

**SPECIAL COUNCIL MEETING MINUTES
CITY OF UNIVERSITY HEIGHTS, OHIO
WEDNESDAY, JULY 13, 2022**

Mayor Michael Dylan Brennan called the meeting to order at 7:00 p.m.

Roll Call:

Present: Mrs. Sheri Sax
Mr. John Rach
Mr. Justin Gould
Mr. Christopher Cooney
Mr. Brian King

Absent: Mrs. Michele Weiss
Mrs. Barbara Blankfeld

Also Present: Law Director Luke McConville
Clerk of Council Kelly Thomas
Police Chief Dustin Rogers

MOTION BY MRS. SAX, SECONDED BY MR. GOULD to excuse the absence of Mrs. Weiss and Mrs. Blankfeld. On roll call, all voted “aye”.

Agenda Items:

A. Motion to Approve Planning Commission’s Recommendation of Approval from July 7, 2022 regarding Application from John Carroll University for Traffic & Parking Presentation for Site Plan Approval

Mr. Jeremiah Sewaddle, John Carroll University, Assistant Vice President of the Facility and Auxiliary Services; Mr. Rick Ortmeyer, Principal of Bostwick Design Partnership; Mr. Jeff Lee, Principal and Owner of Krill Construction were present to present the project.

Mr. Sewaddle reviewed the revised traffic study that had the requested updated traffic numbers and noted that the one concern that was mentioned during the Planning Commission meeting was that of the construction work taking place outside of the permitted hours. Mr. Sewaddle stated that the team reflected on some of the things they heard at the Planning Commission meeting regarding concerns about working outside of the hours of the Ordinance permitted hours of 8am to 4:30pm. Some measures have been taken up with Krill Construction and Jeff Levy and Mr. Sewaddle said that he thought they were headed in the right direction noting that they are very serious about being good neighbors to the residents of the City University Heights.

Mr. Jeff Levy, Krill Construction stated that Krill has done work in University Heights for approximately 10 years and has worked on the following John Carroll projects; Murphy Hall, the Student Center, Dolan Hall and Pucelli Hall. The company is well aware of the City’s noise ordinance and limiting of construction hours to 8am – 4:30pm and has a great working relationship with the city inspectors. Mr. Levy added that they email all of their subcontractors regarding those laws and will have 3x5 signs with all rules and instructions up at the different construction entrances. There will also be full-time staff supervisors on site.

Mrs. Sax asked what if issues arise, who should Council members contact?

Mr. Levy replied that this will be a proactive project but if issues should arise persons can contact John Carroll and Krill.

Mr. McConville added that as referenced this during the Planning Commission meeting it was noted that all parties would entered into development agreements with the particular developer and in that agreement, it will establish a point of contact for those types of incidents. That will make it clear amongst all the parties who the city would contact to address those issues as an initial step. Mr. McConville noted that residents should contact the city. On small scaled projects it has been very effective to hold meetings among the developer and construction company with neighbors and perhaps if that were arranged at the point where the contractor is about to begin putting shovels in the ground it may prove to be a very helpful way of communicating all the information and answering questions directly.

Mr. Levy said that they have participated in meetings such as that in other communities, or have had an outreach meeting with the neighborhood. Although this project would be under the leadership of John Carroll and their staff our company would welcome that and be supportive of the University.

Mr. Gould asked Mr. McConville if that development agreement be part of this approval.

Mr. McConville replied no because this approval only related to John Carroll's parking plan. At a later date John Carroll will be returning to this body with a full site plan that will have a lot more information than the conceptual plan that is presented at this meeting.

Mr. Gould stated that he appreciated the conversations thus far with John Carroll and offered that with the community concerns of the large scaled John Carroll projects and the neighboring retail businesses John Carroll should make sure that the contractors and subcontractors are aware of the surrounding neighborhood culture. It may also be beneficial to all parties for John Carroll to reign in some control of the negative social media messaging around the John Carroll projects.

Mr. Levy added that they had been very reflective the previous week about some of the concerns regarding staging and deliveries throughout the project. The purpose of this application is to seek approval for the closure of the South Belvoir parking lot for the duration of the construction of the fieldhouse and then thereafter. In addition to that the opening up to additional entry points around the campus to help with the traffic flow during the academic year.

Mr. Rick Ortmeier stated that per the City's Zoning Ordinance, John Carroll is required to include just over 1200 spaces on campus with the anticipated students and the current employee load. The existing campus parking accommodates 1522 Students parking spaces. With the requirement of 1211 there is a 311 parking space surplus currently on the campus. Page four of the packet identifies the temporary construction condition on campus and the impact to the on-campus parking. The parking on the north side of campus will essentially stay the same as will the parking outlined in what is noted as B. The South Belvoir lot is anticipated to lose 60 space commuter lot bringing the campus down to 1108 spaces creating a 103 space deficit to meet the zoning code. In order to accommodate that campus parking gap during the construction phase there are a couple of options. A lease agreement is in progress with JFX on South Green to acquire 150 spaces and another 50 spaces at Notre Dame for a total of 200 parking spaces nearby off site. Bringing a 97 parking space surplus on campus with those two nearby off-site parking arrangements. In terms of where construction workers will park their personal vehicles during the construction work, Severance Town Center in Cleveland Heights will house 400 spaces for the contractors and from there they will be shuttled to the John Carroll campus worksite. There will be two locations for emergency and construction traffic only; one leading from Pucelli and one adjacent to the library.

