

**COUNCIL MEETING MINUTES
CITY OF UNIVERSITY HEIGHTS, OHIO
MONDAY, NOVEMBER 7, 2022**

Mayor Michael Dylan Brennan called the meeting to order at 7:08 p.m.

Roll Call:

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

Absent: Mrs. Barbara Blankfeld

Also Present: Law Director Luke McConville
Clerk of Council Kelly Thomas
Finance Director Dennis Kennedy
Fire Chief Robert Perko
Police Chief Dustin Rogers
Housing and Community Development Geoff Englebrecht
Economic Development Susan Drucker
City Engineer Joseph Ciuni
Communications and Civil Engagement Mike Cook
Service Director Jeffrey Pokorny

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

Approval of Council Minutes:

Council Meeting September 6, 2022

Mayor Brennan recommended tabling the September 6, 2022 minutes due to the length of them and to allow everyone to review them.

MOTION BY MRS. WEISS, SECONDED BY MR. KING to table the September 6, 2022 Council Minutes. On roll call, all voted “aye.”

Council Meeting October 19 2022

There were no corrections or addition to the October 19, 2022 Council Minutes.

MOTION BY MRS. WEISS, SECONDED BY MR. COONEY to approve the October 17, 2022 Council Minutes. On roll call, all voted “aye,” except Mr. Rach and Mr. Gould, who “abstained.”

Additions and Removals from the Agenda; Referrals to Committee

There were no additions or removals from the agenda.

Comments from Audience

There were no comments from the audience

Reports and Communications from the Mayor, and the taking of action thereon:**Mayor's Report**

Tomorrow, Tuesday, November 8 is election day. I wish to remind all voters in University Heights that the Board of Elections has relocated two of our three polling locations, due to construction voters from precincts, voters and precincts C D and E and I will not be voting at the John Carroll University Recreation Center. Their new location will be the Dolan Science Center. Due to repairs due to flooding voters in precincts A and B will not be voting at the library. Their new location will be Wiley School at 2181 Miramar on the other end of the building. Voters from precincts F, G and H will continue to vote at Garity Elementary. Tomorrow polling locations will open at 6:30am and will remain open until 7:30pm. Please be aware that if you are in line at 7:30pm you are legally entitled to vote.

Former State Representative Barbara Boyd died on Saturday at the age of 80. Our condolences go out to her friends and family especially her daughter Jeanine, who also represented our House District in the Ohio House until just a few months ago. Barbara Boyd was a trailblazer former public school teacher, she was the first African American elected to the Cleveland Heights City Council in 1983. She ultimately served as Mayor of the City of Cleveland Heights in 2018. The City of Cleveland Heights renamed Caledonia Park in her honor. Representative Boyd served two different stints in the Ohio House. The first was from 1993 until 2000 and then again from 2007 till 2014. Barbara Boyd was 80 years old.

I want to recognize our Fire Department for their response to a fire on the morning of November 4th. Their response to a fire at a house on Meadowbrook Boulevard was quick and effective and their efforts prevented the blaze from spreading to other homes in the area. It was a team effort. The mutual aid support was given from neighboring departments from Cleveland Heights, Shaker Heights, Beachwood, and South Euclid as well as our Regional Heights Hillcrest fire investigation unit of which University Heights is a member. The in person University Heights Civic Awards will return on Wednesday, November 16th to the Jardine room in the Lombardo Center at the campus of John Carroll University, a dessert reception will begin at 6:30pm followed by the award ceremony at 7:30pm. Join us as we celebrate some of the people who are working hard to make University Heights an even better place to live, work and raise a family.

The corner of Cedar and Lee was indeed the place to be last Friday night, I had the pleasure of attending the Heights Tigers playoff game against St. Ignatius. The game was well played, exciting, dramatic and in the end heartbreaking for the Tigers and for Tigers fans. But the 50 to 49 loss shouldn't overshadow the amazing season by the Tigers. They earned a nine and one regular season record and averaged nearly 50 points per game. Congratulations to the entire team, especially the seniors. Congratulations also to the St. Ignatius Wildcats who staged a comeback in the second half to win after being down by four touchdowns at the half. No matter who you were cheering for, this game was one for the ages, one of the most exciting sporting events I've ever attended at any level, so thank you. And this concludes my report.

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

Vice Mayor Weiss reported that the Finance and Finance Advisory Committee had a very interesting and successful meeting last week with all of the directors and to explain their budget needs. That discussion will continue with the full committee on November 17.

There were no further reports.

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

- A. Motion to Approve Planning Commission's Recommendation of Approval with contingencies from November 3, 2022 regarding Application from John Carroll University for the Site Plan Approval for the Construction of a New Athletic Wellness & Event Center on the current South Belvoir Blvd. Parking Lot Site at the corner of South Belvoir and Carroll Blvd.**

Mr. Jeremiah Swetel, Assistant Vice President of Facility and Auxiliary Services at John Carroll University and Mr. Rick Fort Myer from Bostwick Design Partnership, architect for the project were present to present the project.

