on which the building is located, or, in the case of a mortgage, the recordation of the mortgage, a certified copy of the judgment entry, and such a description, with the county recorder of the county in which the property is located within sixty days after the date of the entry of the judgment.

(c) Priority among the liens described in divisions (H)(2)(a) and (b) of this section shall be determined as described in division (I) of this section. Additionally, the creation pursuant to this



section of a mortgage lien that is prior to or superior to any mortgage of record at the time the mortgage lien is so created, does not disqualify the mortgage of record as a legal investment under Chapter 1107. or any other chapter of the Revised Code.

(I)(1) If a receiver appointed pursuant to divisions (C)(2) and (3) of this section files with the judge in the civil action described in division (B)(1) of this section a report indicating that the public nuisance has been abated, if the judge confirms that the receiver has abated the public nuisance, and if the receiver or any interested party requests the judge to enter an order directing the receiver to sell the building and the property on which it is located, the judge may enter that order after holding a hearing as described in division (I)(2) of this section and otherwise complying with that division.

(2)(a) The receiver or interested party requesting an order as described in division (I)(1) of this section shall cause a notice of the date and time of a hearing on the request to be served on the owner of the building involved and all other interested parties in accordance with division (B)(2)(a) of this section. The judge in the civil action described in division (B)(1) of this section shall conduct the scheduled hearing. At the hearing, if the owner or any interested party objects to the sale of the building and the property, the burden of proof shall be upon the objecting person to establish, by a preponderance of the evidence, that the benefits of not selling the building and the property outweigh the benefits of selling them. If the judge determines that there is no objecting person, or if the judge determines that there is one or more objecting persons but no objecting person has sustained the burden of proof specified in this division, the judge may enter an order directing the receiver to offer the building and the property for sale upon terms and conditions that the judge shall specify.

(b) In any sale of subsidized housing that is ordered pursuant to this section, the judge shall specify that the subsidized housing not be conveyed unless that conveyance complies with applicable federal law and applicable program contracts for that housing. Any such conveyance shall be subject to the condition that the purchaser enter into a contract with the department of housing and urban development or the rural housing service of the federal department of agriculture under which the property continues to be subsidized housing and the owner continues to operate that property as subsidized housing unless the secretary of housing and urban development or the administrator of the rural housing service terminates that property's contract prior to or upon the conveyance of the property.



(3) If a sale of a building and the property on which it is located is ordered pursuant to divisions (I)(1) and (2) of this section and if the sale occurs in accordance with the terms and conditions specified by the judge in the judge's order of sale, then the receiver shall distribute the proceeds of the sale and the balance of any funds that the receiver may possess, after the payment of the costs of the sale, in the following order of priority and in the described manner:

(a) First, in satisfaction of any notes issued by the receiver pursuant to division (F) of this section, in their order of priority;

(b) Second, any unreimbursed expenses and other amounts paid in accordance with division (F) of this section by the receiver, and the fees of the receiver approved pursuant to division (H)(1) of this section;

(c) Third, all expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance, provided that the expenditures were approved as described in division (H)(2)(a) of this section and provided that, if any such interested party subsequently became the receiver, its expenditures shall be paid prior to the expenditures of any of the other interested parties so selected;

(d) Fourth, the amount due for delinquent taxes, assessments, charges, penalties, and interest owed to this state or a political subdivision of this state, provided that, if the amount available for distribution pursuant to division (I)(3)(d) of this section is insufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the proceeds and remaining funds shall be paid to each claimant in proportion to the amount of those taxes, assessments, charges, penalties, and interest that each is due.

(e) The amount of any pre-receivership mortgages, liens, or other encumbrances, in their order of priority.

(4) Following a distribution in accordance with division (I)(3) of this section, the receiver shall request the judge in the civil action described in division (B)(1) of this section to enter an order terminating the receivership. If the judge determines that the sale of the building and the property on



which it is located occurred in accordance with the terms and conditions specified by the judge in the judge's order of sale under division (I)(2) of this section and that the receiver distributed the proceeds of the sale and the balance of any funds that the receiver possessed, after the payment of the costs of the sale, in accordance with division (I)(3) of this section, and if the judge approves any final accounting required of the receiver, the judge may terminate the receivership.

(J)(1) A receiver appointed pursuant to divisions (C)(2) and (3) of this section may be discharged at any time in the discretion of the judge in the civil action described in division (B)(1) of this section. The receiver shall be discharged by the judge as provided in division (I)(4) of this section, or when all of the following have occurred:

(a) The public nuisance has been abated;

(b) All costs, expenses, and approved fees of the receivership have been paid;

(c) Either all receiver's notes issued and mortgages granted pursuant to this section have been paid, or all the holders of the notes and mortgages request that the receiver be discharged.

(2) If a judge in a civil action described in division (B)(1) of this section determines that, and enters of record a declaration that, a public nuisance has been abated by a receiver, and if, within three days after the entry of the declaration, all costs, expenses, and approved fees of the receivership have not been paid in full, then, in addition to the circumstances specified in division (I) of this section for the entry of such an order, the judge may enter an order directing the receiver to sell the building involved and the property on which it is located. Any such order shall be entered, and the sale shall occur, only in compliance with division (I) of this section.

(K) The title in any building, and in the property on which it is located, that is sold at a sale ordered under division (I) or (J)(2) of this section shall be incontestable in the purchaser and shall be free and clear of all liens for delinquent taxes, assessments, charges, penalties, and interest owed to this state or any political subdivision of this state, that could not be satisfied from the proceeds of the sale and the remaining funds in the receiver's possession pursuant to the distribution under division (I)(3) of this section. All other liens and encumbrances with respect to the building and the property shall survive the sale, including, but not limited to, a federal tax lien notice properly filed in accordance





with section 317.09 of the Revised Code prior to the time of the sale, and the easements and covenants of record running with the property that were created prior to the time of the sale.

