

## CUYAHOGA FALLS CITY COUNCIL

### Minutes of the Council Meeting

April 22, 2013

Call to Order: Mr. Walters at 6:30 p.m.

Roll Call: Mr. Rubino, present; Mr. James, present; Mr. Ihasz, present; Mrs. Snyder, present; Mr. Colavecchio, present; Mrs. Klinger, present; Mrs. Pyke, present; Mr. Mader, present; Mr. Barnhart, present; Mr. Iula, present; Mr. Walters, present.

Invocation: Mrs. Snyder

Pledge of Allegiance: Mrs. Klinger

Approval of Minutes: The minutes from the April 8, 2013 Council meeting were approved as submitted.

Reports and Communications: None

#### New Legislation (First Reading)

##### **Temp. Ord. B-25 (Finance)**

An ordinance authorizing payment of the Moral Claim of Violet Leathers and the Estate of Noel Leathers as approved by the Claims Commission, and declaring an emergency.

##### **Temp. Ord. B-26 (Finance)**

An ordinance approving the issuance of bonds by Franklin County, Ohio in relation to certain hospital facilities located within the City of Cuyahoga Falls, pursuant to Section 147 of the Internal Revenue Code of 1986, as amended, and declaring an emergency.

##### **Temp. Ord. B-27 (Public Improvements)**

An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the reconstruction of concrete pavement at various locations in the City, and declaring an emergency.

**Reports of Council's Standing Committees**  
(Third Reading)

**Planning & Zoning:**

**Temp. Ord. B-19**

An ordinance approving the site plan related to construction of a 15,000 square foot storage building at 2580 Bailey Road (Parcel Nos. 02-16859, 02-16854, 02-07809, 02-07808, 02-07810, 02-16855 and 02-02893), and declaring an emergency.

Mr. Rubino moved to adopt Temp. Ord. B-19, second by Mr. James. Motion passed, voice vote (11-0).

**Finance & Appropriations:**

**Temp. Res. B-20**

A resolution urging Congress to support and maintain the tax-exempt status of municipal bonds under the Internal Revenue Code, and declaring an emergency.

Mrs. Klinger moved to adopt Temp. Res. B-20, second by Mr. James. Motion passed, voice vote (11-0).

**Temp. Ord. B-21**

An ordinance amending Ordinance No. 89-2012 to assign a newly classified position to an appropriate established pay grade, and declaring an emergency.

Mrs. Klinger moved to adopt Temp. Ord. B-21, second by Mr. Rubino. Motion passed, voice vote (11-0).

**Public & Industrial Improvements:**

None.

**Public Affairs:**

**Temp. Ord. B-22**

An ordinance amending the Traffic Control File by providing for installation of various traffic control devices, and declaring an emergency.

Mr. James moved to adopt Temp. Ord. B-22, second by Mrs. Pyke. Motion passed, voice vote (11-0).

**Temp. Ord. B-23**

An ordinance authorizing the Director of Public Safety to enter into a contract without competitive bidding with Drive Team, Inc. for the sale of a fire truck no longer needed for any municipal purpose, and declaring an emergency.

Mr. James moved to adopt Temp. Ord. B-23, second by Mr. Barnhart. Motion passed, voice vote (11-0).

**Community Development:**

**Temp. Ord. B-24**

An ordinance authorizing the Director of Community Development to apply for and accept a grant from the Ohio Department of Natural Resources to conduct an urban tree canopy assessment, making an appropriation therefor, and declaring an emergency.

Mr. Colavecchio moved to adopt Temp. Ord. B-24, second by Mrs. Snyder. Motion passed, voice vote (11-0).

**Schedule of Committee Meetings**

Planning & Zoning:	Subject to Call.
Finance:	May 6, 2013, 6:30 p.m.
Public Improvements:	May 6, 2013, 6:35 p.m.
Public Affairs:	Subject to Call.
Community Development:	Subject to Call.

**Miscellaneous Business:**

Mr. Walters stated the Administration requested to give a presentation this evening. Section 11.07(J) of Council Rules specific states that presentations are to last no longer than five minutes. Mr. James moved to suspend Council Rules to waive the five minute rule regarding this presentation, second by Mr. Barnhart. Roll call: Mr. Rubino, yes; Mr. James, yes; Mr. Ihasz, yes; Mrs. Snyder, no; Mr. Colavecchio, yes; Mrs. Klinger, no; Mrs. Pyke, yes; Mr. Mader, yes; Mr. Barnhart, yes; Mr. Iula, yes; Mr. Walters, yes. Motion passed (9-2), which is greater than a two-thirds majority. The Rule to waive the five minute limit for purposes of this presentation is allowed. Mr. Walters stated this is not a committee meeting and no formal action will be taken tonight. This is to allow the presentation and a brief discussion. Council and the public did not receive ample notice of the presentation for Council to consider taking action. Hopefully, the presentation will be repeated during a Finance Committee meeting.