Mr. Swetel said that he wanted to provide Council with a quick overview of their schedule and understanding of where they were at this point. The schedule still maintains that they want to be substantially completed with the Fieldhouse, otherwise known internally to John Carroll people as the Athletic Wellness and Event Center, by September of 2024. In order to meet that timeframe, they need to start ground site work late February, early March. There is a tremendous amount of work that needs to be done to get to that point, but they are confident that they can do it in that they have a great team that has embraced that aggressive schedule. Also, it was John Carroll's understanding that what came out of the Planning Commission meeting last week, was a contingent approval based on their providing additional information to the city's administration for further administrative review and approval. That is a pretty standard process. Mr. Swetel added that he believed that they were getting site plan approval from the Planning Commission, and City Council pending administrative review and any substantial changes would come back. Then it would go through the permitting process, which would require the submittal of a lot more detailed documents as well as police and fire review, along with city engineer evaluating. All other ancillary information will have to be present in order to get any building permit.

Mayor Brennan asked Dennis Garcia, City Building Official to review a few things in connection with a project of this magnitude.

Mr. Garcia stated that as stated, the drawings that were submitted were for review only and that is a standard process. Generally, after approval drawings will be submitted to the building department for review, and distributed for plans examination and utilities plans examiner's for permitting. If there is any adjudications that are submitted or from the drawings achieved, then those revisions would be reviewed and the revised drawings would be resubmitted for review and approval. Pending those steps this could all lead to the potential generation of a plan, which would lead to the general contractor receiving permitting for the site.

Mrs. Sax noted that she had been at a couple of the meetings where this project had been presented including the Planning Commission meeting. Mrs. Sax said that she understanding that with the site piece, basically when it is approved by the Planning Commission that is how it is and that there may be some contingencies by Administration. There were three things in particular one was a concern expressed as safety concern from the Fire Chief and incomplete information that could lead to safety issues was a concern from the Police Chief. Also, incomplete items such as structural plans, storm sewers plans and grading plans where not submitted per the City Engineer. Mrs. Sax commented that she felt that the lady who was also at the Planning Commission meeting was dismissive of especially the Fire Chief's professional opinion.

Mr. Swetel replied that they were certainly not trying to be dismissive of the Fire Chief's expertise and the value he adds to the project. What we submitted in the planning commission process was an ingress and egress plan for the largest emergency vehicle that the University Heights Fire Department has, that being the big ladder truck. We presented a plan that shows that vehicle coming in, going down to Pacelli and the main boiler house, and then being able to back up and then exit the property. That was simply just a means of showing on the site plan that we can fit that truck, which is currently the largest vehicle onto and in the site. All of the ancillary things like where the FDC connections will be, other areas where they will be able to easily get their trucks and vehicles access to including the Lombardo Student Center and the recreation center? Those are things that we will have to work together with Fire Chief on as we further the design process. Mr. Swetel said that as part of the submission for the Planning Commission they were asked to submit a plan of ingress and egress for emergency vehicles for the general overall site and so on and so forth.

Mrs. Sax asked since that has to be done anyways, why wasn't it done before the project was taken to the Planning Commission, why wasn't that done at the onset so that it would be a complete part of the plan for safety purposes. What is stopping, preventing anybody from saying it's good enough when maybe it not.

Mr. Swetel replied that they would not get a building permit without the Fire Department signing off and he was fairly certain that they would be working diligently with the Fire Department to make sure that they meet all code requirements and any specific things needed to accommodate the Fire Department. The reason why we separated it the way that we did was because we are actually doing a phased construction process. Moving forward, pending approval tonight, we will wrap up the site engineering documents, move that into a phase where the site and structure work can be bid out and then get that part of it going while we work on the building envelope, and all of the other ancillary things that we need to do to get a building permit. This is because we have spend down requirements for the bonds that we issued for the project. We have to be at 5%, within three years spent down, there was really no other way to kind of package the deal other than to split it up into chunks like this and this is a fairly common practice. But that doesn't negate the fact that we have to meet our obligation from an emergency perspective from the safety aspect from the Police Department and so on.

Mrs. Sax also noted the Police Chief concern regarding restricting turns off of the property where there shows a right turn only onto South Belvoir and that there could be some safety issues there thus requiring a traffic survey ahead of time. What are the guarantees that that will be done and what decisions will be made based on that.

Mr. Swetel stated that they talked a lot about that last week and that it is something that they are absolutely going to have to do to make sure that they don't just appease the directionality out of the site, but also the police department checkoff list. Regarding the plan and the way that the building as cited is so that they are within 12 inches of where the main utility tunnel is on campus. The entry and the exit as they are currently drawn is the best approach based off the building footprint and site right now. That is not to say that the radius or something may change a little bit once the traffic analysis is done.

Mr. Swetel added that a traffic analysis was done when they got approval to close the South Belvoir parking lot and traffic counts had been done all over campus a several months ago. This next traffic evaluation will warrant an evaluation on whether the current traffic signal is needed where the ingress is located right now and if additional signalization is needed. Those counts are not available now because those lots are closed. We are several weeks away from having that full schedule outlined on when we will be able to get that done.

Mrs. Sax added that Mr. Ciuni presented through GPD that it seemed like some basic things were missing. So, at this point in time, Mrs. Sax said she would have thought it would be more complete at the time it went before the Planning Commission.

Mr. Swetel replied that they did respond to Mr. Ciuni's comments and they have provided the calculations that he requested. Those calculations were already completed but they were not submitted with the site plan because it was not required as part of the submission nor was the grading plan. The grading plan is something the building official and the plans examiner will want to see to make sure that there's Topo information and that the sweat plan is in place and has the approval of the Northeast Ohio Regional Sewer District.