Mr. Levy made mention to a few notes from the Planning Commission meeting where the city's Police and Fire Chief requested that there be emergency vehicle access in the pull off that is adjacent to DeCarlo Building on South Belvoir, this will also accommodate ADA traffic and parking. The driveway extension at the North drive on campus that exits onto Washington Boulevard actually has a geo fabric pad that allows for emergency vehicles but the Fire and Police Chief want that to be a concrete pad.

Mayor Brennan noted that the presentation that was made at the Planning Commission meeting can be seen on the City's website under the John Carroll link. During that Planning Commission meeting a motion was made by Mayor Brennan seconded by Mrs. Urban to recommend to City Council the approval of the closure of the South Belvoir parking lot at John Carroll University and the approval of the proposed means of ingress and egress on campus as set forth in the presentation. Together with the temporary parking lot plan contingent upon of the execution of the contracts between John Carroll

University and Jewish Family Experience (JFX) and Notre Dame for the 200 parking spaces between those two institutions and on roll call all Planning Commission members voted aye. Mayor Brennan noted for the record that there was not just quorum present for the meeting, but the full Planning Commission was present.

MOTION BY MR. COONEY, SECONDED BY MRS. SAX to approve the Planning Commission's Recommendation of Approval from July 7, 2022 regarding Application from John Carroll University for Traffic & Parking Presentation for Site Plan Approval for the closure of the South Belvoir parking lot, John Carroll University and the approval of the proposed means of ingress and egress on campus as set forth in the presentation. Together with the temporary parking lot plan contingent upon of the execution of the contracts between John Carroll University and Jewish family experience and Notre Dame for the 200 parking spaces between those two institutions

So that the Council record would be in unison with the Planning Commission record, Mr. McConville noted the following. The parking plan was submitted to the city's engineer and safety forces for review and comment prior to John Carroll's presentation in front of the Planning Commission. A point was made during the meeting indicating to John Carroll that when they come before Planning Commission and City Council with the site plan for the project, it is expect that there is a parking garage somewhere for review and approval. It is hopeful that everything works out with Bellefaire, but if it does not, the city's administration want to see a parking garage on the site plan. It was also indicated that it would also be helpful to see information about sequencing and staging at the time of that future presentation. And then lastly, as previously indicated, a development agreement would be a contingency of site plan approval.

Mr. Gould asked for clarification on who would be parking at the off-campus sites.

Mr. Levy replied that they have approximately 400 spaces at Severance Town Center that will be primarily used for contractor parking and how they get to campus, whether they are carpooling, shuttling, etc. is essentially on them. Notre Dame College, and JFX will primarily be used for residential student parking because those students are not transient every single day, often those vehicles sit there for the entire semester. The desire is to get those cars off of campus for the duration of the construction project.

Police Chief Roger stated that in looking at the plan as submitted, there are contingency plans put in place for student access to the campus but also for the construction, as well for safety personnel, first responders by providing appropriate access to the campus. Along with those details, and also consideration for Gesu school.

On roll call, all voted "aye."

B. Motion to Approve the Economic Development Committee motion to Create the Zoning Committee, a subcommittee of the Economic Development Committee

Mr. Rach stated that the Economic Development Committee met the previous week to discuss the formalizing of the Zoning Committee. It was a very good discussion with administration and members of council and out of that discussion it was agreed that the work of the subcommittee which will be known as the Zoning Committee would be a subcommittee of the Economic Development Committee and be comprised of the members of the Board of Zoning Appeals, the Planning Commission, the Architecture Review Board and City Council. There was discussion about how many members from each board but it was ultimately decided to open the Zoning Committee up to all the various board members so that they would be invited as key stakeholders. Mr. Rach added that currently Zone Co was conducting their deep dive into the zoning code to see what is currently on the books and will make recommendations in those zoning committee meetings.

Mayor Brennan added that there will be administrative representation on the committee as well as discussed at the committee meeting. Economic Development, Mrs. Drucker will serve as the project manager and Housing/Community Development, Mr. Engelbrecht will attend meeting and there may be occasion to have the safety force chiefs there as well.

MOTION BY MR. GOULD, SECONDED BY MRS. SAX to approve the creation of the Zoning Committee as recommended by the Economic Development Committee of Council. On roll call, all voted “aye.”

C. Discussion on the Progress of the RRS Rubbish Survey

Mayor Brennan read into the record two emails he received in the late afternoon.

Email number 1:

Dear University Heights Evaluation Team,

The Cuyahoga County Solid Waste District (District) entered into a contract with Resource Recycling System, Inc. (RRS) to assist with the development, deployment and evaluation of survey responses pertaining to the willingness of City of University Heights residents to change the current back/side door collection program to a system that may be more efficient, increase recycling participation and tonnage, and save the City money. RRS, a national leader in resource management consulting, and the District agreed to complete a survey development and evaluation process employing industry techniques recognized by organizations such as Solid Waste Association of North America (SWANA), National Waste & Recycling Association (NWRA), The Recycling Partnership (TRP), and the National Recycling Coalition (NRC).

The scope of services and deliverables included in the RRS/District contract established a budget and timeframe. Based on interactions to date with the City of University Heights, an amendment to the RRS/District contract is needed to remain within the committed budget and schedule.

