

**COUNCIL MEETING MINUTES  
CITY OF UNIVERSITY HEIGHTS, OHIO  
MONDAY, JANUARY 3, 2022**

Mayor Michael Brennan welcome everyone to the first City Council meeting of 2024 and stated that before the meeting was called to order the installation for the four (4) re-elected Council persons Michele Weiss, John Rach, Threse Marshall and Winifred Weizer would take place. Mayor Brennan introduce the Honorable Judge Francine Goldberg, the Honorable Judge Ann Walton Keller and Magistrate Mark Wiseman.

**1. Installation of Four Councilpersons and Administering of Oaths of Office**

The Honorable Judge Goldberg, Cleveland Municipal Court commented that she remembered when she was a member of Council and at that time Vice Mayor Weiss would attend Council meeting and take note for the Heights Observer. After that period of time Judge Goldberg said she had the honor of administrating Vice Mayor Weiss her first oath of office as a Council person and now Judge Goldberg would be administration the oath of office to Vice Mayor Weiss for the third time.

The Honorable Judge Ann Walton Keller, Shaker Heights Municipal Court administered the Oath of Office to re-appointed Council person Winifred Weizer. Honorable Judge Keller stated that she first met Ms. Weizer a few years ago when she was campaigning and what was very clear was how much Ms. Weizer cares about University Heights.

Magistrate Mark Wiseman administered the Oath of Office to re-appointed Council person John Rach and spoke of Council person Rach running marathons all over the globe with the goal of completing 250 marathons before the age of 50. Magistrate Wiseman noted that Council person Rach had an incredible folly of asking the questions that need to be asked and put his tenure on Council to good use by helping pass the Community Reinvestment Act (CRC), the tax rebate program, the rebranding project of the road program to include curbs, as well as the formation of the facilities and infrastructure subcommittee.

Magistrate Mark Wiseman administered the Oath of Office to re-appointed Council person Threse Marshall. Magistrate Wiseman commented that Council person Marshall has a need to understand what is going on behind the issues and behind the scenes and what those problems are. This is a key to being an effective Council person. Council person Marshall is a veteran of the United States Navy and a retired teacher of grades K – 3. Council person Marshall has been a public servant for over 30 years, holds the position of Community Service Chair of the Eastern Star, which is the sister organization to the Masons.

Magistrate Mark Wiseman administered the Oath of Office to Law Director Luke McConville and stated that Mr. McConville initially served on the City's Charter Review Commission in the 1990's and is everything anyone could want in a Law Director. Mr. McConville is thorough, pointed, determined, knows the right answers.

The Honorable Judge Francine Goldberg administered the Oath of Office to Clerk of Council Kelly Thomas.

Mayor Brennan took the opportunity to once again thank the members of the bench who reside in University Heights and who participated in the evening's ceremonies, Judge Francine Goldberg, Judge Ann Walton Keller and Magistrate Mark Wiseman.

**2. Call to Order**

Mayor Brennan called the January 2, 2024 City Council meeting to order at 7:22pm.

Roll Call:

Present:       Mrs. Michele Weiss  
                  Mr. Brian King  
                  Mrs. Sheri Sax  
                  Mr. Christopher Cooney  
                  Mr. John Rach  
                  Ms. Threse Marshall  
                  Ms. Winifred Weizer

Also Present: Law Director Luke McConville  
                  Clerk of Council Kelly Thomas  
                  Finance Director Dennis Kennedy  
                  Fire Chief Robert Perko  
                  Economic Development Susan Drucker

Service Director Allen Pennington  
Housing Director Geoff Englebrecht  
Building Department Chief Office John Cheatham and Mark Patterson  
Communication and Civic Engagement Michael Cook

#### **4. Pledge of Allegiance**

#### **5. Motion to Enter Executive Session for the purpose of discussing a Legal Litigation Matter**

**MOTION BY MS. WEIZER, SECONDED BY MR. RACH to enter executive Session for the purpose of discussing a Legal Litigation Matter. On roll call, all voted “aye.”**

**MOTION BY MRS. SAX, SECONDED BY MR. KING to exit executive Session and re-enter regular Council Session. On roll call, all voted “aye.”**

Regular Council Session re-entered at 7:34pm

#### **6. Installation:**

##### **a. Nomination of Vice Mayor and Oath of Office**

Mr. Rach stated that Council person Michele Weiss had been serving this City Council for eight years and had recently been re-elected for her third-term as a Council person. Mr. Rach added that according to the Board of Elections, Vice Mayor Weiss had received the most votes in the last 10 years of any other Council person. And, additionally as Vice Mayor as Vice Mayor Weiss had done a wonderful job on City Council keeping everyone together, organized, does well with compromise and collaboration, goes to just about every meeting, committee meeting and other city board meetings. With that Mr. Rach nominated Council person Michele Weiss as Vice-Mayor.