Mayor Brennan noted that Mr. Ciuni did report that the concerns that he raised in his memo were addressed at the Planning Commission meeting.

As the Council Representative to the Planning Commission Mr. Rach reiterated what was said at that Planning Commission meeting. Everybody on the Planning Commission is thrilled about the project. Although there was no straw poll, preliminarily there was a want for the commission's preliminary approval and that vote was not taken. That being said, there were a couple of concerns, as Mrs. Sax mentioned in that she was also at the meeting, as a participant in the audience. A couple of things that came up, one was an issue of parking. In understanding that the 300 spaces coming off from the South Belvoir lot will be moved to temporary parking areas outside of the city with shuttles coming onto campus for the next two years. And then, following that two-year commitment, there will be a parking garage somewhere, but there is no commitment as to where that parking garage would be located.

Mr. Swetel stated that Mr. Rach was correct in regards to the temporary parking situation, there is an idea of where the garage would be located. There just are not any plans written or drawn out yet, but it will be near campus.

Mr. Swetel stated that Mr. Rach was correct in regards to the temporary parking situation, there is an idea of where the garage would be located. There just are not any plans written or drawn out yet, but it will be near campus.

Mr. Rach continued. If the parking garage is not complete, at that point, John Carroll would extend the lease for an additional two more years so that parking off site can be accommodated at the various parking facilities. Mr. Rach added that he thought that the Planning Commission was comfortable with that, as long as it was addressed in the development agreement with the city, as it should because parking is a huge issue. Another issue that came up was the right hand turn only out of the new parking lot onto South Belvoir. Right now, as it is situated, the parking lot has a traffic light across from the dorms and you can make either a left or make a right turn. The traffic light is currently triggered by vehicles on the sensors or by someone clicking the pedestrian crossing. By removing the left-hand turn option, we are not sure if a traffic light is warranted, that is something that will come out of traffic study, which we have not seen at this point. So, there is some desire for the Planning Commission to take a look at that traffic study. Mr. Rach said that he specifically asked the Police Chief if he was okay with the right hand turn only and he also wants to see the traffic study before he weighs in on that. There was a little bit of reluctance on the Planning Commission to pass this request right away, or at least to have some type of condition or maybe to a partial approval, but in the end the commission ended up not going that route.

The concern is when you have a couple 100 people at the Field House Event Center, you will have a couple 100 people leaving all at one time and if everybody is making a right hand turn and then you also have potentially half the people wanting to make a left hand turn to head to Cedar and to 271. The question was what happens to the people who need to make a left to go towards the freeway? Inevitably what would happen is that they would make a U turn along Belvoir Boulevard which is perfectly legal. But if it is a long line of them it could create congestion there. It was suggested to potentially use the driveway for ingress and have a two-way street so that at least the left-hand turn can turn at the light, which would warrant that keeping the light. But again, we haven't seen that traffic study yet. The Fire Department concerns were that there wasn't a fire lane for the new build and there was a loss of access to the buildings. Mr. Rach said he was not sure if that got addressed or not. Mr. Rach raised caution here because what Council would be approving is a site plan, not a building plan. As you go into further developments, to do the foundation package, the core, the shell, the interior build out, none of these site elements would be in those drawings, because that is the first package that goes out site. Once Planning Commission approves that site, whether or not the Fire Chief is on board with it or not. It had preliminary approval by the Planning Commission. the site, in that the site plan was already approved by this Planning Commission.

Mr. Rach noted that he was going to make the motion to table so they could go one more meeting to see the traffic study and get the administrative review from the three directors that were in attendance at the Planning Commission meeting, all of whom had some type of concern. Mr. Rach said he ultimately did not make that motion and that he was suggesting that at this meeting Council at least take a look at what some of those concerns were from the directors and to let Council know if they still feel that those issues are a concern of theirs. Mr. Rach also made caution for the condition of approval that this would go for administrative review and approval next. And if there were any material changes in the site plan, then it would go back to Council, although he was not exactly sure what they meant by material changes, what is material to one person may not be material to the next. Usually administrative reviews are done first before they go to the Planning Commission, so that you have a final set of drawings of the site plan before the Planning Commission. It's not uncommon for things to get tabled so that more information can be presented at the second meeting. Mr. Rach asked if the Police Chief could come up and address the concern about the right turn only land and if he still sees a concern with that.

Mayor Brennan asked Mr. McConville what was the appropriate standard of review.

Mr. McConville replied that there is a standard review that is set forth in Chapter 1258.05 that relates to the U-5 Zoning District indicates the general criteria for reviewing a development plan shall be (a) the proposed building or use shall be in conformance with the provisions of this chapter and other applicable sections of the code. The objectives of the duly adopted or accepted comprehensive zoning plan and community facilities plan of the city; (b) the proposed building or use is properly located in relation to the duly adopted or accepted street plan so to generate a minimum of traffic on local streets (c) the location design and operation of such building or use will not adversely affect the surrounding residential neighborhoods; and (d) adequate sewers and drainage is present available or provided for.

Mr. Rach commented that he was glad that Mr. McConville mentioned that because he was hearing three of the things are not fully addressed at this point. One being traffic through the surrounding neighborhood, 100% of that traffic will have to go in one direction and if people felt motivated to make a U-turn, they could. How would that impact property values with traffic of that magnitude hundreds of people live in at once in one direction? And then the third one was the sewer portion that you mentioned that that has not been fully addressed at this point.