The use of the Evaluation Team is being discontinued. The District and RRS appreciates the time and efforts put forth by the residents, administration, and Council of University Heights toward this project. Once this endeavor has been completed, a presentation will be conducted for the public, administration, and Council.

Sincerely,
Beth Biggins-Ramer

Email Number 2:

Dear Beth

I had hoped that the cancellation of the Evaluation Team meeting was merely a postponement and that a replacement time was to be announced this week. I thought this may have been the case because of the coincidence of the older survey that council had authorized being received in the mail by many residents on July 8th, the same day you had emailed us notification that the meeting was cancelled. I realize now that I was wrong.

While I am disappointed that the Solid Waste District decided not to retain an Evaluation Team, I can understand much of the reason behind the decision. It was most unfortunate that valuable time at the Zoom meeting was taken up by council people complaints that could have been handled prior to the Evaluation Team meeting. I stated my opposition to this in written public comments on Zoom at the time. The possibility of this contributing to the District's decision was in the back of my mind. I feel this matter reflects poorly on University Heights.

I appreciate the District's interest in helping to move University Heights ahead with improvements to solid waste management including recycling. I remain hopeful that the county-authorized survey by RRS will be helpful to our city regardless of whether there is input from residents or not.

Thanks to all for your time.

Sincerely,
Jeffrey Pearl

Mr. Rach thanked Mr. Pearl for his comments and participation in the survey. It is people like that, who are citizen volunteers who serve on committees. And as council has seen this year several (citizen volunteers) being kicked off of committees or fired from boards and commissions. Mr. Pearl is now one of them. Mr. Rach apologize that that happened to Mr. Perl, but thank him for dedicating his time

to University Heights. Mr. Rach said he was there to provide feedback on the progress of the RRS survey which was sponsored by the Cuyahoga County Solid Waste District. But today an email came out that the committee has been disbanded. Mr. Rach provided the background information and stated that on May 13 2022, Executive Director of the Solid Waste District, Mrs. Elizabeth Biggins-Ramer wrote in an email that the objective of the survey was to ascertain the willingness of city residents to change the current backyard/side door collection program to another system that would increase collection efficiencies and the percentage of marketable recyclables. In that same email Mrs. Biggins-Ramer wrote that task one would be the formation of the evaluation team, and that team would assist the Solid Waste District and RRS in the creation of the survey instrument. After several Council meetings and two Service and Utility Committee meetings, Council felt that the timing of the RRS survey would overlap or compete with the City of University Heights' rubbish study that actually went out to all households on Friday of last week. The RRS survey was to include an evaluation team. According to the proposal sent from RRS to the Cuyahoga County Solid Waste District the role of the team was created to assist RRS, the Solid Waste District and City Management with important input into the development of a survey instrument. The evaluation team would meet to develop the questions for the survey via virtual meetings. There was be a meeting with the evaluation team to finalize the objective of the survey, as well as to conduct strategic planning sessions for key metrics and questions to be developed. After the initial meeting with the evaluation team and strategic planning session. The consultant was to prepare an initial draft survey, instrument and cover letter and present to the evaluation team for review. Revisions were to be made based on the discussion to finalize the survey and cover letter as well as be present in the strategic planning session. Mr. Rach stated that formalizing the evaluation team was met with many obstacles on May 16 2022. Mrs. Biggins-Ramer wrote in an email that it was assumed that the two members of the University Heights Council Councilwoman Sax and Councilman King would be representing the interest of the Council on the evaluation team and that the Solid Waste District and its Consultant constructed the composition of the evaluation team to ensure representation from the City's Council, City's Administration and the City's residents. Also from committee meetings the Solid Waste District was to allow Council to choose its Council representation, but they (Solid Waste District) later walked back that statement by assigning the Council representation of their choosing. It was after much back and forth, and getting the Law Director involved, that the Solid Waste District finally allowed Council to choose its own representation; but no more than two members. However, at the first evaluation team meeting, held on June 23 2022, Council was made aware that a third Council Member Mr. Brian King, would be on the committee acting as a citizen representative chosen by the Mayor. Mr. Rach noted that there was no rule against allowing Council members to temporarily strip their role of council and play the role of a citizen representative. But reminded everyone that Council was told that the evaluation team could not be altered or expanded due to price constraints; what does that say to the citizens who genuinely wanted to get involved in this process, does it say that their opinion does not matter? Mr. Rach stated that he had no problem with Mr. King and that this was nothing personal but the whole matter was just petty.

Mr. Rach continued to explain that at that same first meeting, the first 20 minutes was spent debating whether Councilman King could participate in the discussion since Ms. Biggins Raymer wrote that the current cost of the project cannot be guaranteed if there are alterations to the team, or existing scope of work so no real work was conducted in that first meeting. Council's RRS presented a slideshow which indicated the project intent was to develop a residential survey with the evaluation team. Council was told that a draft survey would be sent to the evaluation team before the second meeting. But, how would a draft survey be circulated before the second meeting with neither the Solid Waste District or Council's RRS even knowing what was important to Council and what data they would like to collect? None of that was discussed. So how would a survey already be presented?