Vice Mayor Weiss accepted the nomination. There were no other nominations from the floor.

**MOTION BY MR. RACH, SECONDED BY MS. MARSHALL to elect Council person Michele and Vice-Mayor. On roll call, all voted “aye.”**

The Honorable Judge Francine Goldberg administered the oath of office to Vice-Mayor Michele Weiss.

Mayor Brennan congratulation Vice-Mayor Weiss and turned the gavel over to her.

Vice-Mayor Weiss stated that the next agenda item was the election of the Pro Tempore.

##### **b. Nomination of Pro Tempore and Oath of Office**

Vice-Mayor Weiss asked if there was a nomination for Pro Tempore from the floor.

Vice-Mayor Weiss stated that she would like to nominate Mr. Rach as Pro Tempore. Mr. Rach had, like her been the senior member of Council for eight years, and that because he was nominated for his first term he can technically run for another term after this term. Mr. Rach has done a fabulous job on Council and his professional experience is an asset to Council.

Mr. Rach accepted the nomination for Pro Tempore.

There were no other nominations from the floor.

**MOTION BY VICE MAYOR WEISS, SECONDED BY MS. WEIZER to nominate Council person John Rach as Pro Tempore. On roll call, all voted “aye.”**

Mr. McConville administered the oath of office to Pro Tempore John Rach.

#### **7. Reading and Disposal of the Journal:**

##### **Council Meeting December 18, 2023**

Vice Mayor Weiss noted that the Council minutes from December 18, 2023 were not received in time for all Council members to review and suggested that they be tabled.

**MOTION BY MRS. SAX, SECONDED BY MS. MARSHALL to table the approval of the December 18, 2023 Council Minutes. On roll call, all voted “aye.”**

## **8. Additions and Removals from the Agenda; Referrals to Committee**

Mayor Brennan suggested that the Chair entertain a motion to remove agenda item “h” from the agenda as it had been disposed of and passed at the previous Council meeting.

Mr. McConville added that Council passed the amendment to Chapter 220, which implemented all of the necessary changes so that the Vice Mayor would chair council meetings in conformity with the charter amendment. Following that passage Council had asked Mr. McConville to provide them with an additional update to Chapter 220 to reflect the city’s current customs with respect to where Council meets. Mr. McConville said that he would have that update ready for the next Council meeting. Mr. McConville stated that the item on this agenda was already passed at the previous Council meeting.

**MOTION BY MR. COONEY, SECONDED BY MR. KING to remove agenda item “h” Ordinance 2023-73 from the agenda. On roll call, all voted “aye.”**

No additions or removals from the Agenda. No referrals to committee.

## **9. Comments from Audience**

Mr. Shawn Belt, 2292 Canterbury stated that he would like to request the Council members vote to override the Mayor’s veto of Ordinance 2023-83 authorizing the transfer of funds from the General Fund to the CIC Fund. Mr. Belt stated that that transfer of funds was customary and should not be treated any differently. In the Mayor’s veto it stated that the CIC had a balance of \$72,319.23 with no projects currently planned with that balance. Mr. Belt stated that further in the Mayor’s veto it stated that there were no current projects requiring the funds. Mr. Belt continued to say that this lack of projects was not by design and that the Mayor also stated in his veto that there is no resolution in sight for governance issues that he sees within the CIC. At the December 6 CIC meeting the board talked at length about the Mayor’s issues and Mr. Belt said that he was sure that the board would continue to work through the Mayor’s issues at the January 17 meeting. The CIC has a bright future ahead and will continue to do good work for the citizens. Mr. Belt urged Council to continue to support this work by keeping with the customary transfer of funds to the CIC fund.

## **10. Reports and Communications from the Mayor, and the taking of action thereon;**

Mayor Brennan wished everyone a Happy New Year.

## **11. Reports and Communications from City Council, and the taking of action thereon**

Vice Mayor Weiss stated that despite the Mayor, unfortunately ending 2023 on a note of negativity with two vetoes that decrease the effectiveness of the CIC and bringing discord amongst Council with a salary disagreement. Vice-Mayor Weiss stated that she knew that Council was reaching out and looking for more positive interactions during 2024, if the mayor feels the same he needs to reach out like she has done to him. So that there is a positive discourse to move the city forward. Vice Mayor Weiss said that she was looking forward to that.

Vice Mayor Weiss noted that there was another oath of office to be administered to Assistant Law Director/Prosecutor Michael Cicero. Mayor Brennan replied that in the absence of Mr. Cicero that he would reach out to Mr. Cicero to see where and when he would be available to have the oath administer to him.