Mayor Brennan asked Mr. McConville if he had a legal opinion as to whether those items had been met.

Mr. McConville replied that the Planning Commission gave their approval. Planning Commission heard testimony and saw the presentation and gave their approval. Mr. McConville said there is a permitted use here, Council has a site plan that is presented with one code shortcoming, that code shortcoming is parking. The applicant has provided two separate signed contracts, one with JFX and the other with Notre Dame that addresses that parking issue. You do have a permitted use no variance site plan before Planning Commission and City Council. We talked at length the Planning Commission about the development agreement, we've talked offline with the applicant about that and they have indicated their willingness to agree to our standard type of provisions that would include meeting with residents prior to any construction, bonding, and all of the other standard things we put in there. We also indicated during the meeting that with respect to the concerns that were raised, we would address each of them in a development agreement. So, the development agreement would indicate a contractual obligation to maintain the number of parking spaces that's required by the code. It would further indicate that approval was contingent on police signing off on the right turn issue fire signing off on the access issues that they raised. And that each of the items that were identified by Mr. Ciuni would be addressed to his satisfaction.

So, we have in the past, dealt with some of those issues and development agreements and I think we can do so again.

Mr. Gould commented that this sounded like a conditional approval.

Mr. McConville stated that Planning Commission's approval was conditioned. It was conditioned on the applicant following up with construction drawings and that those construction drawings be reviewed by our building department and our other departments.

Mr. Gould asked if authority prevents Council from requiring those prior to approval.

Mr. McConville replied that no legal authority prevents Council, as long as it is relying on the standard that is in the U-5 code that was read, for making a decision and Council's decision is not arbitrary.

Mr. Rach noted that both the Planning Commission and the City Council have a responsibility to reduce certain things, and take that responsibility seriously. In knowing what we know, based on the drawings that we've seen, and the lack of a traffic study. Mr. Rach asked the Police Chief if he felt comfortable that a right hand turn only, no access to northbound on Belvoir would not create any adverse traffic issues in the city?

Police Chief Rogers said that he would not be able to say that for certain without reviewing the traffic study that would be based on the current configuration that's identified in the site plan for ingress and egress.

Mayor Brennan asked the Police Chief if he had any objections to the approval of the Planning Commission's decision this evening? With the contingencies that they passed with their recommendation.

Chief Rogers replied that personally he did not have an objection to what they passed as he has worked with John Carroll on a regular basis for a variety of things as well as with other developers and other projects where, traffic analysis and traffic studies are common. And we will work together going forward on this as an identified contingency of the conditional approval. But it comes down to specific traffic study that needs to be done. John Carroll did one not that long, and they have a lot of data. It is just more so applying it to the current ingress and egress.

Mr. Rach reiterated that the Planning Commission and the Council have a responsibility here to review a site plan to ensure that it is safe in the community. Noting that the Fire Chief mentioned in the Planning Commission that he did not see a fire lane, Mr. Rach asked if that was something with the drawings that the Fire Chief see's today with what was presented? Are you comfortable without having a fire lane for this project?

Fire Chief Perko said that considering the contingencies that are identified in the motion from the Planning Commission, and additional internal review, supportive of the project moving forward, Chief Perko did want to indicate that the items that they were seeking to be identified will be identified in the future. Those items were not required of them at this time so it was no fault of theirs, that those weren't supplied. We just were indicating that we want to take a close look at that as we move forward.

Mr. Rach ask the question again to the Fire Chief so that it would be clear. With the drawings that were presented to the Planning Commission, do you feel comfortable that there is no fire lane in front of the building?

Chief Perko replied that he believed that they could work it through as they move forward in the process.

Mr. Rach commented, so at that point there would probably be some change to the site plan, which as presented to the site plan and as passed by the site plan would have to come back to the Planning Commission for final review. That is the way Mr. Rach understood it. So, if you Chief are not comfortable with this, and they do address that with some type of change to the plan it is supposed to come back to the Planning Commission. That is the way Mr. Rach understood it, because he would consider a fire lane a material change to the site.

Mayor Brennan stated that he did not believe that was what the Chief was saying this evening.

Mr. Rach's other question was that there was a limited access to two buildings that the Fire Chief addressed in his Planning Commission remarks. Again, Mr. Rach said he had a sense of responsibility here to take heed to the Chief's advice and asked if the Fire Chief felt comfortable with the plans that were submitted to the Planning Commission, that the department can safely access those buildings, vehicular wise and the way it was presented? Do you feel comfortable?

Chief Perko replied that he believed they could make it work if they move forward in the process.

Mr. Rach asked if that would be done through changes in the site plan?

Chief Perko replied that the site plan in that area that Mr. Rach was describing is identified as like a walkway/sidewalk and he believed moving forward process if we can look into changing the depth of the concrete there to make it vehicular access.

Mr. Rach asked if the fire lane width would change and if the fire lane would require some type of change to the site plan.

Chief Perko replied that the fire lane would remain the same width and change to the site plan would depend on if they're going to have a drop off zone or fire lane. It depends if it's substantial or not. But Chief Perko believed they could make it work moving forward.

Mr. Gould asked Mr. McConville to explain the play between the permitting and site plan. If the city approves a site plan, what authority does the administration have to withhold a permit that complies with the site plan that's been approved?