(L)(1) Nothing in this section shall be construed as a limitation upon the powers granted to a court of common pleas, a municipal court or a housing or environmental division of a municipal court under Chapter 1901. of the Revised Code, or a county court under Chapter 1907. of the Revised Code.

(2) The monetary and other limitations specified in Chapters 1901. and 1907. of the Revised Code upon the jurisdiction of municipal and county courts, and of housing or environmental divisions of municipal courts, in civil actions do not operate as limitations upon any of the following:

(a) Expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance;

(b) Any notes issued by a receiver pursuant to division (F) of this section;

(c) Any mortgage granted by a receiver in accordance with division (F) of this section;

(d) Expenditures in connection with the foreclosure of a mortgage granted by a receiver in accordance with division (F) of this section;

(e) The enforcement of an order of a judge entered pursuant to this section;

(f) The actions that may be taken pursuant to this section by a receiver or a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance.

(3) A judge in a civil action described in division (B)(1) of this section, or the judge's successor in office, has continuing jurisdiction to review the condition of any building that was determined to be a public nuisance pursuant to this section.

(4) Nothing in this section shall be construed to limit or prohibit a municipal corporation or township



AUTHENTICATED,  
OHIO LEGISLATIVE SERVICE  
COMMISSION  
DOCUMENT #241330

that has filed with the superintendent of insurance a certified copy of an adopted resolution, ordinance, or regulation authorizing the procedures described in divisions (C) and (D) of section 3929.86 of the Revised Code from receiving insurance proceeds under section 3929.86 of the Revised Code.



**YOURKVITCH & DIBO**  
ATTORNEYS AT LAW



# Combating Vacant Property

**THE LEGAL APPROACH TO NUISANCE  
PROPERTY – UTILIZING O.R.C. § 3767.41  
MATTHEW P. YOURKVITCH, ESQ.**

# Why Me?



- Research and Litigation Assistant to Clinical Professor Emeritus Kermit J. Lind Esq. at Cleveland Marshall College of Law.
- Served on Litigation team for:
  - Cleveland Hous. Renewal Project v. Deutsche Bank Trust Co., Case No. 1:08-CV-3003, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, 606 F. Supp. 2d 698; 2009 U.S. Dist. LEXIS 29413, March 26, 2009.
  - Cleveland Hous. Renewal Project v. Wells Fargo Bank, Case No. 1:08-CV-3011, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO; Cleveland Municipal Court Division of Housing, Case No. 08-cvh-31391.
- 2009-2010 - Cleveland Municipal Housing Court Law Fellowship under Honorable Raymond L. Pianka
- Currently represent various Cleveland area Community Development Corporations- Cleveland Neighborhood Progress, Detroit Shoreway, Northeast Shores, Fairfax, Famicos Foundation, One South Euclid, Tremont, Ohio City, Cuyahoga County Land Reutilization Corporation.
- Adjunct Professor at Cleveland Marshall College of Law.

## O.R.C. §3767.41



- (A)(2)- “Public Nuisance” means a building that is a menace to the public health, welfare, or safety;
- that is structurally unsafe, unsanitary, or not provided with adequate safe egress;
- that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable;
- or that in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

# O.R.C. §3767.41



- (A)(3)- “Abate” or “abatement” in connection with any building means
- the removal or correction of any conditions that constitute a public nuisance **and**
- the making of any other improvements that are needed to effect a rehabilitation of the building that is consistent with maintaining safe and habitable conditions *over its remaining useful life.*
- “Abatement” does not include the closing or boarding up of any building that is found to be a public nuisance.

# O.R.C. §3767.41



- Provides the ability to bring a civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to buildings.
- Civil action may be commenced by
  - A Municipal Corporation (City of Cleveland) where the building is located.
  - A “Neighbor” – property owner within 500 feet
  - A “Tenant” of the building
  - A **“Nonprofit corporation”** – who **“has as one of its goals the improvement of housing conditions in the county or municipal corporation in which the building involved is located.”**

# O.R.C. §3767.41



- Provides for relief via Judicial Order by
  - Injunction requiring the owner to abate the public nuisance within 30 days.
  - Abatement of the public nuisance by a “interested party” (approved of by court)
  - Receivership- the appointment of a “receiver” to take possession and control of the building and abate the public nuisance.



# O.R.C. §3767.41



- Key provisions

(G) “A receiver ... is not personally liable except for misfeasance, malfeasance, or nonfeasance in the performance of his office.”

(H)(2)(a) – All approved costs incurred by the receiver and the receiver’s fees, is a *first lien* upon the building and property.

The receivers lien is superior to all prior and subsequent liens or encumbrances, including those for taxes and assessments.

# O.R.C. §3767.41



- If the building or property is sold at Sheriff sale, the distribution of the funds are as follows;
  - 1. Receiver's lien (costs and fees)
  - 2. Delinquent taxes, assessments, charges, penalties, and interest owed to the State or political subdivision of the state.
  - 3. Pre-Receivership mortgages, liens or encumbrances, in their order of priority.
- Typically the “receiver’s lien” is greater than the value of the property and the receiver obtains title to the property at Sheriff sale.

# Why Civil Nuisance Abatement?



- There are typically two types of action to enforce Building and Housing Codes
  - Criminal Code Enforcement
  - Administrative (demolition, boarding, repair)
- Limitations: Jurisdiction, Remedies, Resources
  - Jurisdiction over Person (Defendant) not Property
  - Fines and/or Jail time
  - High Volume of Distressed Properties
  - Shrinking municipal budgets
- Civil Nuisance Abatement under R.C. 3767.41 allows jurisdiction over the Person as well as the Property and may be filed by Neighbor or Nonprofit Development Corporation.

