



CLEVELAND HEIGHTS

Monday, April 20, 2020 Minutes

COMMITTEE OF THE WHOLE

6:36 – 8:39 p.m.

Mayor Stein presiding

Roll Call: Present: Dunbar, Hart, Russell, Seren, Stein, Ungar

Staff present: Briley, Hanna, Himmelein

CITY COUNCIL

8:40 – 10:05 p.m.

Mayor Stein presiding

Roll Call: Present: Dunbar, Hart, Russell, Seren, Stein, Ungar
Excused: None

Staff present: Boland, Briley, Hanna, Himmelein

Minutes from May 4, 2020, were approved with corrections submitted.

Personal Communications

Amy Himmelein stated there were 24 Emails from 21 individuals regarding Ordinance 54-2020. These individuals were Bridget Guhde, Jeanne Petre, Jennifer Metzger, Jeff Guhde, Dana Sobota, Judith Cetina, Margaret McGrath, Jamiee Novak, Alisa JoLove, Alisa Bray, Josephine Bray, Damion Manning, Bella Strega, Vanessa Fitzgerald, Malina Raushenfels, Cal Long and Allan Wilkinson. Comments included concerns about the health risk and safety of 5G, concern about the economic impact from people who live near cell antennas, concern that antennas will decrease property value, requests for more information about 5G rollout, requests to hold any requests for small cell antennas, requests to postpone small cell legislation until further research is available, requests for an opportunity for public comment by residents before antennas are placed near their home, concerns there has not been enough dialogue within the City, concerns of potential lawsuits and bankruptcy to the City due to language in the Ordinance, concerns that citizens should have consent for installation, concerns that it will detract from the beauty of the neighborhood, concerns that these will put the City at risk during disasters versus hard-wired

copper landlines, concerns about privacy and security breaches, and transparency about the process.

Report of the City Manager

Chief Mecklenburg provided an overview of practices, policies and procedures that are in place including a comprehensive use of force policy. Every time there is use of force, it is documented and reviewed. The body cam is on during every resident encounter. A bias-free policy, code of ethics policy, core values policy, and mission statement. She listed the training in which officers participate.

Chief Mecklenburg said a statement was issued in response to a video circulating. She stated the incident was on the evening of February 27. The person matched a description of a shots fired incident. Police asked the man to identify himself. He refused and tried to leave, followed by a struggle which is the subject of the video. A thorough review was conducted and further training was assigned to the two officers. The review concluded in mid-March. She stressed that improper force will not be tolerated in Cleveland Heights.

Chief Mecklenburg stated a protest had been planned in Coventry on Sunday. She notified merchants and officers went business to business in Coventry. Some closed and some remained open. There were 12 peaceful protestors in Coventry. There were threats to Severance and officers were stationed there.

Council Member Hart thanked the Chief for her good work.

Mayor Stein stated he received a question from a resident – would an officer or firefighter intervene if they witnessed excessive force being used? The Chief stated she received the same Email and she will respond tomorrow and copy Council. Tanisha Briley stated the Chief and Police Department as a whole has been very responsive. Since so much communication was received and it has been busy, not all have received responses yet, but they will. They are planning a virtual Meet the Police.

Tanisha Briley gave an overview of her report to Council which may be read in full at https://www.clevelandheights.com/DocumentCenter/View/6957/cc_packet_05272020?bidId.

FINANCE COMMITTEE

Council Member Hart stated a past financial forecast was sent, but it would not be pertinent considering COVID-19.

She gave a shout out to Mojo Restaurant for remaking her order and including a Bloody Mary when she was running late for a curbside pickup due to a flat tire.

MUNICIPAL SERVICES COMMITTEE

Council Member Dunbar gave an overview of the committee’s responsibilities. The Forestry Department is very busy taking down ash trees and planting. The committee is having a meeting on July 13 to discuss refuse and recycling. They will also discuss the sewer and EPA requirements. Citizens can listen in or watch.

She stated there are things for families to do listed at the Cuyahoga Soil and Water Conservation District’s website.

PLANNING AND DEVELOPMENT COMMITTEE

Council Member Ungar stated that FutureHeights will be participating in the Planning and Development Committee meeting on June 8.

PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Ungar thanked the Chief and Superintendent for their messaging. He stated he hopes this is a watershed moment that will lead to meaningful reform of policing. He thanked the City Manager, Mayor and Chief for their responses.