Mr. McConville stated that the permits would not be issued until the building department reviews the construction drawings and those drawings will be reviewed in part for consistency with the site plan. If the construction drawings that are presented are consistent with the site plan, there would not be the authority to withhold a building permit. But, if there is some comment made to the construction drawings that causes the site plan to be changed or altered, then they can withhold the building permit. What was indicated to them at Planning Commission was, there are a couple of loose ends here, for example, the right turn onto Belvoir is going to be subject to a traffic study review by the police department. And that will be built into the development agreement as a contingency for approval. So, there is the ability to review what they present administratively and have some contractual leeway to refer things back to the Planning Commission if the site plan is changing.

Mr. Gould commented that on one hand he wanted to approve this because John Carroll is such a great partner and large part of the city but on the other hand what makes him want to wait for the additional information is because John Carroll is such a huge part of the city. Mr. Gould hoped that it was not too onerous to collect the additional information, especially since it's simply a continuation of like, for instance, the traffic study, it's a continuation of the traffic study that has already been done. Mr. Gould said that the concern is the pushing to the administration that which needs to be approved by council. Mr. Gould asked Mr. Swetel how long would it take to gather the data on the right turn, and whether or not that's going to be necessary, and to address the fire issues of the fire chief?

Mr. Swetel reviewed their overall schedule and added that they did not have the ability to plan for a whole lot of contingencies in the schedule. With that being said while the tasks may not seem onerous, they will require an awful lot of due diligence and could take 45 to 60 days.

Mayor Brennan asked Mr. Swetel so that there would be an understanding. With the conditions, the contingencies that the Planning Commission placed in its motion to provide approval last week, is the project on schedule at this time?

Mr. Swetel replied yes.

Mayor Brennan continued to ask if the City Council does anything other than approve the Planning Commission's recommendation to approve, what does that do to your schedule?

Mr. Swetel said that it would give the real potential to slow the project down, especially with the holidays creating challenges.

Mayor Brennan added that he thought he heard Mr. Swetel say that at this time, no changes to the site plan were anticipated based upon the supplemental information provided administratively.

Mr. Swetel replied correct.

Mrs. Weiss commented that with what Mr. Swetel said in regards to the traffic and since the South Belvoir parking lot will be reduced from 300 to 60 that there will not be a backup of traffic. Mrs. Weiss said that her most outstanding current concern was the fire lane. Even if it is in the development agreement, and gets signed off, John Carroll wants shovels in the ground at the end of February. So, you need to know

where those fire lanes are going to be or any other egress or other changes before you get your shovel in the ground. So, there will be an adjustment to the site plan, correct?

Mr. Swetel said that he did not know 100% if there would be a substantial change in the site plan as a result of accommodating the fire lane. We have not identified and evaluated the structure or the adjacency of the connections for the fire department to gain access into the building. It is not known what kind of capacities the Fire Department will need from their pumper truck, location of hydrants or the FDC connections on the building. There is a lot of information yet on the building that we need to understand and evaluate to better accommodate exactly where we need the fire lane.

Discussion was had as to whether the fire lane would be a material change in the site plan.

Mr. McConville commented that case law isn't really helpful on defining what is material and what isn't, but his view would be that any deviation from what is presented to Council that results in any kind of need for a variance would automatically be deemed material in his mind. Mr. McConville thought that moving something a foot one way or another doesn't impact a variance and in his mind that would not be material. But if you get too much beyond that, and you start to have a question, then Mr. McConville thought that it would behoove the city and the department heads to err on the side of caution and bring it back to the Planning Commission.

Mr. Rach stated that it sounded like from various people talking, there was different definitions on what a material change is and that concerned him because without administrative review, before the site plan goes to the Planning Commission, we end up in positions just like this. Ultimately, what's going to happen from a process standpoint is, if Council passes this today with the same contingencies that will go before administrative review and ultimately the administration will have sign off ability on projects in the city. That's okay, but understand the administration comes from a more political standpoint, as well as a safety standpoint, but the Planning Commission is made up of a body of professionals who preview the site plan from the professional expertise. Mr. Rach suggested that Council takes a step back for just a second, so that the traffic study can be conducted, the administrative review has to be done anyway, before permitting. So, why not go through that administrative review and come back to Council in two weeks if it's done. Then the Chiefs can both sign off that they feel that this project is safe, and it's going to be good for the community and not cause any adverse issues to the community. Council could then consider it and then understand based on what changes are made in that site plan whether this really need to go to Planning Commission or not?

Mrs. Weiss said she was hearing for Council to table this for right now and then come back after the Administrative Review in the next two, four, six weeks once the contingencies taken care of. Council meets every two weeks.

Mr. Rach said he would like to suggest that Council at least take a look to see if the items were addressed to the satisfaction of the police chief and the fire chief. And, if there were no material changes, and if the chiefs are both still satisfied with the plan, then Council can make a judgement at that point. And if not, then Council may have to consider sending it back to Planning Commission as the vote for what the contingency outlined.

Mayor Brennan commented that he, police chief, fire chief and the building department were more than capable to do this review. To send it back to Planning Commission if necessary, without Council looking over their shoulder and doing it for them. The administration is able to do this to help John Carroll keep this project on calendar. They have expressed here that the course that's being suggested, which is contrary to what the Planning Commission, ultimately passed, would set back the schedule for John Carroll University on this project. There is no reason to do that here. There is no reason to add a level of micromanagement and bureaucracy to this process when the Police Chief and the Fire Chief and the Acting Building Commissioner are more than capable to do this review. Mayor Brennan urged Council to pass this this evening.