# Advantages of Civil Nuisance Abatement Actions



- Municipal Government, Nonprofit Corporations, Neighbor or Tenant may bring a Civil Action to eliminate public nuisance buildings within their community
- Jurisdiction over Property in addition to Jurisdiction over Person
- Rehabilitation Option
- Targeted Demolitions
- “All expenditures...necessary to abate a public nuisance...[are] a first priority lien, superior to all prior and subsequent liens...including taxes and assessments...” O.R.C. §3767.41(H)(2)(a).
- Mortgagees have displayed a greater willingness to release/disclaim interest once they are apprised of legal action.

# Strategic use of O.R.C. § 3767.41



- Targeted Nuisance Abatement to support and protect neighborhood Assets
  - Schools
  - Churches
  - Residential Development Projects
  - Historic Buildings
  - Infrastructure Improvements
  - Business Stakeholders
  - Business Improvement Districts

# Historic Revitalization



- The Sylvania was a 22-unit apartment building, originally constructed in the 1920's.
- A nuisance abatement action was filed in December of 2008, because the 4 remaining tenants were without utilities and the owner was deceased.
- It was viewed as being essential to continuing reinvestment in the community and expansion of housing opportunities for low income families.
- Now - The Sylvania will provide 18 units of high-quality affordable housing for tenants of all generations while retaining its historic integrity and National Register status.

# Mixed-use Commercial Buildings



- “Building” means...any building or structure that is used or intended to be used for residential purposes.
- “Building” includes but is not limited to, a building or structure in which any floor is used for [anything].... and in which other floors are used, or designed and intended to be used, for residential purposes.
- “Building” does not include any building or structure that is occupied by its owner and that contains three or fewer residential units. [Mrs. Murphy Exception]

# Support Commercial and Residential Development projects



- Determine opportunities for site expansion
- Determine opportunities to address surrounding housing conditions
- Identify areas which could support private development
- Identify opportunities for in-fill housing or mixed-use development
- Reach out to Responsible Property Owners; Developers; Business Owners



# Problems and Limitations of Civil Nuisance Abatement Actions



- Lack of Awareness – Statute is Underutilized
- Upfront Costs – Legal Fees and Costs
- Capacity to act as receiver
- Extensive Procedural Requirements
  - Receivership
  - Foreclosure
- Litigation Timeline – 12-18 months (best case)
- Perfecting Service of Process
  - Identifying all Parties in Interest
  - Unknown Heirs and Spouses

# Additional Information:



- Matthew P. Yourkvitch, Esq.
- [mpy@goydlaw.com](mailto:mpy@goydlaw.com)
- 216-367-1330
- 1549 Hamilton Ave. Ste. 200 Cleveland, Ohio 44114
- [www.goydlaw.com](http://www.goydlaw.com)



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ATTORNEYS AT LAW























































**RESOLUTION 22-14**

**INTRODUCED BY:** Mayor Brennan

**A RESOLUTION OF NECESSITY DECLARING THE INTENT TO APPROPRIATE AND ACQUIRE THE FEE SIMPLE INTEREST IN CERTAIN REAL PROPERTY TITLED TO UNIVERSITY SQUARE PARKING LLC, KNOWN AS 14060 CEDAR ROAD, BEARING PERMANENT PARCEL NO. 721-01-003, CITY OF UNIVERSITY HEIGHTS, COUNTY OF CUYAHOGA, STATE OF OHIO, AS MORE FULLY DESCRIBED HEREIN, FOR THE PURPOSE OF ELIMINATING BLIGHT.**

**WHEREAS**, City Council deems it necessary to appropriate certain property known as 14060 Cedar Road, University Heights, Ohio for the purpose of eliminating blighted property, and wishes to present the results of an appraisal of said property to the owner thereof, and wishes to present the owner thereof with a Notice of Intent to Acquire said property, and wishes for negotiations to be conducted in connection with the acquisition of same, and wishes to ratify any of the foregoing;

**WHEREAS**, the property (the “Property”) includes a public parking facility that is part of the University Square Shopping Center development and that was originally designed to house retail businesses (the “Garage”);

**WHEREAS**, the Garage is dark, damp, unsafe, and in need of capital improvements;

**WHEREAS**, the Garage has been cited by the City’s Building Department and Fire Prevention Bureau for numerous building code violations;

**WHEREAS**, the interior spaces of the Garage are poorly maintained and include debris, overflowing trash receptacles, and built up mud, dirt and grime;

**WHEREAS**, the ramp leading up to the top floor of the Garage requires repair and improvement;

**WHEREAS**, the Property and the Garage are characterized by age and obsolescence, unsafe and unsanitary conditions, hazards that endanger lives or properties by fire or other causes, noncompliance with building and fire codes, and faulty lot layout in relation to size, adequacy, accessibility and usefulness;

**WHEREAS**, the Garage is significantly underutilized;

**WHEREAS**, the condition of the Garage adversely impacts the value of surrounding properties;

**WHEREAS**, it is in the interests of the health, safety and welfare of the City’s citizens that the City eliminate blighted property by acquiring Permanent Parcel No. 721-01-001 located at 2203 Warrensville Center Road, University Heights, Ohio;

**NOW THEREFORE BE IT RESOLVED** by the Council of the City of University Heights, County of Cuyahoga, State of Ohio, that:

**SECTION 1.** Council hereby declares its intent to appropriate and acquire the fee simple interest in the Property to eliminate blight, and to pursue a redevelopment plan for the Property in accordance with the requirements of Ohio Revised Code Chapter 163. A legal description of the Property is attached hereto as Exhibit A, which is incorporated herein by reference as if fully re-written.

