

**COUNCIL MEETING MINUTES
CITY OF UNIVERSITY HEIGHTS, OHIO
TUESDAY, JANUARY 3, 2023**

Mayor Michael Dylan Brennan called the meeting to order at 7:04 p.m.

Roll Call:

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

Also Present: Assistant Law Director Michael Cicero
Clerk of Council Kelly Thomas
Fire Chief Robert Perko
Police Chief Dustin Rogers
Housing and Community Development Geoff Englebrecht
Economic Development Susan Drucker
Service Director Jeffrey Pokorny
Communication and Civic Engagement Michael Cook

Approval of Council Minutes:

Council Meeting December 19, 2022

There were no corrections or additions to the Council meeting minutes from December 19, 2022.

MOTION BY MRS. WEISS, SECONDED BY MR. COONEY to approve the December 19, 2022 Council Minutes. On roll call, all voted “aye.”

Additions and Removals from the Agenda; Referrals to Committee

Mayor Brennan stated that today Service Director Mr. Pokorny distributed a memo dated January 3, 2023 regarding revised proposal for the reconstructing of the City Hall main entrance roof.

MOTION BY MRS. SAX, SECONDED BY MR. KING to add new agenda item “d” motion to approve revised proposal from McNulty Construction for the reconstruction of the City Hall Entrance Roof. On roll call, all voted “aye.”

Mr. Gould stated that he would like to add as the new agenda item e. Further discussion regarding moving City Council meetings to City Hall and report from the Director of Law.

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD new agenda item “e” further discussion regarding the proposed move of Council meetings to City Hall and report from Director of Law. On roll call, all voted “aye.”

There were other additions/removals from the agenda or referrals to Committee.

Comments from Audience

There were no audience comments.

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

Mayor’s Report

The State of the City Address will be Wednesday, February 15, 2023 at 6:00PM in the auditorium at Dolan Science Center at John Carroll University.

In preview of that now. Five years ago this week, I took office as the tenth Mayor of the City of University Heights. Since then,

- we rebuilt the fire department,
- reopened the Fire Prevention Bureau,
- created the office of Community Policing,
- established the city's first Economic Development Department,
- rebranded the city,
- started the Mosaic Magazine,
- built new homes (including the city's first new housing development since the 1970's).

Since we started five years ago, we

- reformed the Building Department,
- elevated Housing and Community Development as its own department.
- rebuilt the Finance department, instituted best practices, and have had clean audits ever since, even earning recognition from the state auditor for "excellence in financial reporting" in 2021.

We have constructed bike lanes on WCR, and traffic-calming pedestrian safety enhancements on WCR, Green Road, and all along Cedar Road – especially at Cedar-Green, Cedar-Belvoir, Cedar-Washington, Cedar-Thayne.

We have built a strong sense of community centered around The Walt, with the improved concert series, and also with the annual Fall Fest and Juneteenth celebrations we started.

Presently:

- Work towards new municipal facilities is underway.
- Work towards updating our zoning code is underway.
- Work with JCU on their Fieldhouse and South Gateway projects is ongoing.
- We have committed to becoming a sustainable city with projects and improvements planned – we were one of 22 communities recognized by Power a Clean Future Ohio for our fresh commitment to sustainability in 2022, and in 2023 and beyond we will endeavor to live up to our commitment. A greenhouse gas inventory is underway and will be completed later this month. In order to measure the improvements we make, we need to know our current starting point, as we endeavor to reduce our carbon emissions by 30% by 2030. All this, and we have Bike Boulevards to come, too!

Turning to special use permits...

We reapproved and then oversaw the construction of Cleveland Community Mikva.

We negotiated and approved the special use permit and worked closely with Zichron Chaim on the construction of their new synagogue (which is underway).

We negotiated and approved the special use permit and just entered in late December the development agreement (at last) on the new Aleksander Shul -- with construction plans to be finalized in the next six months.

Under my administration, the City of University Heights has never rejected a special use permit for a house of worship.

And under previous administrations, I am unaware of the last time there was rejection, if ever, of a special use permit for a house of worship in the City of University Heights. The Beachwood-University Heights Kollel special use permit was approved under the previous administration, as was the initial special use permit for the Cleveland Community Mikva, which was later extended and reapproved under my administration. And before even that, Zichron Chaim's current location, adjacent to a business district but within a residential district, required and was approved for a special use permit (years ago).