## **12. Reports and Communications from Reports and Communications from the Department of Finance, the Department of Law, the Department of Public Safety, the Department of Public Service, and other department heads as applicable, and the taking of action thereon;**

**Finance Department** – Mr. Kennedy reported that the Finance Department is closing out both the month of December, as well as the year 2023. A more detailed finance report will be provided at the next Council meeting.

**Law Department** - Mr. McConville reported that the City is scheduled to conduct a mediation with Yeshiva Adath (YABI) on Thursday, January 4 in connection with the eminent domain lawsuit for the acquisition of the property that is contiguous to the city hall campus. In connection with the upcoming mediation, Mr. McConville requested a brief executive session at the end of the meeting so that he could update Council on the latest developments.

**Service Department** – Mr. Pennington stated that the department had completed its sixth pass of leaf collection in the city and that all the leaf machines with the exception on one have been converted over to snow removal this will allow for one more canvassing of the city for leaf collection. The tree removal and trimming project will begin on Thursday and will take approximately one month to complete.

**Building Department** - Building Chief Office Mr. Cheatham reported that SafeBuilt was successful in obtaining a Chief Building Official, Mr. Mark Patterson will be starting on January 8, 2024. Mr. Cheatham stated that he will formally introduce him at the next Council meeting.

**Housing and Community Development** – Mr. Engelbrecht reported that the joint grant proposal with Cleveland Heights was submitted to NOACA and the status should be known in the next few weeks.

**City Engineer** – Mayor Brennan commented that at the moment the city did not have an engineer but wanted to take a moment to introduce Brenda Mockbee who was present on the behalf of WallacePancher. Mayor Brennan noted that Council would be taking up the matter of Engineer contract later in the agenda.

**Communications/Civic Engagement** – Mr. Cook announced that the City has now on the social media site “threads”. Threads is a replacement for the city’s presence on Twitter.

**Economic Development** – Mrs. Drucker reported that the Sauce at Cedar Center was officially closed.

### **13. Reading and Disposition of Ordinances, Resolutions, Motions and Consideration of Agenda Items:**

Vice-Mayor Weiss stated that Council received copies of the resumes of Mr. Jaffe, Mr. Goodman, Mr. Kaliff and Mr. Broadus. Vice-Mayor Weiss also noted that she also serves as the Council liaison to the Board of Zoning Appeals and Mr. Jaffe, Mr. Goodman and Mr. Kaliff are all assets to the Board of Zoning team. Their professionalism, expertise, the way they work together is excellent and they each serve the city well.

Mayor Brennan commented that he was honored to put before Council his recommendation of Mr. Jaffe, Mr. Goodman and Mr. Kaliff for re-appointment to the Board of Zoning for a period of two years. They each know the appropriate standards upon which variances and other matters are brought before the Board of Zoning Appeals for consideration of the practical difficulties test and other criteria. Their attendance has been exemplary and their work better than good.

Ms. Weizer noted that Mr. Jaffe time on the Board dates back to Mayor Rothschild and that kind of institutional history probably plays very well for what all the BZA members do and Mr. Jaffe should be recognized for his time on the BZA.

Mr. McConville also noted how much the city has benefited from Mr. Jaffe’s leadership and also the thoughtful, careful analysis at every meeting provided by Mr. Goodman and Mr. Kaliff.

#### **A. Appointment of Ari Jaffe to the Board of Zoning Appeals for two years**

**MOTION BY VICE MAYOR WEISS, SECONDED BY MS. WEIZER to approve the appointment of Ari Jaffe to the Board of Zoning Appeals for two years. On roll call, all voted “aye.”**

#### **B. Appointment of Kevin Goodman to the Board of Zoning Appeals for two years**

**MOTION BY VICE MAYOR WEISS, SECONDED BY MR. KING to approve the appointment of Kevin Goodman to the Board of Zoning Appeals for two years. On roll call, all voted “aye.”**

#### **C. Appointment of Matthew Kaliff to the Board of Zoning Appeals for two years**

**MOTION BY VICE MAYOR WEISS, SECONDED BY MS. MARSHALL to approve the appointment of Matthew Kaliff to the Board of Zoning Appeals for two years. On roll call, all voted “aye.”**

**D. Appointment of Brian Broadus to the Architectural Review Commission for three years**

Mayor Brennan stated that Mr. Broadus was an architect who lives here in University Heights. Mr. Broadus is a registered architect in Virginia and also in Ohio.