**SECTION 2.** Council hereby directs the Mayor or his designee to present the owner of the Property and other interested parties with a Notice of Intent to Acquire said Property, and wishes for negotiations to be conducted in connection with the acquisition of same

**SECTION 3.** The Clerk of Council shall mail by certified mail or personally deliver a copy of this Resolution of Necessity to the owner of the Property.

**SECTION 4.** Council hereby directs the Mayor or designee to send or personally deliver a Notice of Intent to Acquire to be sent to the owner of the Property, in the form required by R.C. Section 163.041.

**SECTION 5.** Council hereby affirms the need for the Property and wishes to proceed to acquire said Property to eliminate blight.

**SECTION 6.** This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

**SECTION 5.** This Resolution shall be in effect at the earliest date permitted by law.

**CITY OF UNIVERSITY HEIGHTS, OHIO**

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**MICHAEL DYLAN BRENNAN, MAYOR**

**PASSED:**

**ATTEST:**

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**KELLY M. THOMAS, CLERK OF COUNCIL**

**APPROVED AS TO FORM:**

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**LUKE F. MCCONVILLE, LAW DIRECTOR**

PASSED: \_\_\_\_\_, 2022

EXHIBIT A

**ORDINANCE NO. 2022-15**

Introduced By: Mayor Michael Dylan Brennan

**AN ORDINANCE AUTHORIZING PERMANENT APPROPRIATIONS FOR  
CURRENT AND OTHER EXPENDITURES OF THE CITY OF UNIVERSITY  
HEIGHTS, OHIO FOR THE PERIOD COMMENCING JANUARY 1, 2022 AND  
ENDING DECEMBER 31, 2022**

**NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
UNIVERSITY HEIGHTS, OHIO THAT:**

**Section 1.** To provide for the current expenses and other expenditures for the City of University Heights, Ohio for the period commencing January 1, 2022 and ending December 31, 2022, City Council authorizes the Permanent Appropriations as herein set forth as Attachment A.

**Section 2.** The Council finds and determined that all formal actions of this Council relating to the adoption of this Ordinance 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.

**City of University Heights**

\_\_\_\_\_  
**Michael Dylan Brennan, Mayor**

**First Reading:** \_\_\_\_\_

**Passed:** \_\_\_\_\_

**Attest:** \_\_\_\_\_  
**Kelly M. Thomas, Clerk of Council**

**Approved  
as to form:** \_\_\_\_\_  
**Luke F. McConville, Law Director**

**CITY OF UNIVERSITY HEIGHTS**  
**ATTACHMENT A - 2022 Permanent Appropriations**  
**For the period January 1, 2022 to December 31, 2022**

2/22/2022

Appropriations Grouping	2022 Expense Budget
<b>Expense</b>	<b>16,666,313.00</b>
<b>1100 Public Safety</b>	<b>1,488.00</b>
Other	1,488.00
<b>1110 Police Department</b>	<b>4,463,508.00</b>
Personnel	4,090,032.00
Other	373,476.00
<b>1120 Fire Department</b>	<b>4,621,133.00</b>
Personnel	4,225,723.00
Other	395,410.00
<b>1121 Fire Prevention Bureau</b>	<b>385,063.00</b>
Personnel	330,939.00
Other	54,124.00
<b>1130 Dispatch</b>	<b>433,950.00</b>
Other	433,950.00
<b>1140 Traffic Control</b>	<b>207,017.00</b>
Personnel	48,477.00
Other	158,540.00
<b>1150 Animal Control</b>	<b>12,000.00</b>
Other	12,000.00
<b>1160 Prisoner Housing</b>	<b>108,546.00</b>
Other	108,546.00
<b>1170 Prosecutor</b>	<b>85,277.00</b>
Personnel	81,908.00
Other	3,369.00
<b>1180 Courts</b>	<b>39,656.00</b>
Other	39,656.00
<b>1190 County Health Department</b>	<b>73,788.00</b>
Other	73,788.00
<b>1210 Building Department</b>	<b>428,498.00</b>
Personnel	484.00
Other	428,014.00
<b>1220 Housing Department</b>	<b>359,127.00</b>
Personnel	273,850.00
Other	85,277.00
<b>1230 Community Development</b>	<b>75,114.00</b>
Personnel	50,658.00
Other	24,456.00

\*Report Contains Filters

**CITY OF UNIVERSITY HEIGHTS**  
**ATTACHMENT A - 2022 Permanent Appropriations**  
**For the period January 1, 2022 to December 31, 2022**

2/22/2022

Appropriations Grouping	2022 Expense Budget
<b>1240 Economic Development</b>	<b>245,319.00</b>
Personnel	108,653.00
Other	136,666.00
<b>1310 Pool Activity</b>	<b>342,087.00</b>
Personnel	239,520.00
Other	102,567.00
<b>1320 Summer Recreation Activities</b>	<b>31,118.00</b>
Personnel	27,271.00
Other	3,847.00
<b>1330 Recreation - Entertainment</b>	<b>47,408.00</b>
Other	47,408.00
<b>1400 Public Service Department</b>	<b>583,740.00</b>
Personnel	551,419.00
Other	32,321.00
<b>1410 Lands and Buildings</b>	<b>385,328.00</b>
Personnel	117,521.00
Other	267,807.00
<b>1420 Refuse Collection</b>	<b>1,239,827.00</b>
Personnel	887,326.00
Other	352,501.00
<b>1470 City Engineer</b>	<b>81,237.00</b>
Personnel	12,360.00
Other	68,877.00
<b>1510 Civil Service Commission</b>	<b>18,385.00</b>
Personnel	2,750.00
Other	15,635.00
<b>1520 City Planning Commission</b>	<b>4,958.00</b>
Personnel	2,500.00
Other	2,458.00
<b>1530 Board of Zoning Appeals</b>	<b>4,966.00</b>
Personnel	2,945.00
Other	2,021.00
<b>1540 Architectural Review Board</b>	<b>4,200.00</b>
Personnel	2,800.00
Other	1,400.00
<b>1600 General City Administration</b>	<b>474,576.00</b>
Personnel	74,730.00
Other	399,846.00