At the last council meeting of 2022, council authorized by a vote of 5-2 that the city enter into the settlement agreement resolving litigation with Aleksander Shul. Though the City approved the special use permit over 13 months ago, the settlement was at long last reached. Rabbi Shnior Denciger and I signed the settlement agreement, and last week, the federal court accepted it and entered it as an order of the court, closing the case effective December 27, 2022 – one day before the Rule 68 deadline on the City's offer of judgment. There will be some motion practice regarding attorney fees, as agreed. And the Aleksander Shul is on the clock to present plans that administration may remove and approve for construction within six months. The destiny of the Aleksander Shul is in their hands. I look forward to the Aleksander Shul joining the community formally at long last.

Though that is all good news, I nevertheless have buried the lede. The most significant development to date on University Square. For some time we have negotiated with Target, Macy's, and the new developers to break the impasse on redeveloping University Square. In December 2022 we came to terms on an MOU for redevelopment of this long blighted center of our community.

When the bondholders foreclosed and took over the property in 2015, they had an 18 to 24 month plan to turn around University Square. Eight long years later, we now have the framework for finalizing the details for actual redevelopment of University Square.

Once as a mere resident I sought this office in hopes of one day reaching this point. Like my neighbors and so many of you, I was tired of nothing being done with University Square. I began taking meetings on University Square in late 2017, even before I was sworn into my first term as mayor. I knew it wouldn't be easy, because if it were easy, it would have been done already, years ago, before I even got involved myself. It was through sheer will, persistent efforts of this administration, Susan Drucker and Luke McConville especially, and the refusal to give up or accept defeat or failure, that has brought us to this point at last.

For this we can all be grateful, and we can all share in the success of reaching this point. Even as the work continues.

This leaves one more area of municipal services that remains largely unreformed. Our Service Department.

Yes, there have been some improvements. In 2018 we did increase the number of snow plows on the roads -- and the sidewalks. We modified the sensible salting program to make it pedestrian friendly, especially in areas with high numbers of pedestrians at the times when we reasonably expect a high number of pedestrians. We made special pickups for bulk pickup available online to order. We have encouraged composting, and greener practices regarding leaf pickup. It is still true: Leaves leave faster when you bag them.

However, with the 2023 budget we have now passed the fourth budget since receiving in 2019 the draft recommendation of GT Environmental to reform our solid waste pickup. In spite of the urging of administration, the City Council (and the City Council Finance Committee in particular) have taken no action to fund modernization of our solid waste collection, and in fact, cut from the 2022 budget funding that would have begun modernization incrementally with the acquisition of recycling carts and an implementation of loose recycling collected curbside.

Costs continue to escalate. Equipment continues to be outdated. Labor continues to be scarce. Here in University Heights, we have difficulty hiring and keeping a full complement of full time and part time service employees. Next door, in Shaker Heights, they too are seeking additional refuse collectors, six of them per their recent and current job posting, and even offering signing bonuses. We pay a fair wage to our service employees, but I am fully aware that service department and refuse collection work in other communities is more attractive than in ours because those departments have modernized and University Heights has not. Rather than hoisting thousands of fifty pound garbage cans over their heads every week, the work elsewhere is less back-breaking, and safer with automation.

As if the reports from experts we retained and other expert input from the solid waste field were not enough, the community was surveyed twice last year. And from that we know that 84% of the community thinks recycling is important. We know that while 4 out of 10 residents would prefer to maintain the current method of pickup, 5 out of 10 are ready for a change. And we know that residents who have lived elsewhere, where curbside automated pickup of rubbish and recycling was standard, that they tend to prefer that over backyard pickup. That's right, UH residents who are first-hand familiar with both curbside automated and backyard pickup tend to prefer curbside automated.

We have known since before the 2022 surveys, from the 2019-20 Solid Waste Study, that keeping the current method of pickup is not sustainable. Not from an ecological perspective. Not from a financial perspective. Not from a workplace safety perspective. No survey, not even two surveys, changes the facts.