ADMINISTRATIVE SERVICES COMMITTEE

ORDINANCE NO. 23-2018 (AS), *Second Reading.* An Ordinance amending Chapter 107, “Public Meetings,” of the Codified Ordinances of Cleveland Heights by repealing Section 107.01(c)(9) to remove the ability of Council or a board or commission of the City to enter into executive session to meet in retreat not more than four times per year to discuss general plans for the future, or general issues before the City

Introduced by Council Member Seren, Seconded by Council Member Hart

Council Member Dunbar asked if the public had access to previous conversations about this legislation. Tanisha Briley confirmed it was public information and available.

Roll Call: Ayes: Hart, Russell, Seren, Stein
 Nays: Dunbar, Ungar

Legislation Passed

ORDINANCE NO. 50-2020. An Ordinance amending Section 111.13, “Action of Council,” of Chapter 111, Council, of Part One, Administrative Code, of the Codified Ordinances of Cleveland Heights to streamline voting procedures by allowing Council to approve motions by voice vote

Roll Call: Ayes: Russell, Seren, Stein, Ungar, Dunbar, Hart
 Nays: None

Motion Passed

ORDINANCE NO. 51-2020, *First Reading*. An Ordinance amending Section 111.21, “Voting,” of Chapter 111, Council, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights to allow Council members to recuse themselves from voting due to a conflict of interest
Introduced by Council Member Seren

Legislation Introduced

ORDINANCE NO. 108-2019 (AS), *Second Reading*. An Ordinance amending Chapter 749, “Fair Practices” to include the nonconsensual dissemination of a person’s private sexual images as a prohibited, discriminatory rationale for the purposes of fair employment, education, and housing practices

Introduced by Council Member Seren

Council Member Seren stated there will be a third reading at a future meeting.

Legislation on Second Reading

Council Member Seren stated he sent an invitation for an Administrative Services Committee meeting on June 11 at 6:00 p.m. to discuss the Charter Review Commission’s recommendations and the potential for putting charter amendments on the ballot in November. The deadline to have something added to the ballot is September 4. Other transition issues will be included on the forthcoming agenda.

Council Member Seren read a statement in response to the riots in Cleveland. He stated his sadness was not for materials, but for the human cost and hurt protestors. His sadness is for the people, but it pales in comparison to the rage for the murder of George Floyd, those harmed at the hands of police and the devaluing of black lives. He stated this fury needs to turn into production action of the state throughout the country. This should be carried through to the elections and that energy should go beyond November to keep officials accountable. Let your Council Members know any misconduct you witness or experience so they can seek justice.

Community Relations and Recreation Committee

Council Member Russell thanked residents for the comments and suggestions for the May 28 meeting.

June 5 is Gun Violence Awareness Day. Orange is the color to wear in support that day.

Council Member Russell stated she’s heard many statements over this past week and she has not been shy about the fact she’s endured racism. The last four years of high school were about systemic and sexual racism and there’s been racism through her career and life. She stated she applauds people that stand with us. She stated she feels she can relate

to all levels throughout the community she serves as a bus driver. She asked residents to continue to hold each other, respect each other, and love and remain connected to each other. She stated residents can fill out the 2020 census at www.2020.gov so you can exercise your right to change your representation at the state and federal level. We must change by changing legislation so it works for all of us. Stay safe and keep each other close.

Consent Agenda

Titles of the consent agenda were read. Council Member Hart moved to remove Ordinance No. 54-2020 from the consent agenda and move it to first reading for tonight. Council Member Dunbar stated she supports that.

Motion to suspend rules by Council Member Russell, Seconded by Council Member Hart

Roll Call: Ayes: Seren, Stein, Ungar, Dunbar, Hart, Russell
 Nays: None

Motion Passed

ORDINANCE NO. 23-2020 (AS), *Second Reading*. An Ordinance amending Section 6 of Ordinance No. 17-2020, “Wage and Salary Ordinance,” to provide clarity and fill-in gaps on various provisions

RESOLUTION NO. 52-2020 (PD). A Resolution proclaiming June 5, 2020 to be National Gun Violence Awareness Day in the City of Cleveland Heights

RESOLUTION 53-2020 (CRR). A Resolution declaring June 2020 to be LGBTQ Pride Month

RESOLUTION NO. 55-2020 (PSH). A Resolution ratifying the City’s membership and participation in the Eastside Departments Group Enforcement (“EDGE”) Agency

Motion to adopt by Council Member Russell, Seconded by Council Member Hart

Roll Call: Ayes: Stein, Ungar, Dunbar, Hart, Russell, Seren
 Nays: None

Motion Passed

Council Member Russell stated Cleveland Heights and University Heights were in a challenge for the Census starting today. Cleveland Heights needs an additional 20% by August 1. The winner gets a Census tree to be planted in the city with a plaque. She listed some of the funds that are a result of population that is accounted for in the census including schools, grants and development funding.