\*Report Contains Filters



**CITY OF UNIVERSITY HEIGHTS**  
**ATTACHMENT A - 2022 Permanent Appropriations**  
**For the period January 1, 2022 to December 31, 2022**

2/22/2022

Appropriations Grouping	2022 Expense Budget
<b>1610 Mayor's Office</b>	<b>208,725.00</b>
Personnel	191,022.00
Other	17,703.00
<b>1620 City Council</b>	<b>202,878.00</b>
Personnel	155,116.00
Other	47,762.00
<b>1630 Finance Department</b>	<b>693,218.00</b>
Personnel	251,972.00
Other	441,246.00
<b>1640 Law Department</b>	<b>326,318.00</b>
Personnel	93,779.00
Other	232,539.00
<b>1650 Civic Engagement</b>	<b>132,265.00</b>
Personnel	88,978.00
Other	43,287.00
<b>1660 Community Relations</b>	<b>21,595.00</b>
Personnel	3,369.00
Other	18,226.00
<b>1999 Not Defined</b>	<b>324,000.00</b>
Other	324,000.00
<b>101 Unclaimed Monies Fund</b>	<b>2,000.00</b>
<b>Expense</b>	<b>2,000.00</b>
<b>1600 General City Administration</b>	<b>2,000.00</b>
Other	2,000.00
<b>200 Street Maintenance Fund</b>	<b>1,072,448.00</b>
<b>Expense</b>	<b>1,072,448.00</b>
<b>1430 Street Maintenance and Repair</b>	<b>982,199.00</b>
Personnel	208,093.00
Other	774,106.00
<b>1470 City Engineer</b>	<b>90,249.00</b>
Other	90,249.00
<b>201 Sewer &amp; Water Maintenance Fund</b>	<b>1,116,453.00</b>
<b>Expense</b>	<b>1,116,453.00</b>
<b>1440 Sewer and Water Maintenance</b>	<b>1,116,453.00</b>
Personnel	89,040.00
Other	1,027,413.00
<b>1470 City Engineer</b>	<b>0.00</b>
Other	0.00

\*Report Contains Filters

**CITY OF UNIVERSITY HEIGHTS**  
**ATTACHMENT A - 2022 Permanent Appropriations**  
**For the period January 1, 2022 to December 31, 2022**

2/22/2022

Appropriations Grouping	2022 Expense Budget
<b>202 Shade Tree Maintenance Fund</b>	<b>364,056.00</b>
<b>Expense</b>	<b>364,056.00</b>
<b>1450 Shade Tree Maintenance</b>	<b>364,056.00</b>
Personnel	42,594.00
Other	321,462.00
<b>203 Street Lighting Fund</b>	<b>225,000.00</b>
<b>Expense</b>	<b>225,000.00</b>
<b>1460 Street Lighting</b>	<b>225,000.00</b>
Other	225,000.00
<b>210 Police Pension Fund</b>	<b>125,000.00</b>
<b>Expense</b>	<b>125,000.00</b>
<b>1110 Police Department</b>	<b>125,000.00</b>
Personnel	125,000.00
<b>211 State &amp; Local Law Enforcement Fund</b>	<b>10,500.00</b>
<b>Expense</b>	<b>10,500.00</b>
<b>1110 Police Department</b>	<b>10,500.00</b>
Other	10,500.00
<b>212 Federal Law Enforcement Fund</b>	<b>9,622.00</b>
<b>Expense</b>	<b>9,622.00</b>
<b>1110 Police Department</b>	<b>9,622.00</b>
Other	9,622.00
<b>213 Community Diversion Grant Fund</b>	<b>14,000.00</b>
<b>Expense</b>	<b>14,000.00</b>
<b>1110 Police Department</b>	<b>14,000.00</b>
Other	14,000.00
<b>214 BCI &amp; FBI Fee Fund</b>	<b>2,996.00</b>
<b>Expense</b>	<b>2,996.00</b>
<b>1110 Police Department</b>	<b>996.00</b>
Other	996.00
<b>1999 Not Defined</b>	<b>2,000.00</b>
Other	2,000.00
<b>220 Fire Pension Fund</b>	<b>125,000.00</b>
<b>Expense</b>	<b>125,000.00</b>
<b>1120 Fire Department</b>	<b>125,000.00</b>
Personnel	125,000.00
<b>221 Ohio Department of Public Safety (ODPS) Grant Fund</b>	<b>11,741.00</b>
<b>Expense</b>	<b>11,741.00</b>
<b>1120 Fire Department</b>	<b>11,741.00</b>
Other	11,741.00

\*Report Contains Filters

**CITY OF UNIVERSITY HEIGHTS**  
**ATTACHMENT A - 2022 Permanent Appropriations**  
**For the period January 1, 2022 to December 31, 2022**