Mr. Broadus introduced himself to everyone and stated that he looked forward to serving the city in seeing new, remodeled, renovated and rehabilitated structures. Mr. Broadus added that his specialty was historic architecture and rehabilitation. And that he believes very strongly that building reuse is something that Ohio was a leader in. It also saves resources and builds on the existing order.

Mayor Brennan added that as a matter of housekeeping, this would be for a term that officially began February of last year. Any motion made this evening with regard to his appointment would be for a term which would have begun in February of 2023 and would be for the remainder of that three-year term.

Mr. Rach asked if the Architectural Review Commission would still have a vacancy for the alternate position.

Mayor Brennan replied yes, that position is still vacant.

Mr. Rach added and informed Mr. Broadus that the City was in the process of going through a comprehensive zoning redo with a consultant and that as a member of the ARB he would be invited to participate in those meetings. And if Mr. Broadus is appointed to the ARB he would provide valuable expertise also to the subcommittee for facilities and infrastructure.

**MOTION BY MS. WEIZER, SECONDED BY MR. RACH for the Appointment of Brian Broadus to the vacant position on the Architectural Review Commission for the remained of the unexpired term that began February 2023. On roll call, all voted “aye.”**

**E. Ordinance 2024-01 Authorizing the Mayor to Enter into An Agreement with WallacePancher Group for the provision of Engineering Services as City Engineer, and Declaring an Emergency (on emergency)**

Vice-Mayor Weiss gave the floor to Mayor Brennan.

Mayor Brennan invited Mrs. Mockbee to the podium and stated that three firms applied and provided statements of qualification for City Engineer and engineering services. Scoring of the firms were conducted by both the Mayor and Service Director, Mr. Pennington with WallacePancher Group, formerly known as Mackay Engineering receiving the top choice. Mayor Brennan said that he and Mr. Pennington met with representatives of WallacePancher including Dan Wallace, Kim Kerber and, Mrs. Mockbee to come to terms in principle with respect to an agreement for engineering services for up to five years, but one year at a time as per ordinance and the RFQ that was put out. Mayor Brennan stated that Mr. Ciuni had spoken admirable of WallacePancher and said that they were a very good former competitor of GPD Group. WallacePancher is a firm that has offices in over two states and draws on numerous expertise in various areas. The group does engineer work not only for Middleburg Heights, but also for Fairview Park, and Rocky River. Mrs. Mockbee would be University Heights' primary engineer with Mrs. Kerber serving as her backup.

Mr. Pennington stated that what stood out over the other firms was that WallacePancher had multiple offices and the other firms only have one single office and that does not always give the needed support staff.

Mayor Brennan added that he did like the idea of University Heights signing on to a growing firm that is on the upswing, which has not yet in his view, reached full maturity in spite of all of this experience, and that University Heights could get in at this level and be a big part of WallacePancher presence in Greater Cleveland. Mayor Brennan said that he was looking forward to doing some very good work with Mrs. Mockbee.

Mrs. Mockbee introduced herself and provided a brief history of her background.

Vice-Mayor Weiss spoke to page 2, letter k of the contract says “the City Engineer shall attend all regularly scheduled city council meetings, the City Engineer shall attend city council committee meetings and any additional public legislative or administrative meetings only when requested by the Mayor. Vice-Mayor Weiss said that in the past Mr. Ciuni would attend city council committee meetings when requested by the

committee, which happened frequently so she would hope that language could be changed before the contract would be passed by Council.

Mayor Brennan replied that that was an oversight on his part and if it would agreeable with WallacePancher that could be worked out in the next couple of days.

Mr. McConville offered that the word “legislation” be removed and that the section be broken down into two sentences.

Mayor Brennan stated that the section would be amended before the contract would be executed.

Mrs. Sax commented that the WallacePancher company and its professionals looked very impressive, but noted that there were five points that ended with the words when requested by the Mayor so there may need to be some discussion around that. Because when those points have a fiscal component there may still need to be some consultation with council; such as design review, construction of public improvement, etc.

Mayor Brennan thanked Mrs. Sax for bringing up that and explained that items A – M were retainer items and are covered by the monthly retainer. The non-retainer items O and P, there is a section that says when requested by the Mayor, but it is all subject then the letter P, which does reference the mayor spending authority and coming back to council if there was something in excess of the Mayor’s spending authority.

Mr. Rach asked who the ownership of the firm was under.

Mrs. Mockbee replied the equity holders were Don Wallace and Brian Panshir.

Mr. Rach said he was glad to hear that because he preferred not to have the owner be serving the city in the day to day capacity. Mr. Rach asked Mr. Kennedy if he remembered Mr. Ciuni’s retainer payment amount.

Mr. Kennedy replied he thought it was \$12,000 at the end of 2023, but that the retainer was paid through payroll so would have the additional figures for tax, etc.