Mrs. Truby stated they had the opportunity to have everyone present this evening. Timing and partnerships are critical elements in community development deals. Many issues on this project have taken more time than planned. The developers replaced Menards with a 10 screen Cinemark. The most critical element has been the slow recovering economy. City Council has before it a modification to an agreement approved in 2012. One item is that the City has created an economic development grant from admissions tax for the first ten years to go to the developer. Beginning in year 11, the money comes back to the City. The second item is an electric reimbursement which amounts to \$50,000 for ten years. Partnerships are what make deals happen. The City partnered with the Cuyahoga Falls City School District on the Portage Crossing project. Dr. Nichols, Superintendent, was unable to attend tonight's meeting so Mrs. Truby read part of a letter from him in support of the project.

Steve Rubin stated they are ready to go. They have completed all agreements necessary with the anchor tenants. They also have agreements with Fashion Nails and Best Cuts, and have a letter of intent from Huntington Bank. They plan to break ground in August. Most of the issues they encountered that contributed to the delays were not of their making, however, with the City's help, they were able to deal with those issues. They will be filing applications with the Planning Director on Tuesday for site plan approval and will begin the process to pull grading and site permits. They would like to have everything finished before going to the ICSC on May 20.

Don Nelsch, North Haven Blvd., moved to Cuyahoga Falls in 1951, which is about the time the State Road Shopping Center was getting going. It was a thriving place. As time went on, owners changed and the last owner let things go. Council took the steps to acquire the property via eminent domain and tear down the eye sore and then found a developer to redevelop the property. The City has a developer with an exciting plan and a lot of different things that would be an asset to the community. He has seen the preliminary plans, and the building design meets codes, as does the landscaping. Until Council makes the next move, the property will remain an open field. He encouraged Council to accept Mr. Stark's plan and get the show on the road. The City has over \$10 million invested and it is time to get some of it back.

Laura Patrella, 2422 Northland, is the CEO of the Chamber of Commerce. She was asking Council's support of Portage Crossing. The Chamber has the pulse of the business community. She has not heard one negative thing about the project. The Chamber plays a vital role in attracting new business. This project will mean that residential spending will stay in the City. There is also a domino effect. The Chamber has had four new business ribbon-cuttings on State Road. The businesses wanted to be near Portage Crossing. There is another scheduled in three weeks on the other side of Walgreens. That owner chose that space because of the proximity to this project. There will be 450+ jobs in the retail trade. People coming to the area may or may not live in the City but they will be spending their money here. Also, the nearby property values will be increased. This project will be another selling point of the City. The Chamber looks forward to construction of Portage Crossing making the City a better place to live, work and do business.

Greg Willis, 2037 Northampton, stated this is the most significant project for State Road in over 50 years. It is desperately needed. New businesses will want to be here and people will want to do business here. It will have a positive impact for the City and its businesses.

Brad Wegner, 3124 7th St., asked what the proposed economic impact was on residents, how the project would affect property values, what the traffic patterns would be, and when the project would be revenue neutral. Mrs. Truby replied the property values will go up. The economic impact is the creation of over 500+ full-time jobs, 185 temporary construction jobs, new City revenue on an annual basis, the Cuyahoga Falls School District will have new annual revenue, the City will be receiving over \$400,000 in new electric revenue, and there will be increased property values and renewed interest in the State Road corridor. Mr. Brodzinski stated the overall project will be paid off by 2033, or nine years earlier than the TIF will expire in 2042.

Debbie Ritzinger, 1679 Bancroft, stated she was a member of City Council from 2004-2009 and was involved in many projects, including this one, of which she was most proud. She was a member of the team, along with Diana Colavecchio and Ken Barnhart, who in 2009 assisted in the developer selection process. Stark was selected from among three finalists. Shortly after that, she was part of a contingent that traveled to Las Vegas where she saw firsthand how hard Robert Stark was trying to get prospective tenants and marketing the City on a national level. She was convinced the right developer was selected at the right time and in the right place. She believes Robert Stark will create something special for this City for decades to come.

Joel Testa is a local developer in the City. He was one of the three finalists. He believes it is great that Stark was chosen over his company because he feels no one could do it better. These problems and challenges are not unique for this type of project. Average deals take five to seven years to complete. It is critical to grow and evolve a project. Sometimes that takes a significant investment from the community as well as the private party. This project is absolutely what needs to happen.