2/22/2022

Appropriations Grouping	2022 Expense Budget
<b>222 Federal Emergency Management Agency (FEMA) Grant Fund</b>	<b>4,632.00</b>
Expense	<b>4,632.00</b>
1120 Fire Department	<b>4,632.00</b>
Other	4,632.00
<b>230 Ohio Board of Building Standards Fee Fund</b>	<b>6,946.00</b>
Expense	<b>6,946.00</b>
1210 Building Department	<b>6,946.00</b>
Other	6,946.00
<b>231 Construction Deposits Fund</b>	<b>2,332.00</b>
Expense	<b>2,332.00</b>
1210 Building Department	<b>1,332.00</b>
Other	1,332.00
1470 City Engineer	<b>1,000.00</b>
Other	1,000.00
<b>232 Street Opening Deposit Fund</b>	<b>1,000.00</b>
Expense	<b>1,000.00</b>
1210 Building Department	<b>1,000.00</b>
Other	1,000.00
<b>240 University Square TIF Fund</b>	<b>320,303.00</b>
Expense	<b>320,303.00</b>
1250 TIF Accounting	<b>320,303.00</b>
Other	320,303.00
<b>242 Ohio Department of Natural Resources (ODNR) Grant Fund</b>	<b>645.92</b>
Expense	<b>645.92</b>
1999 Not Defined	<b>645.92</b>
Other	645.92
<b>250 Performance Bond Fund</b>	<b>6,000.00</b>
Expense	<b>6,000.00</b>
1210 Building Department	<b>1,000.00</b>
Other	1,000.00
1600 General City Administration	<b>5,000.00</b>
Other	5,000.00
<b>297 Local Coronavirus Relief Fund</b>	<b>1,049,506.00</b>
Expense	<b>1,049,506.00</b>
1110 Police Department	<b>0.00</b>
Personnel	0.00
Other	0.00
1120 Fire Department	<b>0.00</b>
Personnel	0.00
Other	0.00

\*Report Contains Filters

**CITY OF UNIVERSITY HEIGHTS**  
**ATTACHMENT A - 2022 Permanent Appropriations**  
**For the period January 1, 2022 to December 31, 2022**

2/22/2022

Appropriations Grouping	2022 Expense Budget
<b>1121 Fire Prevention Bureau</b>	<b>0.00</b>
Other	0.00
<b>1400 Public Service Department</b>	<b>0.00</b>
Other	0.00
<b>1410 Lands and Buildings</b>	<b>0.00</b>
Other	0.00
<b>1420 Refuse Collection</b>	<b>0.00</b>
Other	0.00
<b>1430 Street Maintenance and Repair</b>	<b>847,026.00</b>
Other	847,026.00
<b>1470 City Engineer</b>	<b>182,480.00</b>
Other	182,480.00
<b>1600 General City Administration</b>	<b>20,000.00</b>
Other	20,000.00
<b>1610 Mayor's Office</b>	<b>0.00</b>
Other	0.00
<b>1630 Finance Department</b>	<b>0.00</b>
Other	0.00
<b>1640 Law Department</b>	<b>0.00</b>
Other	0.00
<b>1650 Civic Engagement</b>	<b>0.00</b>
Other	0.00
<b>299 Payroll Stabilization Fund</b>	<b>0.00</b>
<b>300 General Obligation Debt Fund</b>	<b>443,066.00</b>
<b>Expense</b>	<b>443,066.00</b>
<b>1600 General City Administration</b>	<b>443,066.00</b>
Other	443,066.00
<b>400 General Capital Improvements Fund</b>	<b>1,059,236.00</b>
<b>Expense</b>	<b>1,059,236.00</b>
<b>1110 Police Department</b>	<b>189,390.00</b>
Other	189,390.00
<b>1120 Fire Department</b>	<b>220,010.00</b>
Other	220,010.00
<b>1121 Fire Prevention Bureau</b>	<b>5,000.00</b>
Other	5,000.00
<b>1310 Pool Activity</b>	<b>125,500.00</b>
Other	125,500.00

\*Report Contains Filters

**CITY OF UNIVERSITY HEIGHTS**  
**ATTACHMENT A - 2022 Permanent Appropriations**  
**For the period January 1, 2022 to December 31, 2022**

2/22/2022

Appropriations Grouping	2022 Expense Budget
<b>1400 Public Service Department</b>	<b>278,336.00</b>
Other	278,336.00
<b>1420 Refuse Collection</b>	<b>71,000.00</b>
Other	71,000.00
<b>1430 Street Maintenance and Repair</b>	<b>0.00</b>
Other	0.00
<b>1600 General City Administration</b>	<b>170,000.00</b>
Other	170,000.00
<b>401 Sewer &amp; Water Capital Improvements Fund</b>	<b>193,304.00</b>
<b>Expense</b>	<b>193,304.00</b>
<b>1440 Sewer and Water Maintenance</b>	<b>193,304.00</b>
Other	193,304.00
<b>411 Facilities Capital Improvement Fund</b>	<b>0.00</b>
<b>800 University Heights City Beautiful Corporation</b>	<b>8,893.00</b>
<b>Expense</b>	
<b>2200 Community Improvement Corporation</b>	
Other	
<hr/> <b>Grand Total</b>	<b>22,840,992.92</b>



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Glaus, Pyle, Schenker, Burns & DeHaven, Inc.

**Cleveland Office**

5595 Transportation Blvd  
Suite 100  
Cleveland, OH 44125

tel 216.518.5544  
fax 216.518.5545  
[www.gpdgroup.com](http://www.gpdgroup.com)

Honorable Michael D. Brennan, Mayor  
City of University Heights  
2300 Warrensville Center Road  
University Heights, Ohio 44118

February 14, 2022  
2022003.01

**RE: Cedar Road Sewer Repair Program**

Dear Mayor Brennan:

Bids were received on February 11, 2022, for the Cedar Road Sewer Repair Program. The project involves the repair/replacement of sanitary and storm sewers in 2 locations along the centerline of Cedar Road near Brockway. In one repair a 10" sanitary sewer located directly below a 30" storm sewer needs to be replaced. In the other location, an 8" sanitary sewer located directly below a 15" storm sewer needs to be replaced. Both sewers are deep sewers, and both require the storm sewer to be removed in order to get to the sanitary sewer below.