Mr. Rach stated that his concern was that the retainer for WallacePancher was \$6000 per month or \$72,000 per year, almost quadruple the fee for retainer services.

Mayor Brennan replied that it was unfair to compare this contract with GPD because GPD was with the city since 1978 and may have provided the city with discounts along the way. The retainer fee as presented is the retainer fee and Mayor Brennan stated that he believed that the city would get its value and quality out of WallacePancher and Mrs. Mockbee. The assumption was that the cost would be higher. Mayor Brennan continued to state that was the retainer fee that they (WallacePancher) proposed, and which he was inclined to recommend be accepted.

Mr. Rach commented that WallacePancher proposed the retainer fee and the Mayor just accepted that proposal.

Mayor Brennan responded, of course, it was in their SOQ (statement of qualifications).

Mr. Rach continued and stated that when a consultant submits a SOQ it is up to the owner and in this case that would be the City to negotiate that contract. Mr. Rach said that he was a little concerned that the fee had more than quadrupled, without any back and forth, and that he still had not gotten any clarity as to what more would be received out of this contract than the previous one engineering contract. What will the city be getting for the additional \$60,000?

Mayor Brennan said the city would be getting engineering services.

Mr. Rach questioned didn’t the city get those services before.

Mayor Brennan replied that GPD was no longer with the city and that they were not a choice because they did not apply.

Mr. Rach said that what he was hearing was that the Mayor received a proposal and accepted that proposal that was more than quadrupled the previous cost. This has not been budgeted for and no additional services were listed in the retainer scope. Mr. Rach said that he could understand if the Mayor wanted to change the retainer scope to include things that had not been considered, that has a value to it and he could understand. But to go from \$15,000 a year to \$72,000 without any change of scope, and there is a rider for a 3% increase every year, Mr. Rach said he had a little bit of heartburn for that because of the fiduciary responsibility to the city.

Mayor Brennan commented that he understood that Mr. Rach was having some sticker shock but he thought that WallacePancher will be worth the \$6,000 a month and the Mayor said he never believed that the city would find anybody for what Joe Ciuni was charging. That was one of the Mayor's concerns when things happen, such as to make things inhospitable for Mr. Ciuni to continue work for the city.

Mr. Rach explained how SOP's worked in the public service sector. For instance, when Mr. Rach, himself as an architect submits proposals, they do what is called the lowest and best. Each firm goes through the interview process, the field gets narrowed down to three professionals, and there were three professionals who applied. From there you would go through the interview process, and the top-rated firm is picked to go into a negotiation, in this case it sounds like there was not much of a negotiation. However, when there is a proposal that exceeds your expectation, you have the ability to go to the second-best pick to get a quote from them. Mr. Rach stated that he thought that in the interest of the taxpayers and because this is quadrupling the price, at least there should be a quote from the other two firms, because of the substantial increase and what council was expecting. Mr. Rach added that if it was not for that he would be inclined to entertain this, but because this is how the State and Federal governments operate, the city should be operating with the same parameters, where it goes back to the second-rate team to get a quote from them. In reviewing the non-retainer items, Mr. Rach stated that he was glad that the following items made it into SOP: design fees between zero and \$14,999 can occur with the Mayor's authority; design fees between \$15,000 - \$49,999 require Council approval and design fees over \$50,000 would have to go out for additional bidding. Mr. Rach stated that he wanted to make sure that the applicant knew that retainer items do not include design engineering so when they are called upon to do design engineering, and they submit a proposal, they need to understand that anything within those above stated thresholds would have to be met in a certain way, either through the public bidding process, or by approval of council depending on where the fees are within the threshold.

Mr. Cooney asked Mr. Kennedy if he remembered Mr. Ciuni's retainer fee.

Mr. Kennedy replied that when he became Finance Director Mr. Ciuni's retainer fee was around \$10,000 per year in 2020/2021 and was increased to \$12,000 within the past two years.

Vice-Mayor Weiss commented that the caveat was that GPD got a lot of work from the city and they were getting a lot of the small jobs because there wasn't the professional service prior.

Ms. Weizer asked Mrs. Mockbee if there was any discussion of the scope of services, compared to what the city would be getting. Was something discussed that indicated an increase in what would be provided that would go to the increase in the cost? Ms. Weizer said that was a very basic question that might help Councilman Rach address his concerns.

Mr. Pennington said that engineering services provided by GPD were provided at a significant discount with a guarantee they would be getting all of the city work. With the request for qualifications that were put together for this project the new legislation for various engineering services was taken in account in terms of what would and would not be bid out. For that reason, many firms did not even want to bid with the city.

Noting that it was her understanding that city projects that actually exceed the \$50,000 cap was far and few between, Ms. Weizer asked what was being done for items above the \$50,000.