Since October 2022 we have begun paying about \$2,500 a month to process recyclables, while other cities are getting paid for their recyclables -- and are recycling more and different items than our current setup allows. Other cities can recycle polypropylene -- plastic yogurt tubs and sour cream containers -- while we cannot. Other cities actually recycle glass, while our glass is simply ground into particulate for pavement. A reuse of that glass better than landfilling, but not as good as actual recycling.

The choice to modernize should be obvious. But, the City Council Finance Committee made clear this past Fall that it would not take it up during the now completed 2023 budget cycle. The Service and Utilities Committee will have another meeting on the subject tomorrow at January 4, 2023 at 6pm here at Wiley.

To the residents of this city: If you care about the environment, about better recycling, about workplace safety, and fiscal responsibility, then I suggest you attend Wednesday's meeting here at Wiley at 6pm and be heard.

Thank you, this concludes my report.

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

There were no reports or communication from City Council.

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

A. Notice of Appointment by Councilperson Brian King of David Jackson to the Charter Review Commission)

Mr. King stated that on December 20, 2022 Rick Brown, member of the Charter Review Commission passed away in his sleep. Everyone who knew him is devastated by the absence of him in our lives. Rick grew up on Meadowbrook, went to Heights High School and raised his family on Westwood with his wife. A kindhearted man dedicated to family, friend and community. This dedication was embodied throughout his life; serving as a Cub Scout leader, a little league coach, President of his Temple and on the Charter Review Committee. His presence will be sorely missed. While no one can replace Rick Brown, Mr. King stated that he was appointing David Jackson to the Charter Review Commission.

Mr. King added that David has been a resident of University Heights since 2019 and has set deep roots in the city with his young family. He is a real estate agent serving the Heights. Mr. King said he knew David to be an astute and thoughtful person who is invested in the future of the community. David will be an asset to this important city proceeding.

B. Motion to Approve Transportation Services Contract with Senior Transportation

Mayor Brennan stated that this was a long-standing program and Walter Stinson used to serve on the Board of Senior Transportation Connection (STC) which enables some of the city's seniors to age in place. Approximately 367 trips taken in 2022 by 17 different residents for approximately 1,350 miles traveled. The trips were as follows: 89 for dialysis appointments, 147 for other medical, 19 for personal and 112 for shopping. \$1,113 was paid in fares. This is an important and valuable service and ought to be kept. The contract will have a small increase cost over the \$15,000 Mayor's authority because of the increased cost of fuel and other items to run the program. The service continues even though the contract would be effective January 1, 2023 and passed on a retroactive basis.

Mrs. Weiss agreed that this was a service the city needed to keep and something the seniors depend on. As soon as council receives the updated contract she would be happy to vote in favor of it.

Mr. Gould asked Mrs. Sax if she was aware of any other transportation services or options that could be considered or is this it?

Mrs. Sax commented that other transportation services or options are slim, this is a viable option and if it has been used in the past with success then it would probably be a good prospect. It would be helpful to know if there has been any complaints or glitches.

Mayor Brennan added that some communities that had their own transportation service but have gotten away from that because of the cost. Mayor Brennan noted that the city can cancel the contract with a 90-day notice given and said he would invite the program's director Mrs. Laura Kleinman to present at the next Council meeting.

MOTION BY MRS. WEISS, SECONDED BY MRS. BLANKFELD to table the Approval of the Transportation Services Contract with Senior Transportation Connection until the contract is provided. On roll call, all voted "aye."

C. Motion to Approve Price Quote from Starfish for IT Emergency Support and Service for a 3-month period of January, February and March 2023 in an amount not to exceed \$16,650.00

Mayor Brennan said that this was the standard price approval quote from Starfish. Incidentally, bids were opened at the end of last year just prior before the holidays regarding IT services. Mayor added that he anticipated the Tech Advisory Committee will be meeting to review the bids and make recommendations to Council. This may be the last Emergency Support and Service that needs approval.

MOTION BY MR. KING, SECONDED BY MRS. WEISS to Approve Price Quote from Starfish for IT Emergency Support and Service for a 3-month period of January, February and March 2023 in an amount not to exceed \$16,650.00. On roll call, all voted “aye”

D. Motion to approve revised quote and proposal from McNulty Construction for the reconstruction of the City Hall Entrance Roof.

