

# CUYAHOGA FALLS CITY COUNCIL

## Minutes of the Council Meeting

March 25, 2019

- Call to Order:** Ms. Nichols-Rhodes at 6:30 p.m.
- Roll Call:** Mr. Brillhart, present; Mr. Gorbach, present; Mr. Iona, present; Mr. Iula, present; Mr. James, present; Mr. Miller, present; Ms. Nichols-Rhodes, present; Mr. Pallotta, present; Ms. Penta, present; Mrs. Pyke, present; Mr. Reilly, present.
- Invocation:** Mr. Brillhart
- Pledge of Allegiance:** Mr. Miller
- Approval of Minutes:** The minutes of the March 11, 2019 Council Meeting were approved as written.
- Reports and Communications:** Notice of Public Meeting on Temporary Ordinance B-25 to be held on May 6, 2019, at 6:30 p.m., at the Cuyahoga Falls Natatorium.

### New Legislation (First Reading)

#### **Temp. Ord. B-22 (Planning & Zoning)**

An ordinance accepting the Planning Commission approval, findings and conditions of the site plan for The Summit County salt storage facility at 38 Steels Corners Road (Parcel 35-00219), and declaring an emergency.

#### **Temp. Ord. B-23 (Finance)**

An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the demolition of buildings and removal of demolition debris at various locations in the City, and certifying the cost thereof to the County Fiscal Officer for collection in the manner provided by law, and declaring an emergency.

#### **Temp. Ord. B-24 (Finance)**

An ordinance authorizing the Mayor to enter into a development agreement with CF Development Group, LLC for the construction of multifamily development projects at 2221 2nd Street and 2035 Old Town Loop Road, Cuyahoga Falls, Ohio, and declaring an emergency.

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

Adoption of Economic Development Plan; creating a Tax Increment Financing Incentive District; declaring improvements to the parcels within the incentive district to be a public

purpose and exempt from real property taxation; requiring the owners of those parcels to make service payments in lieu of taxes; establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments; and specifying the public infrastructure improvements that benefit or serve parcels in the Incentive District, and declaring an emergency.

**Temp. Ord. B-26 (Public Affairs)**

An ordinance authorizing the Mayor to enter into a NOPEC Energized Community Grant Agreement with NOPEC, Inc. for energy efficiency or energy infrastructure projects, and declaring an emergency.

**Temp. Ord. B-27 (Public Affairs)**

An ordinance enacting new Title Nine, Chapter 951 “Management, Administration and Control of the Use of the City’s Public Rights-of-Way” into the Codified Ordinances of the City of Cuyahoga Falls, Ohio, and declaring an emergency.

**Reports of Council’s Standing Committees**

(Third Reading)

**Planning & Zoning**

No Report.

**Finance & Appropriations:**

**Temp. Ord. B-19**

An ordinance authorizing the Director of Public Safety to enter into a contract or contracts, according to law, for the purchase of turnout gear for use by the Fire Department, and declaring an emergency.

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

**Temp. Ord. B-20**

An ordinance authorizing the amendment of Ordinance No. 11-2019, and declaring an emergency.

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

**Public & Industrial Improvements:**

No Report.

**Public Affairs:**

**Temp. Ord. B-21**

An ordinance amending and/or supplementing Section 537.16 of Title One, Part Five of the Codified Ordinances, to prohibit the sale of cigarettes, tobacco products, or tobacco product paraphernalia to individuals under the age of twenty-one; authorizing a contract with the Summit County Combined General Health District to implement these provisions through regulations, and declaring an emergency.

Mr. Pallotta moved to excuse Mrs. Pyke from voting to adopt Temporary Ordinance B-21. Mr. Gorbach stated that there typically is a reason for abstention given to Council.

Mrs. Pyke asked Mr. Russell Balthis, Law Director, if she was obligated to give a reason. She stated that she did discuss this with the Law Department prior to tonight's meeting. Mr. Balthis stated that he would draw Council's attention to Section 111.06(d), Duty to Vote, listed in Council Rules. "Every member present when the question is put shall vote, unless the Council shall excuse him. A request to be excused from voting shall not be in order unless made before the collective voice vote or before the roll call of yes or no is commenced, and any member requesting to be excused from voting may make a brief verbal statement of his or her reasons for making such request and the question shall then be taken up without further debate." Mr. Balthis stated that that is the Council rule, so it provides the option of whether Mrs. Pyke would like to make a statement or not.

Mrs. Pyke stated that she believes that everyone knows where she works. Her employer is backing this legislation. As a member of the management team, she is asking that she be excused from this vote. Mr. Gorbach stated that he appreciates the explanation.

Mr. Pallotta moved to excuse Mrs. Pyke from voting to adopt Temp. Ord. B-21; second by Mr. Miller. Motion passed, voice vote (10-0)

Mr. Reilly stated that he would like to thank Mr. Chris Hendricks and Ms. Donna Skoda for their work on this project.