Mr. Cooney said that it was his understanding that the Planning Commission did approve the site plan and there were concerns based on contingency. And those items need to be addressed in order for the building permits to be issued. So, in theory, if Council were to pass this the project could continue. The traffic study would essentially be a traffic study for 60 cars. And the Fire Chief has expressed no serious reservations and that the fire lane could be placed on the current site plan. Mr. Cooney said he thought there were potentially several issues are being addressed or that will be addressed without material changes within the site plan.

Mrs. Sax stated that she wanted to make it clear that she fully supports this project. This is excellent for the city, it is excellent for John Carroll, but, safety is paramount for the community as well.

Mr. Gould again said how much he supports this project. And that he thought that the items of concern can be addressed. The way Mr. Gould anticipated thing would happen and hope that they would happen is that there will be an administrative review then the project goes to Planning Commission for them to make their approval based on full information, and then it comes to back to Council for its final sign off, and then we are done. Mr. Gould added that he did not like the idea of a conditional approval or the idea of an undefined material change.

Mayor Brennan asked Mr. McConville if the City Council, in the last term, approved any recommendations from the planning commission that had conditional factors?

Mr. McConville replied yes, it is not unprecedented.

Mrs. Weiss stated that this is a huge project. We want John Carroll to flourish, we want them to continue, in fact, I want you to keep working. Council's approval right now has nothing to stop you. Council's approval, disapproval or tabling does nothing to stop you from continue to work. Council just wants you come back when the conditions are met. Mrs. Weiss said she had 100% confidence in the chiefs. It has nothing to do with undermining anything. Nothing like this has been done since University Square and none of the current Council members were a part of that. Mrs. Weiss said just keep continuing do the work and come back whenever you are ready. Council will be here and let's get this push through.

Mrs. Sax offered that a Special Council meeting could also be called if necessary.

MOTION BY MR. RACH, SECONDED BY MR. GOULD to Table this application until the Administrative Review process is complete for the Approval of the Planning Commission's Recommendation of Approval from October 6, 2022 regarding Application Approve Planning Commission's Recommendation of Approval with contingencies from November 3, 2022 regarding Application from John Carroll University for the Site Plan Approval for the Construction of a New Athletic Wellness & Event Center on the current South Belvoir Blvd. Parking Lot Site at the corner of South Belvoir and Carroll Blvd.

Mayor Brennan stated one more time for the record that a vote to table is a vote against this project. It is a vote against proceeding with this project in a timely and effective manner. We have the administrative processes to handle this and the capability to do it. It is an insult to our Police Chief and Fire Chief and to our Building Commissioner, that that you feel the need to second guess and look after their work and delay the work of John Carroll University on this project. This is a vote against the project if you table this.

Mr. Rach said Mayor this is exactly why we need scrutiny and processes. You have tried time and time again to intimidate us to vote your way and you're doing so again. I will not go above my training and expertise and completely ignoring the safety forces that came before us with concerns. Once those concerns have been remedied, the applicant will come back and we will be gracious to hear the application once more.

On roll call, all voted "aye," except Mr. Cooney and Mr. King, who voted "nay."

B. Motion to Approve Communication Contract with Spectrum

Mr. John Lansing, Manager of the Government and Education Vertical Market for Spectrum for Northern Ohio and Ms. Mackenzie Kenny, Direct Account Manager for Spectrum Enterprise Government Education and University Heights resident were present.

Mr. Lansing stated that the service contract entailed three components of service for seven of the city locations. The contract is for Internet access at each site, a combination of basic coaxial cable internet, for the smaller offices for a more reliable connection than is delivered via fiber. Also, is a new phone system for each of the locations based on site surveys and walkthroughs to each of the buildings and departments within the scope. The contract is for both the physical equipment or phone handset, as well as the phone service.

Mr. Kennedy explained the need for entering into this contract and added that the pricing is offered through the State Cooperative Purchasing Program which would eliminate the need to go out for competitive bidding.

Mayor Brennan commented to the difficulties the city has had with its current internet provider, Breezewood (formerly known as WOW). There have been constant issues with delays in bringing the internet service back up at City Hall and at other facilities around City Hall, including the annex, the

Building and Housing Departments and to an extent also to Police and Fire, and that is operationally hazardous. It is certainly administratively inconvenient, but it is a hindrance to operations.

MOTION BY MR. GOULD, SECONDED BY MRS. SAX to approve entering into a Communication Contract with Spectrum.

Mr. McConville offered that the motion be broken out into the two pieces where the state bid hardware pieces were separate for the monthly service cost for purposes of the auditor.

Mr. Gould was agreeable to amend his motion into the two parts.

AMENDED MOTION BY MR. GOULD, SECONDED BY MRS. SAX to approve the service portion of the communication contract with spectrum. On Roll call, all voted "aye."

MOTION BY MR. COONEY, SECONDED BY MR. KING to approve the acquisition of new phone equipment, rental fees per month plus the one-time charges. On Roll call, all voted "aye."