Gloria Rodgers is a Summit County Councilmember. This is exactly the kind of development the County wants to see. It brings sales tax dollars to the County which is returned in partnerships. This project would be good for the community, the County and the state. Growth must continue. The County has done creative deals to keep businesses within the County.

Sheila Leatherman, 2446 13th Street, stated the City needs to get moving on this project. Every time she reads the paper, the date gets set back. She does not know how much Robert Stark has in the deal but he can write it off. He knows what he is doing. She lives around the corner and wants this done. She asked who paid for the street getting narrowed to where there is pullover parking. She also felt the bus stop needed to be moved because traffic backs up coming up the hill. She asked that this man be allowed to do his job. Mrs. Truby stated the public improvements were budgeted at \$2.3 million and the City received a \$1.1 million grant as well. Mr. Demasi added that the street improvements were done because they were hoping they would be timed to coincide with the project. When this deal goes through and construction begins, the City will be done with the road work and the developer will be getting started. It will be coming together.

Mary Nichols Rhodes, 739 Lincoln, stated that no one would argue that they want the project to start. However, every time there is a new glitch, the developer is asking for tax relief. Part of this partnership is that the City should receive revenue. She does not think it is right that the developer holds the City over a barrel every time something comes up. The City has been waiting a long time but it would like to have its share of the revenue from some of the taxes. Mrs. Truby stated the Administration renegotiated this deal many times, and both sides had the other up to the wall. She is confident this is the best project the City can get with the least amount of investment. Mrs. Rhodes asked if the changes being requested were a tax relief. Mrs. Truby stated there were two elements to the contract. One was an admissions tax from the theater. For a period of time, the City will use the tax admissions to put back into the project. The electric was renegotiated at \$50,000 for ten years. Those are not taxes. They are similar to tax abatements. They are not taking something away from what the City currently has. But for this project being constructed, the City would not have those new taxes.

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Mr. Walters stated there was a lot of information given lately. The contract has changed and there is a lot of supporting documentation. The public may request copies of those documents.

Mr. Barnhart stated this project needs to move forward without further delay and get revenue back into the City. He is in full support of the project.

Mrs. Klinger had several questions and commented that the documents were hand-delivered to her on Saturday so she has not had enough time to properly prepare. She asked about the modeling of the project and drive time area. Mr. Rubin stated each retailer does its own study. Stark does not do that. Mrs. Klinger asked who the mortgage lender was and what the terms and covenants were of the deal. Mr. Rubin stated the lender is Huntington, but he did not feel it would be appropriate to discuss the terms in a public forum. He can give estimates and documents that provide the basic terms. The Giant Eagle property is sold to them and it is subject to an operating agreement. Everything will appear and operate as one project. Giant Eagle also wants to own some of the parking area. Stark will finish the areas and sell it to them with parking. Giant Eagle is required to build, open and operate. Stark has remedies to insure this. There is a recapture right. They have 24 – 30 months to complete building. The Cinema is a build to suit lease. Stark oversees the construction and they have to open and operate. There is 18 months for what Stark is responsible to build and 24 months for everything else. Everything relates to timing of the project. They are shooting to open in the Fall, 2014 but they have a right to push it to Spring of 2015. Mrs. Klinger asked about the time frame for the out lots. Pam Hanover stated the requirement to build specifically excludes Giant Eagle and the movie theater, and certain out lots, which are excluded from 18-24 months. Mrs. Klinger asked if there was a multi-year income balance sheet. Mr. Rubin stated they do a budget and underwriting. It is not provided to the City. There is a condition of closing to provide proof of financing. Mrs. Klinger confirmed the numbers with Mrs. Truby. She asked how the number for electric was gathered. Mrs. Carr stated they took comparable businesses and used usual numbers. They called cities with 10 movie units to get the kw usage. She will provide a copy of the analysis to Council. Mrs. Klinger asked, regarding the proposed electric reimbursement, if it was the intention to pass savings along to the tenants. Mr. Rubin stated it was not. Mrs. Klinger asked if the job associated with the construction site would be required to use prevailing wage. Mrs. Truby stated it would not. The federal grant portion of the project was used for the public infrastructure and prevailing wage was used there. It is not required to be used for the whole project. Mrs. Klinger stated the size of the project has changed. In 2010, the cost was \$146.34 per s.f., in June, 2012, it was per \$149.04 s.f., and this proposal lists it at \$174.75 s.f. She wondered about the cause of the significant increase when the square footage has decreased. She also pointed out that the square footage set forth on Exhibit A and on Exhibit C do not total to what is being stated. Mrs. Truby stated she rounded on a lot of numbers. Mrs. Klinger stated that the contract needs to have specific numbers, especially since the numbers do not tie-in. She asked when the last of the CDBG money would be spent. Mrs. Truby stated it will probably be spent in the next draw. The associated jobs need to be created within 12 to 24 months and they have asked in the past for extensions. Mrs. Klinger asked for an update of the break even analysis. She stated the contract heavily favors the developer because there are no guaranties that any of the numbers will be met. That is where she believes this contract needs to be modified. These numbers are all estimates. There is nothing in the contract that says what will happen if the numbers are not met. The general fund is not increasing, it is decreasing. She disagreed with the electric fund and admission tax fund going back as a rebate. She also pointed out to the public that this Council has not been the cause of the slowness. When the public tells Council to move quickly, the delay has not been