Mr. Rach said he was taken aback by that since Council was told on June 16, from Aaron Olton from RRS that the second meeting would be in person for a survey discussion. It was not until June 29 that RRS email Council person Sax that the evaluation team was designed to be, "a courtesy review" and provide input for the five minute or less residential survey that RRS was contracted to provide. Then on July 8, Council was notified that the Solid Waste District was canceling the July 12 meeting without any response as to why it was being cancelled or even if it would be rescheduled. The July 12 meeting would have been the very first working meeting. Mr Rach said that he emailed three separate times asking for more clarification all to be pushed off because Mrs. Biggins-Ramer said that she was too busy preparing for a board meeting. Mr. Rach took that information and opportunity to see what the board meeting was about. Turns out it was that same morning where there was a board meeting for the Cuyahoga County Solid Waste district with only one new agenda item. A Resolution to amend the contract between RRS and the Solid Waste District for their work in the survey. It was at that meeting, it was learned that the amendments to the contract was to eliminate the balanced evaluation team in its entirety. And for the Solid Waste District to peel off scope from RRS and conduct more of the survey internally. That will include the distribution of the survey to targeted residents receiving survey results,

analyzing and interpreting the data, and ultimately preparing the final report. All of that scope was supposed to be completed by RRS. But the district felt that they'd like to take full control of it now, without any oversight of the evaluation team. The evaluation team will not see the survey be prepared, distributed, received, analyzed, and it will not see the final report until it is reported to Council. Begging the question is why, after this Council work to balance the membership of the evaluation team so that it would be fairer. Why did they decide to disband the committee? They chose the membership makeup, later allowing Council to adjust that committee so it would be fair and balanced. But then after that, they removed the responsibilities of the committee. And then after that was exposed, they fully disbanded the working team altogether. Mr. Rach said that he was extremely troubled by this, as it was the evaluations team role according to RRS and the Cuyahoga County Solid Waste district to provide input into the development of the survey instrument, develop questions for the survey, conduct strategic planning sessions, review the draft survey and review the final survey by removing these volunteer committee members from the process. The Solid Waste District, who is a stakeholder in all of this, will produce the final survey without any oversight. Further, it will be the Solid Waste District, no longer RRS who will distribute the survey to targeted residents, again, without any oversight. Mr. Rach noted that he was troubled by this and not sure what role this would play in the city anymore. He no longer trusted the efforts of RRS/the Cuyahoga County Solid Waste District. The process has been flawed from the beginning, it was been changed numerous times and now they (Solid Waste District) has removed the aspect of the committee which provided the oversight.

Mr. Cooney stated that together work was done to try to find balance with membership for the evaluation team and that was a good thing. Mr. Cooney added that it was disappointing to hear that the ability to have some participation in the survey would not be available. But he thought that a step needed to be taken back a little bit as to why they are where they are, or how can they ended up in this position. The previous Council had worked with Dr. Sutton at Baldwin Wallace, who, as several Council members have explained was an unbiased person to create an unbiased survey. And when those questions were submitted, there were questions that were removed from that survey. Mr. Cooney asked if it was a correct assessment that the removed questions related to cost and money.

Mr. Rach replied that the questions that were removed related to cost and the committee felt they were biased or leading questions. If you include questions about adding a fee to residential households, which had never been discussed before, that would taint the minds of the reviewer or the surveyor and they may change their responses.

Mr. Gould added that the removed questions were not as much related to cost as they were about the potential consequences of certain actions like raising taxes or fees, which no one on Council was sure on completing at the time.

Mr. Cooney said that there was Dr. Sutton who was unbiased in creating an unbiased survey and by removing those questions, one can imply that those members inferred their bias by removing it. Mr. Cooney continued to say if you are going to have somebody, a group or a person create the survey for you in an unbiased fashion, there may be some questions that you may not agree with, but they are doing it in a way not to influence any decision. Now, essentially, if we get to the crux of everything, the reason why Council is even considering, which has been going on for years the potentially move to a curbside pickup is because of cost. So those members that removed those questions regarding fees, or if there were to be a tax increase have inserted their own bias into that survey. Personally, Mr. Cooney said that he agreed with other members of council for both surveys, and encouraged all residents to participate in them. The more data we have is good in helping to make a decision. There will be some questions and there could potentially be some questions that overlap. But agree with Mr. Rach in that it is disappointing that the evaluation team is not going to be a part of it. But we have to remember as to why we are here. Mr. Cooney added that he wished that Mrs. Sax would find something that makes University Heights so unique so that they could keep backyard pickup because of what we do. But at the same time there are some realities that are we are facing. The Service Director has recommended to move to curbside pickup. The city spends several \$100,000 a year with outside services to maintain our roads and other items because the good people of the Service Department are doing trash pickup. Mr. Cooney said he hoped that the Cuyahoga County Solid Waste district reconsiders and puts the evaluation team back together.