These sewers are owned and maintained by the City of University Hts.; therefore, it is the City responsibility to repair/replace them when they are in need of improvement. We applied for grant funding from NEORS and from OPWC last year but did not score high enough to merit award (in fact they were not close to the cut-off line for funding).

Both locations require equipment and expertise beyond the capability of our Service Department. Thus we elected to accept bids from contractors. The Service Dept. routinely responds to basement back-ups in this area due to the conditions of the sewers.

Four (4) bids were received, and they are listed below:

- |                             |              |
|-----------------------------|--------------|
| 1. Terrace Construction.    | \$107,853.00 |
| 2. Trax Construction        | \$155,549.00 |
| 3. Northeast Ohio Trenching | \$190,318.00 |
| 4. Perk Company             | \$269,366.00 |

In April of 2021, when we were applying for grants for this project, we estimated the cost of the work at \$82,000. Construction prices since that time have continued to escalate for materials and labor. We feel the low bid price is fair. We do not have an explanation for the discrepancy in the bid prices received, however we have contacted the low bidder and they are comfortable with their bid.

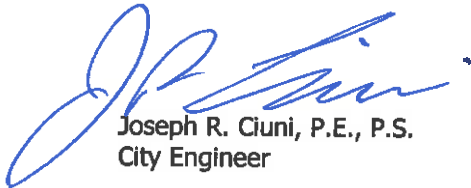
Honorable Michael D. Brennan, Mayor 2

February 14, 2022

Terrace Construction is a reputable contractor who has successfully completed many projects for the City of University Hts. and has been awarded the Traymore waterline replacement project which is scheduled to begin in April. We hereby recommend award of the Cedar Road Sewer Repair Program to Terrace Construction as the lowest and best bid at \$107,853.00.

Enclosed herewith is the tabulation of all bids received.

Very Truly Yours,



Joseph R. Ciuni, P.E., P.S.  
City Engineer

Cc: Jeff Pokorny, Service Director  
File 2022003.01

BID TABULATION

**CEDAR ROAD SEWER REPAIR PROGRAM**

CITY OF UNIVERSITY HEIGHTS, OHIO

11 FEBRUARY 2022

REF. NO.	CMS	ITEM DESCRIPTION	UNIT	APPROX. QTY. (x)	TERRACE CONSTRUCTION CO., INC.		
					UNIT \$ LABOR	UNIT \$ MATERIAL	TOTAL BID
1	255	FULL DEPTH PAVEMENT REPAIR, AS PER PLAN	SY	55	\$ 194.35	\$ 58.65	\$ 13,915.00
2	611	6 INCH STORM LATERAL, REMOVE AND REPLACE	FT	25	\$ 156.00	\$ 51.00	\$ 5,175.00
3	611	12 INCH STORM SEWER, REMOVE AND REPLACE	FT	20	\$ 158.60	\$ 97.40	\$ 5,120.00
4	611	15 INCH STORM SEWER, REMOVE AND REPLACE	FT	20	\$ 164.40	\$ 120.60	\$ 5,700.00
5	611	30 INCH STORM SEWER, REMOVE AND REPLACE	FT	40	\$ 226.75	\$ 376.75	\$ 24,140.00
6	611	6 INCH SANITARY LATERAL, REMOVE AND REPLACE	FT	25	\$ 150.00	\$ 27.00	\$ 4,425.00
7	611	8 INCH SANITARY SEWER, REMOVE AND REPLACE	FT	80	\$ 149.65	\$ 58.35	\$ 16,640.00
8	614	MAINTAINING TRAFFIC, AS PER PLAN	LS	1	\$ 1,860.00	\$ -	\$ 1,860.00
9	624	MOBILIZATION	LS	1	\$ 4,381.00	\$ -	\$ 4,381.00
10	SPCL	CONTINGENCY ALLOWANCE	LS	1	\$ -	\$ -	\$ 3,000.00
11	SPCL	SEWER TV INSPECTION AND REPORT, STORM (12" THROUGH 30") AND SANITARY (8")	FT	3,956	\$ 5.75	\$ -	\$ 22,747.00
12	SPCL	PRECONSTRUCTION DVD	LS	1	\$ 750.00	\$ -	\$ 750.00
					<b>BID TOTAL = \$ 107,853.00</b>		