Vice-Mayor Weiss replied that GPD was basically getting the contract (design work) that was under \$15,000 so that was probably why it was only \$12,000 and that there were many projects under \$15,000. Vice-Mayor Weiss added that that was one of the reasons the Professional Service Contract ordinance was designed to ensure that everything was fair and equitable.

Mr. Rach noted that the Professional Service ordinance was modeled by the City of Shaker Heights' and noted that GPD Group is also the municipal engineer for Shaker Heights. In Shaker Heights their rule for public bids is \$25,000. Mr. Rach looked on the City of Shaker Heights website and provided the following retainer payments GPD received from Shaker Heights: in 2022 - \$2300 per month; 2023 - \$2400; 2024 - \$245 and 2025 - \$2500. Shaker Heights has a lot more work and expectations and getting it for half the cost. Engineering firms get their money from the design work.

Mayor Brennan stated that what was being forgotten is that GPD Group got all the city's work. And, there is no guarantee that WallacePancher will get all of the work. There is a threshold point where the city will have to go out for bids and WallacePancher may not be the winning bidder. There is a premium with respect that WallacePancher will be the City's engineer on many projects, but on the high end, they may not necessarily have those projects.

Vice-Mayor Weiss commented to Mrs. Mockbee that this has nothing to do with WallacePancher because they have exceptional credentials. University Heights has a project over \$50,000 maybe once every three years so this discussion was regarding the low hanging fruit.

Mr. Rach asked Mayor Brennan what the other proposal numbers were.

Mayor Brennan replied that he did not bring all the other proposals with him but everybody was closer to WallacePancher proposal than the GPD fee cost.

Mr. Rach suggested that if Council were to table this, he (the Mayor) could come back with what the other fees were, since he did not have with readily him.

Mayor Brennan replied that this was the administration's nominee, so even if he were to give council that additional information it would not change who the nominee was and that he was not present to provide three different engineers to council to choose from. This was his nominee for City Engineer and Council could give them a vote up or down. Mayor Brennan also stated that if a City Engineer was not approved at this meeting that would then delay the budget even longer because he would not be able to get to work immediately with Mrs. Mockbee on budget items such as the roads program. Mayor Brennan said that he did not want to wait another day to do that, and he did not think Council wanted him to either. This contract would be good for one year and if we don't like this in a year, we can say thank you for giving us a try and vice versa and we will then go in another direction.

Vice-Mayor Weiss asked Mrs. Mockbee if there was any room for her to go back to her associates to negotiate the contract.

Mrs. Mockbee replied that she would have to take it back to her bosses and that they did get feedback from Mr. Ciuni about things in the retainage and they did work up an itemize average of how much time they would be putting into the city's work in essence the provided numbers were not just pulled out of the air and the firm's hourly rates were listed as well. But she and her boss Mrs. Carver could go back and talk with Mr. Wallace, Mr. Cantor and Mr. Bridge to see what can be done.

Ms. Marshall stated that she would like to see the other bids as well, because Council should have seen them before seeing Mrs. Mockbee.

Vice-Mayor Weiss asked Mayor Brennan if this could be tabled and allow him to get back together with the firm to see if they can come back with a possible lower retainer fee.

Mayor Brennan spoke candidly and said that he thought that this was a terrible way to start a new relationship with a new firm; we should be voting up or down today on this proposal. Mayor Brennan said he did not want to go back and nickel and dime them on this, especially because of the various changes that have made to the city's ordinances and where there is a substantial amount of work that they may not get to do, as pointed out by Mr. Pennington, as pointed out by numerous members of the body here with respect to the fact that, when fees are going to be \$50,000 or more, they have to go out to bid. This is an apples and oranges comparison to compare what we had with GPD when we have this new way of going about getting out engineering work.

Vice-Mayor Weiss said that she actually thought that Council was going to approve them and that originally the Mayor did them a disservice by not negotiating with them. Vice Mayor Weiss stated that when she negotiates to get a new vendor, that is going to be a long-term partner she negotiates upfront with them. That is how you do business., that is how you build partnerships and relationships with people. Mayor, you did them a disservice by coming to council and giving council this contract. Council also did not see the information from the other two bidders in order to make an educated decision.

Vice-Mayor Weiss motioned to table this in hopes that everyone can come back and so a great relationship can be built with them. Mr. Rach seconded the motion because he works for the taxpayers, the residents and not for companies. Mr. Rach wants to get the numbers right.