Mr. Pokorny reported that the project had been brought to Council for approval with a cost of \$18,500 and at that time Council requested that it be reviewed by the ARB. McNulty presented the project to the ARB and the ARB requested that changes be made to the design by changing the front door, redirect the downspout and do some footer design work for the columns associated with the roof. The additional work added \$6,000 bringing the revised quote to \$24,500. The ARB approved the revised changes.

Mr. Rach asked if there was going to be any changes to the brick work because in the revised drawing it looks like the roof line was lower and the current roof line.

Mr. Pokorny replied that there is no change in the roof line it's just the angle in which the picture was drawn or the scale is not accurate.

Mr. Rach asked Mr. Pokorny to make sure that the height of the canopy will remain in line with the existing height.

MOTION BY MR. RACH, SECONDED BY MRS. BLANKFELD to approve the revised quote from McNulty Construction in an amount not to exceed \$24,500 with the condition that the height of the canopy is maintained as the same height of the existing canopy. On roll call, all voted “aye.”

E. Further discussion regarding the proposed move of Council meetings to City Hall and report from Director of Law.

Mr. Gould stated that at the previous Council meeting there was discussion regarding moving Council meetings back to City Hall and the Law Director was asked to make a memorandum regarding the issues and to mediate having a viewing room separate from the main meeting room. Mr. Gould said he was under the impression that that memorandum has been prepared.

Mr. McConville stated his memorandum was submitted to the Mayor and Council earlier in the day. That memorandum indicates that the ADA does apply to the City. The City is obligated to comply with the ADA requirements in connection with its facilities. Because the ADA applies we need to look more broadly as to what might be applicable to the scenario of returning meetings to upper chamber at City Hall. There is a provision in the ADA that indicates that it is discriminatory to provide an opportunity or a service to a disabled person that is different from or separate from that opportunity or service that is provided to others, unless the opportunity or service is provided in a manner that is “as effective” as that provided to others. Mr. McConville said that in connection with the question as to whether having a remote viewing room would satisfy the requirements of the ADA he thought a lot would depend on the facts of that remote viewing room and in particular in order to meet the “as effective” requirement the City would need to make sure it had sound systems in place on the one hand and technology in place on the other hand that worked very seamlessly and that allowed a disabled person who might be in that viewing room to participate in public comment, to participate in real time as others are permitted to do. And that we have reasonable certainty that our technology is going to hold up and that we don't have the kinds of interruptions or obstacles as a standard that we sometimes experience here at Wiley. Mr. McConville said he knew for example that earlier this evening there was a resident who was having trouble hearing one person. We would have to be careful with having systems in place and having a process in place eliminating that kind of defect. If we do have defects in our technology or in our systems, Mr. McConville thought that it could lead to potential exposure and added that he had not had the chance to look at comparative case law but would look into if that was something that Council wanted him to do. Mr. McConville added that he did not want to foreclose the possibility from a legal standpoint but he did want to make sure everyone understood that there would be some challenges and work to do to meet the “as effective” language in the ADA.

Mr. Gould said that from his part, wanting to change to that location is motivated by the technology that we repeated have here (at Wiley). The residents want access to these meetings virtually. They discuss

Council's/their business on virtual forms. They complain that they cannot hear people talking, they try to join in on the links that we post which in the past was fine for the open meetings issue, but when you tell someone they can engage their Council in meetings virtually and then they aren't able to speak or hear that is a problem. Council invested 10's of thousands of dollars into the audio/video system we currently have and it does not broadcast, that is a problem. So we have this "owl" as a makeshift option but we are turning to a more permanent Council Chambers where we are in control and can invest in the internet connection is really important. Moving back to a more permanent Council Chambers where that technology can be invested is a way to provide access to all the residents.

Mrs. Blankfeld agreed with Mr. Gould, according to her neighbors they are not providing the ability to view or participate in Council meetings virtually.

Mr. Cooney also agreed with Mr. Gould and Mrs. Blankfeld that returning to City Hall for meetings should be explored.

Mrs. Sax also agreed and added that she believed that all of Council wants to maximize the access ability of residents to meetings whether in person or virtually.