Mayor Brennan commented that some clarification needed to be made for the record. First of all, RRS is still the consultant here doing the analysis and is still doing the role that they were hired to do by the Solid Waste District. The Solid Waste District has not taken from RRS responsibilities the RRS was going to do and it was represented to Mayor Brennan by the Solid Waste District that RRS is still doing those things. The only thing that has been changed in the change order is the elimination of the committee. Mayor Brennan added that there was something that Mr. Rach brought up that he thought

needed to be clarified for the record with regards to an appropriation by the Council. City council did appropriate \$10,000 to be transferred to the University Heights City Beautiful Corporation (CIC) for the purposes of the survey. Mayor Brennan said that he vetoed that transfer and this Council never took it up on an override so that veto stands. Instead, the three members of Council who are on the University Heights City Beautiful Corporation Board together with the resident members all four of them by a four three vote, appropriated money that already existed in the coffers of the University Heights City Beautiful Corporation. The money that was transferred was for economic development, housing development, housing rehabs; that money was used to pay for this survey. This is a sidestepping of the City's Charter. It is a misappropriation of that money. Mayor Brennan said he believed it was going to create an audit issue because not only is it an audit issue for the CIC, but a city credit card was used to then pay for postage and the city is not the CIC. The CIC is not the city, the CIC is a separate legal entity. If you (Council) can use the CIC to sidestep the City Charter and create a shadow administration where you (Council) do things were other members of the CIC other than the Mayor and entering contracts then the City's credit card should not be used. You cannot have it both ways. Mayor Brennan believed that there would be an audit issue over this because the State Auditor is not going to look favorably on this. And I think it's also worthy of mention that the State Auditor has taken a dim view of political surveys. The State Auditor made the Cleveland Heights/University Heights School District pay back money to the taxpayers for a survey that was inappropriate, much like this survey. Mayor Brennan said he thought that there would be some problems going forward with regard to how the money was spent. Furthermore, Mayor Brennan said he certainly felt it was appropriate to clarify for the record, that when any member of this council says that money was appropriated by the Council for the survey, that was not the money that was used because that money was vetoed and the veto was never overridden. Money that was intended for other community development purposes, was then applied to this survey by a four three vote of the CIC.

Mr. Rach stated that the Mayor received misinformation from Mrs. Biggins-Ramer. RRS will not be doing the analysis, they will not be receiving the results. According to the testimony that Mr. Rach heard today and noted that Mayor Brennan may have been told something different and added that we have all been told something different by Mrs. Biggins-Ramer, several times. Mr. Rach noted that he recorded the meeting and would be happy to share it with the Mayor. As for that not being considered a political survey, Mr. Rach said that the point of him wanting to balance the evaluation team was so that the survey would not be politicize, it would not be political. It would be fair and balanced, but now that the committee has been removed, the survey will be politicized and from what he heard in today's conversation it already is.

Mayor Brennan remarked that the survey was politicized when Mr. Rock and Mrs. Sax carried on for half an hour in during the evaluation team meeting about the supposed unfairness of the fact that he used one of his two appointments to reinstate Mr. King as a member of the committee. Mayor Brennan made note to Mr. Rach repeated question of why the change. Mayor Brennan said he knew why the change but had been reticent to bring it up here in this meeting, but there are several reasons. One is because of the incorrigible way that Mr. Rach and Mrs. Sax carried on during this meeting. That all the emails and all the demands and all the things that were brought, we are taking up an exorbitant amount of the consultant's time for which they had to bill. This was causing them to go over budget that we were already over time on because it took a month to get Council to make appointments to the committee. The original meeting was supposed to happen in the second half of May and, here we are in July not yet having had the second meeting. And then finally, you (Mr. Rach) said it's a matter of integrity. There is an integrity issue here. One of the things that the Solid Waste District took grave exception to were the ongoing violations of the Sunshine Law that happened with regard to discussions where all members of Council were involved in emails on cc's. Those are things that Mr. McConville has told Council not to do and that I have told you not to do. This Council does it in the budget process and was doing it here. The Solid Waste District did not want to be a party to the ongoing violations of the Sunshine Law by members of this council. They (Solid Waste District) were told that various members of Council and residents were being brought to the next meeting. The Solid Waste District did not want to host a meeting at their offices that would violate the Sunshine Law. And then as a result of all of these things, the Solid Waste District has changed the contract. So, you (Mr. Rach) want to know why, that is why. And here we are. Mayor Brennan continued to say that he found it regrettable that there were people who were appointed to this committee; people who were invited to be on this committee who will now not get the opportunity to participate because of actions of this Council.

Mr. Gould commented that the removal of questions was done during the final analysis with Dr. Sutton. There was a process by which the various members who participated in the survey design met to submit things that they would like to hear and based on those submissions a draft of the survey was prepared that had certain questions on it. Dr. Sutton, then at that final meeting gave his opinions and some analysis on what the effects of certain questions might be to a reader. Mr. Gould said that he did not

think that Dr. Sutton thought it was his role to completely create his own questions, he did try to form Council's questions into the most unbiased form. But when he heard from the various members of council that were present at that meeting, that there was no intention to raise taxes, that there was no intention to issue some type of fee he then understood and shared that he felt that in the inclusion of that information might unfairly bias individuals who are reading that into thinking that their decisions would perhaps be their financial detriment if they made those decisions. So, this was not an unbiased, fully formed survey that Council then slashed certain items from. Mr. Gould said that he had been clear about what questions were removed and what they were, those are posted on the city's website under the minutes as is the meeting where they were removed.