Ms. Weizer commented and asked why does everybody assume that this firm will not get awarded the bid on jobs over \$50,000. If they are good enough, they can bid on it and they can walk away with the work. If what they are saying to council and if what council is reading and if what Ms Weizer has heard said to her in that this firm is that good. Then they know they can bid on these things and beat somebody else because if they are working in the city and if they understand this city and the issues with the infrastructure, then they have an upper hand on anything they bid if they are here on a daily basis.

**MOTION BY VICE MAYOR WEISS, SECONDED BY MR. RACH tabling Ordinance 2024-01 Authorizing the Mayor to Enter into An Agreement with WallacePancher Group for the provision of Engineering Services as City Engineer, and Declaring an Emergency. On roll call, all voted "aye," except Mr. King, who voted "nay."**



**F. Override of Mayor's Veto of Ordinance 2023-83 Authorizing the Transfer of Funds from the General Fund (100) to the Community Improvement Corporation (CIC) Fund (800) and Declaring an Emergency (on emergency)**

Mr. Cooney stated that he had some concerns regarding the allocation of funds and within the account itself which currently has about \$72,000.

Mr. Kennedy confirmed that the CIC has a current balance of about \$72,319.

Mr. Cooney said that his concern was not about whether the CIC should get funds, his concern was that fund keep getting placed into the CIC. In looking at the last four years, including 2023, the expenses were approximately \$30,000 and that is over four years. Also, in looking at the minutes from over the past year, there is one potential project that has been mentioned. Mr. Cooney asked Vice Mayor Weiss if there were any projects currently in the pipeline that need to be considered that were require monies above \$72,319?

Vice Mayor Weiss replied that there were no current projects, but that was due to the Mayor refusing to entertain and fulfill any of the projects.

Mr. Cooney asked Vice Mayor Weiss if she could provide any examples.

Vice-Mayor Weiss said that there were many examples discussed especially at the last CIC meeting. But the number one example would be the CIC asking that a deed be turned over to infill one house and that would be a significant project. There were projects such as the 5k run and the concert series, which are smaller projects but have been expended in the past. There is also a huge project on the west end of the city, which was a beautification project with flowers and benches has been planned and spoken about in the Council of the Whole and that project is just dead in the water without the administration being on board, because the City and the CIC are so intertwined. There are ways to remediate that by hiring a Director for the CIC, a very part-time director and those funds could be utilized for that so that the CIC would not have to be intertwined with the city as much. Those are just like the tip of the iceberg kinds of things.

Mr. Cooney asked why things like flowers and benches go through the city, why does it need to go through the CIC? Why not through the Service Department? Why couldn't Council allocate money for those types of things through the regular city budget?

Ms. Weizer stated that the CIC - Community Improvement Corporation is a nonprofit and because it is a nonprofit, it is able to go out for grants that the city cannot get and do things if it functions properly. In part because of the way Council set up this particular CIC, the Mayor can act as a stumbling block.

Mr. Cooney commented that he was trying to understand if there were enough potential projects that would exceed the \$73,000.

Vice Mayor Weiss replied yes.

Mayor Brennan commented that Council could override the veto, but it could not reverse the calendar and 2023 is done as far as transfers.

Mr. Kennedy stated that the transfer if approved would post in 2024 and that it would have to be included in the permanent budget for 2024. Mr. Kennedy also noted that he could not post it until it is sign off by the Mayor because he has to send a signed copy to the County Budget Commission.

Ms. Weizer asked Mayor Brennan, if Council passed the legislation would he sign it.

Mayor Brennan replied no, he would not sign it if passed.

Mr. McConville said that there had been instances in the past where the Mayor has not signed an ordinance but the ordinance has gone into effect. What Mr. Kennedy was referring is by the operation of the City Charter, where the mayor has a right of veto. And then in connection with that act Council has a right to override the veto at its next regularly scheduled meeting, which is what is before council today. If council takes a vote on the record to override the veto whether the Mayor signs the statement or not, it would become law.

Mr. Kennedy said that he can make the transfer the date the ordinance becomes official.

Ms. Weizer asked if he would need to have an additional sign off from the Mayor.

Mr. Kennedy replied that he would defer to the Law Director to tell him when he could officially record the transfer and send it to the County Budget Commission.

Mayor Brennan stated that until the governance is fixed on the CIC, all they are doing is transferring money into what is in essence a city council slush fund. And he thought that they should stop with that and should fix the governance. Then we can start doing all the fine things that we say we want to do with the CIC.

**MOTION BY VICE-MAYOR WEISS, SECONDED BY MRS. SAX Override of Mayor's Veto of Ordinance 2023-83 Authorizing the Transfer of Funds from the General Fund (100) to the Community Improvement Corporation (CIC) Fund (800) and Declaring an Emergency (on emergency). On roll call, all voted "aye."**

**G. Overriding Ordinance 2023-86 to Increase the Compensation of the Vice Mayor for the Term Beginning January 1m 2024 and Declaring an Emergency (on emergency)**

Mr. Cooney commented that Council had already asked Mr. McConville for guidance from the State with this matter, but asked if it was more complicated because the Vice Mayor is now in her term of office.