Mr. King commented in respect to moving back to City Hall there would have to be additional investment that would need to be made in order to bring the Chambers up to that technological bar where they could expect resident to be able to view the meetings on line and in an acceptable manner. In regards to the primary issue with the sound quality here at Wiley, the problem occurred when the school system changed to wi-fi configuration that became incompatible with the camera system. The sound system does directly go into the cameras and the quality of those meetings was much higher. Mr. King said he thought the quickest path to get a higher quality streaming to the residents would be to reengage the school district or find some other manner to get an internet connect that works with the cameras and then stay in this location.

Mrs. Weiss added that she wanted to make sure that Council was still of the opinion that Mr. Cook should still work with Starfish to handle the IT issues at Wiley to live stream the meetings.

Mr. Gould replied that was completely separate and apart. But he knew that the Clerk had a little bit of experience around some of the streaming systems and could help identify implementing some of those in moving meetings back to city hall. And, if she were willing to work with the Law Director to identify programs that would be compliant. Both of these things could happen simultaneously.

MOTION BY MR. GOULD, SECONDED BY MRS. BLANKFELD directing the Clerk of Council to work with the Law Department to identify ADA and Public Meeting Acts for compliance options for returning to City Hall for Council meetings. On roll call, all voted "aye."

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

Executive Session was not needed.

Director's Reports

Finance Department – Mr. Kennedy

Mr. Kennedy provide some highlights to the 2022 financial statements but noted that the department is still in the process of finalizing the books for 2022 and he would provide the written financial statements to Council in the upcoming weeks.

Economic Development – Mrs. Drucker

Mrs. Drucker reminded everyone about the Zoning Code update committee meeting on January 25 from 6pm – 8pm at John Carroll University in the Jardine room.

There were no other director reports.

Standing Council Committees:

Economic Development – Mr. Rach

Mr. Rach reported that there will be an Economic Development Committee meeting on January 11 at 6pm to review the City Engineer's contract. Mr. Rach said that the committee will need the previous and proposed new Engineer contract for the meeting as well as the hourly rates for both.

Finance Committee – Mrs. Weiss

The Finance Committee will meet on January 30 at 6pm.

Safety Committee – Mr. Gould

Mr. Gould stated that they had a good committee meeting that included a visit from the Executive Director of the Chagrin Valley Dispatch and discussed the partnership and communications with the city. The committee also discussed certain safety issues especially those on Hadleigh Road and requested that citizens continue to notify police through the emergency number for emergencies and the non-emergency number for non-urgent emergencies of any traffic safety or other issues related to the flow of traffic through their neighborhoods so that correct records can be had. Finally, there was a discussion regarding the University Heights vacant home and special attention program and we're just letting our residents know that when they go out of town or if they for other reasons feel like their home needs special attention from our patrolling officers they can call 24 hours a day to our non-emergency number and request that their own be placed into the CAD system for special attention by patrolling officers. The next committee meeting will be just prior to the first regularly scheduled City Council meeting in February.

Service Committee – Mrs. Sax

The Service and Utilities Committee will meet tomorrow, January 4 2023 at 6pm.

There were no other Council Committee reports.

Council Committee of the Whole – Mrs. Weiss

Mrs. Weiss reported that there will be a Joint Facilities and Infrastructure Committee meeting in February.

Mrs. Sax asked Mr. McConville for clarification about committee protocols and processes, i.e. if anyone can add an item to the agenda or add a document to be handed out?

Mr. McConville replied that he did not believe there was anything specific in the ordinances as to that. But in general terms, council committees' control both the agenda and the documents that are considered at any particular committee meeting. Mr., McConville added that he has noted in the past that council committees are able to essentially control what the discussion is and who the discussion is among. But if the floor is open to the general public all members of the general public present, which would include any other elected official, who is not a member of the committee, be given a be given the opportunity to participate. Furthermore, if the council committee meets and opens the floor to those at the meeting, they can't pick and choose who gets to participate and who doesn't; either the floor is open to those at the meeting or it isn't.

Reports of special committees, and the taking of action thereon

None

Unfinished and miscellaneous business

None

MOTION BY MR. GOULD, SECONDED BY MR. RACH to adjourn the meeting. On roll call, all voted "aye."

There being no further business, the meeting was adjourned at 8:21pm

Michael Dylan Brennan, Mayor

Kelly M. Thomas, Clerk of Council