C. Ordinance 2022-69 Establishing Permanent Appropriations for the Year Ending December 31, 2023 and Declaring an Emergency (on first reading)

Mr. Kennedy stated that this was the first round for this ordinance and it was just a summary of the Mayor's administrative budget. Mr. Kennedy said he assumed it would formally get sent to committee for the Finance meeting on the 17th. Any changes that the Council and Mayor and Mr. Kennedy agree upon can be imputed fairly quickly with just an update to the schedule.

Ordinance 2022-69 was placed on first reading.

D. Motion Authorizing the Finance Director to Enter into a Banking Services Contract with Dollar Bank

Mr. Kennedy stated that he was contacted by Dollar Bank executives to see about extending the city's contract with them for an additional two years, the current contract is scheduled to run out in November of next year 2023. The original contract was based on an RFP that was prepared in 2018 and Council authorized by motion, the results of that RFP which favored Dollar Bank in Ordinance 2019-69 was approved December 2 2019, designating Dollar Bank as authorized depository that was subsequent to the actual contract being started. In this contract Dollar Bank is offering to hold their current price line and extend their services until November 2025. That would allow us to avoid having going out to bid which is a very, very complicated process for banks.

MOTION BY MRS. WEISS, SECONDED BY MRS. SAX Authorizing the Finance Director to Enter into a Banking Services Contract with Dollar Bank. On roll call, all voted "aye."

E. Ordinance 2022-70 Authorizing the Mayor to Appoint and Enter into an Agreement with Joseph R. Ciuni of GPD Group as City Engineer, and Declaring an Emergency (on emergency)

Mr. Ciuni stated that the proposal in front of Council was for the hourly rate increases for 2023 for GPD Group. The rates are consistent with the increases GPD has and the rates are identical to the increases they have for their other surrounding area cities where they serve as city engineers, that being Shaker Heights, Beachwood, Bedford, and Huntington Valley and Warrensville Heights. Mr. Ciuni requested the renewal of the contract starting in January 2023.

Mr. Rach said he did not see a contract in the Council meeting package and asked if that was something that the city has with respect to a contract with the city engineer or contract with GPD?

Mr. McConville replied that he has a copy of the 2022 contract version and that it is a bare bones contract with a couple of exhibits. One is the fee rate and the other is the services. The contract that allows for either party to terminate upon 90-day notice.

Mr. Rach asked if there was an internal document that outlines the scope and services of the city engineer?

Mr. McConville replied that is attached to the agreement year over year.

Mr. Ciuni added that in January after GPD gives out its yearly raises he give the Mayor the names of the employees and their hourly rate and what discipline they fit.

Mr. Rach noted that Council had talked in the past about how the City Engineer is able to engage in design projects as the design engineer, but he did not see anything in the scope of services that outlines as part of their scope. Is it part of their scope to do design work?

Mayor Brennan asked Mr. Ciuni if he did design work on behalf of the city and Mr. Ciuni replied yes.

Mr. Rach commented that for benefit of the Council, if the contract could be included in the packet, this agenda item could probably be tabled, because he wouldn't want anybody to approve anything without reviewing the contract first.

Mr. Gould asked that the set of emails that came out today from Mr. Ciuni could be included in the later packet.

Mr. Rach asked that the 2022 rates also be included to allow a comparison be done on the increases. Ordinance 2022-70 was placed on first reading.

F. Motion 2022-71 Authorizing the Transfer of Funds from the General Fund (100) to the Sewer Operating Fund (201), Shade Tree Maintenance Fund (202), Street Lighting Fund (203), Sewer Capital Fund (401) and Declaring an Emergency (on emergency)

Mr. Kennedy stated that these were transfers that were included in the budget at the beginning of the year. So, there are appropriations available to execute these transfers.

Mr. Kennedy highlighted the streetlight fund that was \$40,000. Mr. Kennedy said given the price of electricity the last couple of years, it is necessary to put that transfer in to make sure that there is enough money to cover the appropriation needs for that fund through the end of December.

MOTION BY MRS. WEISS, SECOND BY MRS. SAX Authorizing the Transfer of Funds from the General Fund (100) to the Sewer Operating Fund (201), Shade Tree Maintenance Fund (202), Street Lighting Fund (203), Sewer Capital Fund (401) and Declaring an Emergency. Roll call on the suspension of the rules, all voted "aye." Roll call on passage, all voted "aye."

G. Motion Authorizing the Purchase of a Replacement Leaf Vacuum Trailer

Mr. Pokorny stated that this was a request for authorization to purchase a replacement the vacuum trailer. The new vacuum trailer being proposed to keep our lease vacuum fleet working. The trailer that it will replace will be LV 219 a 1989 giant leaf vac trailer. The 1989 leaf vac is still in use, it is not as efficient as other newer units.

This purchase is through the Sourcewell contract which is a state bid type contract from Old Dominion Brush Company who manufactures the unit and their local dealer is Best Equipment Company from North Royalton. The unit costs \$53,939.

Mr. King asked if this were approved when could delivery be expected.

Mr. Pokorny replied approximately 6 months.

MOTION BY MRS. SAX, SECONDED BY MR. KING to Authorizing the Purchase of a Replacement Leaf Vacuum Trailer. On roll call, all voted "aye."