Mr. Gould said that he wanted to respond to that in a little more context because he was the chair of that meeting. Mr. Gould also wanted to make note to something the Mayor said, which he believed was false and had already been addressed by the Law Director. That was specifically regarding the political survey and whether or not University Heights survey is in fact a political survey like the survey that was done by the Cleveland Heights University Heights School District. Mr. Gould added that he thought that it was really important when we are having these types of conversations that certainly we all have our political opinions, and the Mayor is free to have his; but, we should provide the full context of the legality and the analysis that our legal experts provide us. So as not to scare anybody into thinking that something is afoot when in fact, we all know very well, that there has already been an analysis and an opinion by our Law Director, that that is not true. In May of 2019, during the meeting Mr. Gould said he was just discussing redoing this survey and he noted that there was an issue that had come up regarding the Cleveland Heights/University Heights City School survey that went out regarding their bond issue. The person that Council hired to do our survey design and analysis, Dr. Tom Sutton was actually quoted inside of that article and provided expert analysis on his view about whether or not the rule of political surveys and other things that were inside of that. The Mayor raised this as an issue and it went to the Law Department for analysis. Mr. Gould asked Mr. McConville to share his opinion regarding the political nature of the survey that the city is doing or the political nature of the survey that the school board put out in relations to the differences or similarities to Council's survey.

Mr. McConville opined principally on two things. One was that the issuance of the survey by the CIC was within the CIC's powers and was an appropriate manner of communicating information and gathering information from residents on an issue of local concern. Secondly, Mr. McConville said that he spent time on that opinion distinguishing the kind of survey that was embodied by Cleveland Heights. What is forbidden is a survey that is or could affect the outcome of a ballot issue or some electoral issue. We do not have a ballot issue. This issue has not been put to the voters and there is no pending legislation. There is not even contemplated legislation that has been brought to my attention on that issue. So, it is distinguishable on those grounds and those are significant grounds.

Mr. Gould commented that at the time he was holding the meeting and had it scheduled with Dr. Sutton, there was a question about whether or not that meeting was even appropriate to go forward, and Mr. McConville found it to be appropriate. Furthermore, at the CIC meeting, which he (Mr. Gould) sits on, Mr. McConville had provided opinion regarding the appropriateness of the CIC sending out the survey and the CIC spending money on the survey. Mr. Gould said that Mr. McConville discussed a bit about that prior or just now because he had mentioned the portion about the CIC spending its money and in his analysis being a nonprofit organization within the State of Ohio's legal structure holding all of the powers there.

Mr. McConville replied yes and noted that again, it is a matter of the CIC Board being able to control the expenditure of its funds. Those funds were provided to the CIC for the CIC to make decisions on how to spend the monies. The CAC walked through its proper governance process of having the issue on a meeting agenda and taking a vote.

In conclusion, Mr. Gould said that he wanted to talk a little bit about the decision that was had by the Solid Waste District and noted that it is important when being transparent that you do what it is that you are saying your intentions are; your actions match your intent. Mr. Gould said that he felt that there was a disconnection with the process from the beginning, where Council was attempting to pretend like there was a transparency, where there was real input, where there was going to be a body where everyone got to give a say, and form what the Solid Waste District was doing. And that is just not the case. Councilperson Sax asked questions about the form of the survey, where she said that she was seeing that there were three options for the method. Is this being sent out either by mail only, by online only, or by mail and online as a hybrid? Can we discuss that? No, was the response. And when the question was asked why? it was, well, because it is our money, and we are paying for the survey. The initial response when it came to who was going to be on the evaluation team, Council was told it would have its representatives and appoint citizen representatives, and the Mayor was going to have

his representatives. The Mayor got to pick who his representatives were and the Solid Waste District assigned our (Council's) representatives.

With all that said, Mr. Gould said that he did not think the removal of the evaluation team really changes what was going on. This is simply the Solid Waste District wanting to provide this service and to get certain data and to influence the decision of this Council. If there is any doubt about the feelings of that body and its intention, you can turn to Sunny Simon's comments that she's frustrated, she sees the process that we have gone through as delay after delay after delay. She says we are behind the times, and we are behind the eight ball. And there certainly is discussion to be had about the timeliness of our decisions and how speedy they are made. When I see delay, where others might see delay as County Councilperson Simon does Mr. Gould said he sees deliberative process, public hearings, inclusion of the citizens, collaboration and a Council who at the end of the day is going to have to make a very difficult decision and wants to ensure that it has received the input that they feel is necessary in order to make that decision. At the end of the day, the Solid Waste District survey is not going to be the thing that makes or breaks Council's decision. Neither energy nor time needs to be invested into fretting about whatever their (Solid Waste District) processes or data will be. Council can make its decision independent of ever hearing from them. Council does not have to invite them to any of its meetings or have them speak if they are (present), it is not a major issue. If we are dissatisfied with the process that they have gone through, if we do not believe that it is fair and is imbalanced, if we do not find that the data will be helpful to our decision, then we do not have to hear it. Council has been clear that there are answers to certain questions that it needs in order to bring this to a conclusion. It has been delayed for a long period of time waiting for those questions to be answered. The survey is in the hands of the citizens and hundreds of hundreds of responses have been received thus far from citizens in the less than a week that the survey has been in their hands. Citizens are responding by paper, they are responding online, they are excited to have the opportunity to do so. And Mr. Gould said he was excited to hear from them. Mr. Gould said he hoped that once they have the data and it is analyzed by Dr. Tom Sutton, that Council will bring this to a swift conclusion and make the hard decisions that they have been elected to make. There should be no more delays, there should not be an extended process, Council should consider the data that they have, considered the recommendations of the administration, consider the Solid Waste Study and finally make a decision. At the end of the day Mr. Gould said he was confident that Council will be able to make the right decision for the citizens.