REF. NO.	CMS	ITEM DESCRIPTION	UNIT	APPROX. QTY. (x)	TRAX CONSTRUCTION COMPANY		
					UNIT \$ LABOR (y)	UNIT \$ MATERIAL (z)	TOTAL BID (x * (y+z))
1	255	FULL DEPTH PAVEMENT REPAIR, AS PER PLAN	SY	55	\$ 100.00	\$ 88.00	\$ 10,340.00
2	611	6 INCH STORM LATERAL, REMOVE AND REPLACE	FT	25	\$ 32.00	\$ 25.00	\$ 1,425.00
3	611	12 INCH STORM SEWER, REMOVE AND REPLACE	FT	20	\$ 500.00	\$ 182.00	\$ 13,640.00
4	611	15 INCH STORM SEWER, REMOVE AND REPLACE	FT	20	\$ 500.00	\$ 200.00	\$ 14,000.00
5	611	30 INCH STORM SEWER, REMOVE AND REPLACE	FT	40	\$ 500.00	\$ 355.00	\$ 34,200.00
6	611	6 INCH SANITARY LATERAL, REMOVE AND REPLACE	FT	25	\$ 32.00	\$ 25.00	\$ 1,425.00
7	611	8 INCH SANITARY SEWER, REMOVE AND REPLACE	FT	80	\$ 500.00	\$ 155.00	\$ 52,400.00
8	614	MAINTAINING TRAFFIC, AS PER PLAN	LS	1	\$ -	\$ -	\$ 8,864.00
9	624	MOBILIZATION	LS	1	\$ -	\$ -	\$ 6,549.00
10	SPCL	CONTINGENCY ALLOWANCE	LS	1	\$ -	\$ -	\$ 3,000.00
11	SPCL	SEWER TV INSPECTION AND REPORT, STORM (12" THROUGH 30") AND SANITARY (8")	FT	3,956	\$ 2.15	\$ -	\$ 8,505.40
12	SPCL	PRECONSTRUCTION DVD	LS	1	\$ -	\$ -	\$ 1,200.60
					<b>BID TOTAL = \$ 155,549.00</b>		



BID TABULATION

**CEDAR ROAD SEWER REPAIR PROGRAM**

CITY OF UNIVERSITY HEIGHTS, OHIO

11 FEBRUARY 2022

REF. NO.	CMS	ITEM DESCRIPTION	UNIT	APPROX. QTY. (x)	NORTHEAST OHIO TRENCHING SERVICE INC.		
					UNIT \$ LABOR (y)	UNIT \$ MATERIAL (z)	TOTAL BID (x * (y+z))
1	255	FULL DEPTH PAVEMENT REPAIR, AS PER PLAN	SY	55	\$ 220.00	\$ 110.00	\$ 18,150.00
2	611	6 INCH STORM LATERAL, REMOVE AND REPLACE	FT	25	\$ 80.00	\$ 80.00	\$ 4,000.00
3	611	12 INCH STORM SEWER, REMOVE AND REPLACE	FT	20	\$ 120.00	\$ 120.00	\$ 4,800.00
4	611	15 INCH STORM SEWER, REMOVE AND REPLACE	FT	20	\$ 150.00	\$ 150.00	\$ 6,000.00
5	611	30 INCH STORM SEWER, REMOVE AND REPLACE	FT	40	\$ 200.00	\$ 200.00	\$ 16,000.00
6	611	6 INCH SANITARY LATERAL, REMOVE AND REPLACE	FT	25	\$ 100.00	\$ 100.00	\$ 5,000.00
7	611	8 INCH SANITARY SEWER, REMOVE AND REPLACE	FT	80	\$ 1,000.00	\$ 200.00	\$ 96,000.00
8	614	MAINTAINING TRAFFIC, AS PER PLAN	LS	1	\$ 12,000.00	\$ -	\$ 12,000.00
9	624	MOBILIZATION	LS	1	\$ 12,000.00	\$ -	\$ 12,000.00
10	SPCL	CONTINGENCY ALLOWANCE	LS	1	\$ -	\$ -	\$ 3,000.00
11	SPCL	SEWER TV INSPECTION AND REPORT, STORM (12" THROUGH 30") AND SANITARY (8")	FT	3,956	\$ 3.00	\$ -	\$ 11,868.00
12	SPCL	PRECONSTRUCTION DVD	LS	1	\$ 1,500.00	\$ -	\$ 1,500.00
<b>BID TOTAL =</b>							<b>\$ 190,318.00</b>

REF. NO.	CMS	ITEM DESCRIPTION	UNIT	APPROX. QTY. (x)	PERK COMPANY, INC		
					UNIT \$ LABOR (y)	UNIT \$ MATERIAL (z)	TOTAL BID (x * (y+z))
1	255	FULL DEPTH PAVEMENT REPAIR, AS PER PLAN	SY	55	\$ 280.00	\$ 55.00	\$ 18,425.00
2	611	6 INCH STORM LATERAL, REMOVE AND REPLACE	FT	25	\$ 404.00	\$ 60.00	\$ 11,600.00
3	611	12 INCH STORM SEWER, REMOVE AND REPLACE	FT	20	\$ 808.00	\$ 145.00	\$ 19,060.00
4	611	15 INCH STORM SEWER, REMOVE AND REPLACE	FT	20	\$ 810.00	\$ 160.00	\$ 19,400.00
5	611	30 INCH STORM SEWER, REMOVE AND REPLACE	FT	40	\$ 865.00	\$ 400.00	\$ 50,600.00
6	611	6 INCH SANITARY LATERAL, REMOVE AND REPLACE	FT	25	\$ 404.00	\$ 60.00	\$ 11,600.00
7	611	8 INCH SANITARY SEWER, REMOVE AND REPLACE	FT	80	\$ 803.00	\$ 120.00	\$ 73,840.00
8	614	MAINTAINING TRAFFIC, AS PER PLAN	LS	1	\$ 30,845.00	\$ -	\$ 30,845.00
9	624	MOBILIZATION	LS	1	\$ 16,400.00	\$ 100.00	\$ 16,500.00
10	SPCL	CONTINGENCY ALLOWANCE	LS	1	\$ -	\$ -	\$ 3,000.00
11	SPCL	SEWER TV INSPECTION AND REPORT, STORM (12" THROUGH 30") AND SANITARY (8")	FT	3,956	\$ 3.00	\$ 0.50	\$ 13,846.00
12	SPCL	PRECONSTRUCTION DVD	LS	1	\$ 625.00	\$ 25.00	\$ 650.00
<b>BID TOTAL =</b>							<b>\$ 269,366.00</b>