ORDINANCE NO. 54-2020 (MS), First Reading. An Ordinance amending Chapter 943, “Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures,” of Part Nine, Streets, Utilities and Public Services Code of the Codified Ordinances of Cleveland Heights

Introduced by Council Member Dunbar

Bill Hanna made a statement about the background of Chapter 943. 5G is the fifth generation of wireless telecommunication services which will meet the need for higher capacity and higher speed, providing up to 20 gigabytes per second upload speeds and 75 gigabytes per second download speeds. It will also provide better service in areas with denser populations. Providers are focusing on public properties and public right-of-way and have found willing state and federal partners throughout the country. Bill Hanna provided the timeline of how this went from being introduced in state legislation to this currently being up for vote in the municipality. Chapter 943 currently exists and the intent of this legislation is to strengthen the city’s ability to regulate small cell installations in the public right-of-way and to take advantage of every bit of authority that the City has under state or federal law. The Ohio Revised Code expressly prohibits a moratoria of accepting applications. He stated it is important in his view to have enforceable legislation because the consequence of having a timely response for an application for a small cell or wireless facility is that approval would be gained by Ohio law. He stated there was concern expressed by residents for potential health impacts for emitted radio wave frequency. Both the Ohio law and the FCC have both held that you cannot condition the grant or denial of an application for wireless telecommunication facility on the basis of standards for radio frequency emissions that exceed or are inconsistent with or more restrictive than the FCC’s approved standard.

Tanisha Briley stated the City has taken every action we could from the 2016 state action through today to try to maximize every regulatory action we have.

Council Member Dunbar asked for clarification that the City could regulate, but not ban them. Bill Hanna stated we can’t ban them. You could go by the state legislation, but passing local legislation would permit for more control like where they go, how people are notified, how the City covers the cost, etc.

Council Member Dunbar stated some residents were advocating for a fiber broadband as a solution. However, even with that we can’t ban them. Bill Hanna stated fiber is very expensive to install which is why the industry has moved away from them. He stated that would not change the legal landscape of the issue.

Council Member Hart stated some people were interested in a public hearing for the antennas. Bill Hanna replied that could be problematic in regard to timing and you could potentially see hundreds of applications over the next several years. The public input would not impact the legal sufficiency or propriety of an application. We do require, in connection with the application, that they provide evidence that all addresses within 300 feet of a proposed small cell location be notified in advance with details so they have a chance to reach out to the City.

Council Member Hart asked if there was any recourse if residents did not consent, for example for a sensitivity to RF emissions. Bill Hanna stated there are provisions of law that would address RF emissions that would likely come into play. The company could choose a less objectionable location. The City has some authority under Ohio law and under the ordinance to require relocation in certain circumstances. He gave a description of design specifications.

Tanisha Briley stated there were concerns about the amount that were already in the City. She stated the ones on Mayfield were upgraded from existing equipment being replaced on poles. Bill Hanna stated he's not aware of a large number of applications in the City, but more could be coming in the future. Tanisha Briley stated this legislation would give the municipality a good regulatory framework because we do require things that other cities don't.

Council Member Hart stated she's glad it's on first reading so there is time to research. Council Member Russell thanked Bill Hanna for the education update.

Legislation Introduced

Mayor's Report

Mayor Stein stated that what happened in Minneapolis can never happen here. Council will be working over the next few weeks to talk with the Police Chief and City Manager to review police policies and procedures. He stated he is proud of the Cleveland Heights Police officers and that they do a very good job, but we can always do better.

Vice Mayor Seren wished everyone Happy Pride Month.

NEXT MEETING OF COUNCIL: MONDAY, JUNE 15, 2020

Respectfully submitted,

Jason S. Stein, Mayor

Amy Himmelein, Clerk of Council
/jkc