Mrs. Sax asked Mr. Gould if the survey was sent to all University Heights residents.

Mr. Gould replied that all of the households receive the solid waste survey from Council. Individuals who did not receive it are those residents who are in apartment complexes, otherwise the survey was sent to approximately 4200 households. There were some that addresses that for whatever reason were rejected by the Postal Service. Mr. Gould added that if any citizen did not receive it, they can reach out either by social media, or by email or give him a call. Residents can also go to online, on the social media platforms. One of the recommendations by Dr. Sutton was to get it placed onto the city's website, or onto the social media platforms for the city because that would also help with response rates.

Mrs. Sax asked if there could be a online link could be included in the Mayor's Friday wrap up and on the website?

Mayor Brennan replied that he had no intention of doing that.

Mrs. Sax spoke in regards to fairness, bias and intent of this Solid Waste District study and asked Mr. Cooney in response to his comments. If it is going to targeted households Council has no idea how many, who or what it is based on and that is a concern. Perhaps if the evaluation team were functioning, that would be revealed and was interesting and problematic. Number two, regarding the costs, Mrs. Sax said that she couldn't agree with Mr. Cooney more as she was trying to get her arms around that and get to the bottom of what are the costs, what are the costs continuing the way we're doing it versus transitioning to curbside, versus different models of recycling. And at every turn, Mrs. Sax said she has been ignored. Whether it is discussion, an email as the Mayor publicly said that he and Mr. Pokorny have received the same emails all of you have and have deliberately ignored them. It is interesting that we would give that information to a third party before even having an understanding ourselves. Mrs. Sax said that she printed them out, passed them around to everybody and handed them out for public record during a meeting. According to the 2020 Solid Waste Study most of the savings would be by eliminating labor. While Council has said many times and she believed that there was agreement in that at least at this point, not to eliminate labor, it would be transitioned to something else. Mrs. Sax said she would like more information about what types of services we can tell our residents and our neighbors that would be switched if we transitioned and they have to drag their trash down to the

curbside 52 times a year. What are they getting in return, Mrs. Sax said she wanted that list and it never materialized.

In reference to an earlier comment by Mayor Brennan, Mrs. Sax said that she never makes a move, and it seems like this Council never makes a move without first checking with Mr. McConville the legality or lack thereof, of any of its actions. The last thing Council wants to do, and in speaking for herself is to violate the Sunshine Laws. Mrs. Sax stated that she had been accused by the Mayor of violating the Sunshine laws from even before she became elected. I circled back to my guests, because I sent a question to counsel not understanding this. And you told me you would not respond to me even then, because I was violating the Sunshine Laws. Mrs. Sax stated that she was circling back to that because she had sent a question to Council, not understanding at that time and the Mayor told her that he would not respond to her even then because she was violating the Sunshine Laws. Mrs. Sax said that she circled back to Mr. McConville back then and up to this very day. And she was proud to say that Council has not violated the Sunshine Laws. Mrs. Sax ask Mr. McConville, based on the Mayor's comments this evening has Council violated any Sunshine Laws?

Mr. McConville replied that he could not comment on that.

Mrs. Sax continued to say as far causing delays to the Solid Waste District study. Mrs. Sax said that she sent emails that did not contributed to a delay. Her emails, have asked; what is the agenda, when is the next meeting, who is on the committee? None of those things take time and yet they were all ignored. Perhaps what takes time is the need to continuing to open those emails because after a week passes into two weeks and three weeks, Mrs. Sax said she would resend the same email. Noting the Mayor's comment that Council was sidestepping and delaying the process Mrs. Sax stated that she believed that the survey could have been sent out over a year ago. But the Mayor has been politically positioning himself with this in the city, that seems to be obstructionist. There has been constant disinformation, including this evening, which was pointed out and that is what has been delaying the process significantly, not the evaluation team.

Mayor Brennan explain the situation from the administration's point of view. When it comes to answering certain questions and as you, Mrs. Sax knows, all of us are here to represent the people of the city, all of us here work for the people of the city. But the Mayor does not work for the City Council any more than the City Council works for the Mayor. So, when you send us 40 questions about a bunch of stuff that you want us to research, when we are trying to run a city, we are under no obligation to drop everything we are doing and answer those questions for you. We are here to serve the people of this community, we are here to put the people first and when you ask us a bunch of bogus questions about things that are not relevant to what we are working on, no we are not going to take the time to answer those questions. There may be a time when some of those questions are relevant, some of those questions may be pertinent, but we are not going to drop everything we are doing to do that. At the time that those questions were presented to Mr. Pokorny and myself we were trying to open the park, trying to organize a parade, trying to get the pool open, we were trying to organize things for the summer.

Lastly, Mrs. Sax said that she did attend the Solid Waste District meeting earlier today, and that it was a public meeting. The comments were in line and the one thing that was objected was objected by the Chair, Sonny Simon and that was that we not ask questions, which was fine if that is the rule. The only temper that rose was her own as she asked why we were at the meeting. Otherwise the meeting was polite. The only reason we went as stated during the meeting was because Mr. Rach had asked the Solid Waste Distract for information that we could present at this meeting and because there were no responses after requesting information three times, we just went to find out what we could report. It was shocking that the evaluation team would be disbanded. Mrs. Sax also thanked the resident volunteers adding that she hoped that this would not discourage them from future participation. Mrs. Sax said that she was a firm believer, as she has said many times that all voices should be heard. She does not have to be right or the loudest voice. But she does want to hear so that she can get to the best decision for the taxpayers and for this city.