with this body.

Mrs. Truby stated that in the Goodyear project, \$51 million was from public funds and \$88 million from private funds. Mrs. Klinger stated that the Goodyear project would have a \$350 million pay roll and this one will generate maybe \$10 million. That is a huge difference. Mrs. Pyke was disappointed that Mrs. Truby brought up Mrs. Klinger's employer. She had specifically requested that comments regarding Mrs. Klinger's employer be avoided. She felt it was a form of intimidation. There had to be another example. Mrs. Truby stated the Goodyear project is so prevalent and large in our region. Mrs. Pyke stated everyone is aware that Mrs. Klinger works there. She was just stating that she requested everything possible be done to avoid talking about it.

Mr. Colavecchio stated it was projected that the loan would be paid off by 2033. Mr. Brodzinski stated it was the total investment the City has made on top of interest he will be factoring as well as the recapture of the substation. He did notes with a payoff by 2018. Mr. Colavecchio asked whether it would be more beneficial to get a 20 year loan now. Mr. Brodzinski stated he did not see interest rates climbing for several years. If rates climb later, the impact to move to long-term financing will not be as great because the balance being financed will be less. Mr. Colavecchio commented on the \$1.8 million for the November amendment, which includes the abatement for electric and the money for movie admissions tax. Mr. Rubin stated everything is about cost and amount of leverage. The large piece is the site. No matter who is on the north end of the property, the site work remains and the developer is unable to spread it. The TIF monies are based on square footage. If square footage goes down, they have less square footage to TIF.

Mr. Iula stated this project is only three blocks from his house which will make his house worth more. He is hoping the project can hurry and get started.

Mr. Mader respected Mrs. Klinger's expertise and mathematical abilities. This project is one of the things the Administration referred to when talking about things to help fix the projected financial situation. The Administration does its best to protect the economies of this City. Everything is a gamble. It is a partnership. He appreciated Mr. Testa who acknowledged this is the way things are. He appreciated Mr. Willis who is a forward-thinking guy and coming up with ideas. That is what the City Administration does. He is in full support of this. There have been hurdles the developer cannot control. The City has to be accountable to the community in spending City money, however, life is a gamble. If we do not have the courage to take gambles, nothing will happen. Our history of gambles in the past have paid off. We cannot please everyone. Mrs. Klinger stated she just wanted to have a few small changes clarified in the contract to include a safety net so that the City is not so exposed.

Mayor Robart stated a lot of cities do not take aggressive action and so residents realize their town has died on the vine. This Administration will not allow that. If the City did not do something about the State Road Shopping Center when it did, the shopping center would still be there and the City would have no ability to do anything with it. No one knew we would be facing a recession like we are. If something is going to happen, public/private partnerships must move forward. This project will provide jobs and school system revenue which will increase even more when the domino effect comes in with other businesses. It will provide a convenience for residents. He strongly urged Council to pass this legislation, which will give the developer the tools to use it at the ICSC. It is an exciting project.

Mrs. Pyke stated this was a lot to digest. She wants to make sure someone from Stark will be present at the next committee meeting.

Mr. Walters appreciated Mr. Rubin's honesty. He was under the impression the vapor situation was to cover EPA mandates. Council was never involved in negotiations. That was handled by the Administration yet Council must now make the decision as to whether this is the best possible deal that could have been reached. He pointed out that the CORF grant money is still tax money. Robert Stark is a Cadillac developer. Maybe the City has to pay for that Cadillac and that is the way it is. He reiterated that the public can request copies of any of the documents discussed this evening from the Law Department.

Mr. James moved to adjourn, second by Mrs. Pyke. Motion passed, voice vote (11-0). Meeting adjourned at 8:45 p.m.

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Don Walters, Council President

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Cathleen J. Meacham, Clerk of Council