Mr. McConville replied that that question would have to be built into the fact pattern when asking for an advisory opinion. Mr. McConville said that he could not interpret how the Ohio Ethics Commission will interpret that fact. But, yes, it is conceivable that it would be an issue. The legislation has been written in a way that prevents the Finance Director from making any payment, in addition to what is currently authorized to the Vice Mayor until a permissive opinion is rendered by the State.

Mr. Rach asked if it mattered that the Ordinance was originally passed in 2023 by the previous Council.

Mr. McConville said that he could not predict how important that would be. It certainly will be incumbent on the city and in presenting this, that we walk through the legislative history, which now includes an adaption and a veto, and perhaps subsequent act by council, all of that will have to be disclosed for the third-party evaluation. It is a quirky situation, because the Vice Mayor is a position that comes up every two years, and it can be related to a person who is just beginning their term or to someone who is in a term or in a middle of a term. It is never going to be entirely clean. In Mr. McConville's view, to grant a Vice Mayor raise is part of the argument to the State is that this ordinance was passed at a point in time that was prior to any nominations having been made in any vote, having been taken by this Council as to who the Vice Mayor would be. In terms of timing, an answer should be back within the first six months, if not sooner in the year? If the answer is no, we really have to kind of go back to the drawing board and try to figure out what we can do to address compensation for the Vice Mayor. Mr. McConville added that this would not to be a no harm, no foul situation, no matter what because the way the ordinance is written, the Finance Director cannot pay additional amounts to the Vice Mayor until there is clarification that this is not an interim pay raise. If it is viewed as an interim pay raise then there will be no additional monies paid and no monies will have been paid at that point in time by the terms of the ordinance. However, if we get a permissive opinion that says this is not an interim pay raise and we can pay this amount pursuant to the passage of the ordinance those payments would commence and they would be retro to the beginning of the year.

**MOTION BY VICE MAYOR WEISS, SECONDED BY MR. RACH to override Ordinance 2023-86 to Increase the Compensation of the Vice Mayor for the Term Beginning January 1m 2024 and Declaring an Emergency (on emergency). On roll call, all voted "aye'."**

**H. Ordinance 2023-73 Amending Codified Ordinance Chapter 220 Entitled "Council" and Declaring an Emergency (on second reading)**

Agenda item "H" was removed from the agenda

**I. Ordinance 2023-74 Amending Codified Ordinance Section 452.99 Entitled "Penalty" and Declaring an Emergency (on second reading)**

Mr. McConville reminded everyone that Police Chief Rogers did not want this legislation passed on emergency to allow the department time to order the needed materials to enforce the law as stated within the text of the ordinance.

**MOTION BY MRS. SAX, SECONDED BY MS. WEIZER to amend the title and remove the emergency clause. On roll call, all voted "aye."**

**MOTION BY MS. MARSHALL, SECONDED BY MR. KING to change Section 4 to read “shall go into effect at the earliest time allowed by law. On roll call, all voted “aye.”**

**MOTION BY MR. KING, SECONDED BY MS. MARSHALL to approve Ordinance 2023-74 as amended. On roll call, all voted “aye.”**

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

Mr. McConville asked for a motion to enter into Executive Session for pending litigation relating to the eminent domain case.

**MOTION BY MRS. SAX, SECONDED BY MS. WEIZER to enter into Executive Session for pending litigation relating to the eminent domain case. On roll call, all voted “aye.”**

**Standing Council Committees:**

**Building and Housing** – Ms. Weizer stated that a doodle poll would be issued soon for the next committee meeting.

**Recreation Committee** - Mr. Cooney stated that a doodle poll would be set out soon for the next committee meeting.

**Safety Committee** - Ms. Marshall stated that a doodle poll would be sent out for a meeting in February.

**Service Committee** – Mrs. Sax reported that the next meeting would be on Tuesday, January 16 at 6pm and that SCS would be presenting their presentation remotely. The presentation will be 30 minutes with 30 minutes for discussion.

**Reports of special committees, and the taking of action thereon**

None

**Unfinished and miscellaneous business**

None

**MOTION BY MRS. SAX, SECONDED BY MS. MARSHALL to adjourn the meeting. On roll call, all voted “aye.”**

There being no further business, the meeting was adjourned at 10:02p.m.

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Michele Weiss, Vice Mayor

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Kelly M. Thomas, Clerk of Council