H. Motion Authorizing the purchase of a Used 2012 Mack Rear Load Rubbish Truck

Mr. Pokorny reported that this will replace the broken 2004 Mac rubbish truck that was purchased used in 2014. The used 2012 Mack Rubbish Truck was found online. We looked at pictures and videos of it and it is very similar to previous trucks that we have purchased used. It will come from New York City

and has been refurbished. The quote that we received for this truck is \$44,200 with an additional \$4,000 shipping. If we were to purchase a new truck through Bell equipment, which is where we have received the last rubbish truck via state purchasing the cost would be almost \$300,000 with delivery the fourth quarter of 2023.

MOTION BY MR. RACH, SECONDED BY MRS. WEISS Authorizing the purchase of a Used 2012 Mack Rear Load Rubbish Truck. On roll call, all voted “aye.”

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

There was an need to hold Executive Session for personnel and legal matters.

MOTION BY MR. GOULD, SECONDED BY MR. COONEY to enter into Executive Session for personnel and legal matters. On roll call, all voted “aye.”

Director’s Reports

Finance Department – Mr. Kennedy

Mr. Kennedy provided an update on the City’s financial statements to date.

Service Department – Mr. Pokorny

Loose leaf collection has started the third pass of the city. Tree planting will begin next week and tree pruning will start sometime in December.

Housing and Community Development – Mr. Englebrecht

Mr. Englebrecht provided the stats for inspections over the last two weeks. In regards to community development, the City will be presenting along with South Euclid and Cleveland Heights their collective grant to NOACA on November 15.

After speaking with members of NOACA the original collective grant submission was amended because NOACA felt that some of our proposed bike boulevards would be part of a new separate planning effort to begin next year. Cities original estimate included shrills and sign toppers for streets which were which were removed in our collective amended requests including the removal of Miramar, South Green, Eaton, and Meadowbrook. The routes which we will currently seek funding for and that were included with our request include Silsby, Traymore, Saybrook, Washington and South Belvoir. South Green and South Taylor were not included. The total ask for all three cities is \$280,480 and as a combined request from NOACA University Heights total for that grant request is \$59,400. The remainder of the amount will go towards enhanced crosswalks at Warrensville and Mayfield, along with enhanced signage for Cleveland Heights as well. The award will be announced in February of 2023.

Mr. Rach asked why were so many streets removed and if we don’t get the grant are we then limited to the streets mentioned.

Mr. Englebrecht replied that NOACA wanted roads that were submitted as part of our original submission to have been included in previous TLCI planning requests or efforts. No, we will not be limited to those streets and there are other pots of money grants. Part of the idea with the bike boulevards was to take the bicycle traffic off of the main streets.

Mr. King provided a little more context. In discussion with Cleveland Heights, South Euclid, those streets did come out and we were looking for those natural connections. Using the services of Ken Bernard, the GIS specialist from Cleveland Heights and looking at a map to see where the connections were. And unfortunately, they just didn't meet the guidelines for this particular grant. But as Mr. Englebrecht has indicated he is willing to go back out and look for additional funding for those. Mr. King said that he was frustrated that NOACA did not see what we were seeing with these connections between the cities.

City Engineer – Joseph Ciuni

Mr. Ciuni reported on three construction projects that were wrapping up. He and the Mr. Pokorny will have a walk through at the pool as the pool has been painted, the structural steel, the diving and slide work has all been completed. There will also be a walk through for the Cedar Road project, although it's

not 100% completed. Some of the pedestrian push button crosswalk items are still on order. But they can go through all the pavement items and all the drainage items with ODOT and concrete to sidewalk and curb and make sure that anything that we had on the punch list was completed. Finally, the 2022 Road program has been completed and was striped today. A final walkthrough will be done with the contractor for that project as well.

There were no other director reports.

Standing Council Committees:

Economic Development – Mr. Rach

Mr. Rach stated that he had spoken with Mrs. Drucker and that they are almost ready for the ZoneCo zoning update so they will be planning on starting meetings with the Subcommittee Advisory Committee sometime in January. Mr. Rach asked Mr. McConville to let him know if they will be required to have a quorum of the Subcommittee Advisory members present to have the meeting if they are not voting members or does it just have to be a quorum of the Economic Development Committee.

Mr. McConville said it was his understanding that it would be a quorum of the Economic Development Committee, but he would like to confirm that information.

Mayor Brennan asked Mr. McConville to also look into since this subcommittee consists of the entirety of several other committees; Planning ARB and BZA if there is a quorum of any one of those committees meeting within the confines of this subcommittee, do they need to notice it as a meeting of their own committee as well since they are ostensibly meeting in a place to discuss any business?

Finance Committee – Mrs. Weiss

Mrs. Weiss reported that the Finance Committee will meet on November 17.

Service Committee – Mrs. Sax

Mrs. Sax announced the next Service Committee meeting would be January 4, 2023 at 6pm.

Committee of the Whole – Mrs. Weiss

Mrs. Weiss reported that there was an engineering ordinance many months ago, in June or July that was presented and the discussion around that ended up creating a working and engineering working group. The meeting prior to this Council meeting was excellent just as were the two previous meetings. There has been a lot of progress and a lot of respect between the members. Mrs. Weiss said she thought that after one more meeting they would probably conclude that.

Reports of special committees, and the taking of action thereon

None

Unfinished and miscellaneous business

None

MOTION BY MRS. SAX, SECONDED BY MRS. WEISS to exit executive session and re-enter regular session. On roll call, all voted “aye.”

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

There being no further business, the meeting was adjourned at 9:31pm

Michael Dylan Brennan, Mayor

Kelly M. Thomas, Clerk of Council