Mayor Brennan pointed out with respect to the solid waste districts public meeting, that they do have a public comment period. And like our own public comment, period, it is not a q & a with the public. Frequently we have residents who will come to our public comment period and they will ask questions, generally we don't answer those questions. The public comment period is not intended to be a back and forth. Mayor Brennan said that his understanding from Councilwoman Simon was that was she was simply trying to take control the meeting, when there was a constant effort to create a back and forth during what is merely a public comment period. Mayor Brennan also clarified that the reason why the city social media and the city newsletter will not be publishing the survey link or information

of this survey on city social media and city media, is because it is not a city document. It is not a city survey. It is the CIC survey, which is a separate legal entity. The CIC is free to promote it as they have been. The CIC has spent money to do that, money that was intended for other things. Mayor Brennan said that he was looking forward to reinforcing the fact that the public's business has to be done in the public and encouraged anybody who is interested in the sunshine law violations to make a public records request for all the emails, cc'ing all members of council discussing public business on this subject and a plethora of others.

Mr. Rach stated that the Mayor was accusing Council of breaking the law, that is a serious allegation.

Mr. Gould said that he appreciated the position that the Mayor has taken regarding the Sunshine law violations and when everyone is cc'd an email that being a violation of the Sunshine laws. Mr. Gould said he did not believe that was consistent with advice that he received from Mr. McConville. Neither did he believe that he had ever received advice from Mr. McConville that an individual could not respond to the council member posing a question without there being a sunshine law violation. Furthermore Mr. Gould did not understand how the Mayor's position that cc'ing every member of council was a sunshine law violation consistent with the email address that the administration placed on the city's website, which cc'ing every member of council as well as the administration. If in fact, emails that are sent to every member of council are a violation of the Sunshine laws it would seem inconsistent to Mr. Gould. But he had not heard that from the Law Director so he did not accuse the Mayor of being in violation or causing violations by placing email address there. Mr. Gould said that he did understand that when you have discussions that are had by email, there can be concerns, and that the Law Director has the opined on that as well. If there are specific instances that need to be corrected, Mr. Gould said that he was sure that members of Council would correct those actions. But, he did not think that anything had occurred that prevents responses to questions.

Mayor Brennan clarified that an email that cc'd to all members of council in and of itself is not a sunshine law violation, an email to all Council saying, hey, you know there is a notice for the public meeting coming up, that is not a sunshine law violation either. What is a violation is when there is ongoing back and forth discussion happening via email that is not out in the public and that is not a publicly noticed meeting. A concerned citizen who sends a message to all members of council is not a sunshine law violation. The violation is the back and forth going on and on about matters of the public interest, of public business, the people's business is to be done in public that serves the people also happens to be the law. The creation of an email button on the city website allows a resident to email all of council and the mayor is not a sunshine law violation unless that becomes a group discussion.

Mr. McConville noted that he had given advice on Sunshine Law issues many times and that he would be happy to provide advice on that but would prefer to do so privately. Many of members of Council have gone through orientation processes with him where they talked about Sunshine Law, issues at length. Mr. McConville added that he has responded to private emails on Sunshine Law issues with most of Council and addressed Sunshine Law issues over time. Lastly, Mr. McConville noted that the agenda item was a discussion on the solid waste survey and that they have gone far from that topic.

Mr. Rach said that he wanted to just point out that because the Mayor had accused him of breaking the Sunshine laws because of his emails to this council. Mr. Rach said he was not aware of a single email to the council where they had a back and forth discussions. With regard to the survey there was an email that went out including to the media that stated he planned on telling the members of Council that the evaluation team has been disbanded, and that he had a concern over that. But if you (the Mayor) are trying to distract the people from understanding what is really happening with the survey, why they (Solid Waste District) are peeling it away from a National expert, while they are taking citizen volunteers out of the equation that provide oversight and painting Council like a lawbreaking body. Mr. Rach stated Mayor you are distracting people away from what is really happening, that you are trying to dismantle backyard pickup and influencing people's mind through a propaganda survey paid for by the Cuyahoga County Solid Waste District without any oversight.

Mrs. Sax also stated that her emails like-wise had no back and forth and that she has submitted them for the public record. There is also no back and forth because the Mayor made it clear that he was not responding to her emails, or her questions, calls or any communications. Mrs. Sax added that she was not really sure how that worked when she is to be an effective Chair of the Service and Utilities Committee under which this rubbish situation falls.

Mayor Brennan thanked Mrs. Sax and noted his agreement that she was not an effective chair of that committee.

To which Mrs. Sax asked him to repeat what he said and noted she was glad his comment was part of the public record.

Mayor Brennan stated that unless there was continued discussion about the progress of the RSS rubbish survey he would ask for a motion to adjourn.

MOTION BY MR. COONEY, SECONDED BY MR. GOULD to adjourn the meeting. On roll call, all voted “aye.”

There being no further business, the meeting was adjourned at 8:45 p.m.

Michael Dylan Brennan, Mayor

Kelly M. Thomas, Clerk of Council