Mr. Gorbach stated that he would like to thank Mr. Reilly for running a good committee on this issue. He then read the following statement: "On December 18th, 2018, the Surgeon General, Jerome Adams, issued a rare advisory, the fourth in 10 years, officially e-cigarette, vaping, among youth is an epidemic in the United States. In addition, Yale health researchers who studied the health effects of vaping found that vape devices have not been proven to help adult smokers quit. Moreover, vaping increases the risk for teens that they'll smoke regular cigarettes later. This legislation does not take away anyone's rights, nor does it raise the age to purchase tobacco-related products. I heard this again from some citizens over the weekend. It does not do that. It makes it illegal for Cuyahoga Falls' retailers to sell tobacco-related products to anyone under the age of 21. We had a couple younger speakers last week that said this isn't going to work; people that want to get tobacco-related products are still going to do that. I'm

not so naive to believe that's not the case. I understand those that are determined will do that. I hope that by making it inconvenient to do it, less individuals under the age of 21 decide to go down that road. We also heard, from a couple students from the Mayor's Youth Advisory Committee, that they're impacted by vaping during the day numerous times, all day long, every day. Ninety percent of smokers begin before they are 21. Typically, they start daily use between the ages of 18 and 21 -- this is per the Akron Beacon Journal editorial -- thus the value in moving the age of sale to 21 goes to disrupting the social connection. I want to be on the side of offering solutions to our young citizens; not aiding Big Tobacco that has invested heavily in this industry. I hope my fellow Council members will join me tonight. Again, I realize this won't stop the most-determined, but shouldn't we at least try? E-cigarettes are in their infancy. Like early cigarette adopters, we don't have the data, as stated by Dr. Shaheen last week during our meeting, what the true long-term effects are going to be, although hearing that formaldehyde is created during the vaping process in some of these devices and sucked into our kids' lungs sure sounds like a warning bell to me. Again, I hope that the majority of Council at the rail votes to approve this ordinance tonight.“

Mr. Iona stated that he certainly can appreciate Mr. Gorbach's remarks, but, realistically, this ordinance is making it illegal to sell in one small community, Cuyahoga Falls; legal to sell in parts of New Franklin, but not in Kent; legal to sell in Stow, legal to sell in Tallmadge and legal to sell in Munroe Falls. If someone wants to get a vape product, they can go online and get it, which this ordinance doesn't address. They can get in a car and get it by simply driving five minutes away. He stated that this is a huge health risk, but what this ordinance is doing to discourage it, in his opinion, is overreach for a city council. If the State comes out and mandates all products are illegal and that someone has to be 21 to smoke or vape, that's a state-mandated decision. City Council has its hands full with zoning issues, potholes and utility costs. It is overreach on City Council's part to affect a local business. It is a situation where a kid still smokes at 19 and walks down the driveway and is not arrested; however, the person who sold him that is in trouble. He stated that there is a lot of ambiguity to it, and he is not in favor of it.

Mr. Brillhart stated that he always tries to be the side of supporting the views of the Police Department and also joining with the school officials and the Health Department, so he will be supporting Temporary Ordinance B-21. Ms. Penta stated that it was a tough decision, but she will be voting no. She feels it belongs in the state and federal, and not in the local area.

Mr. Reilly moved to adopt Temp Ord. B-21, second by Mr. Pallotta. Roll Call: Mr. Brillhart, Yes; Mr. Gorbach, Yes; Mr. Iona, No; Mr. Iula, No; Mr. James, Yes; Mr. Miller, No; Ms. Nichols-Rhodes, Yes; Mr. Pallotta, Yes; Ms. Penta, No; Mr. Reilly, No. Motion failed, voice vote (5-5).

**Community Development:**

No Report.

**Schedule of Committee Meetings**

Planning & Zoning:	April 1, 2019, 6:30 p.m.
Finance:	April 1, 2019, 6:35 p.m. (Temp. Ord. B-23) April 3, 2019, 7:00 p.m. (Temp. Ord. B-24) held at the Cuyahoga Falls High School Library
Public Improvements:	Subject to Call.
Public Affairs:	April 1, 2019, 6:40 p.m.
Community Development:	Subject to Call.

Mrs. Pyke asked if there was going to be discussion on Temporary Ordinance B-1 at the April 1, 2019 Planning and Zoning Committee meeting, or is it being brought out of Committee strictly for a vote. Ms. Nichols-Rhodes stated that they will be bringing it out of committee for a vote. Mrs. Pyke asked if the public was going to be denied the right to speak. Ms. Nichols-Rhodes asked Mr. Balthis for his opinion. Mr. Balthis stated that if Council adds it to the calendar for discussion at Committee next week, there would be an opportunity for public input for anyone who would attend that committee meeting.

**Miscellaneous Business**

Mr. Bryan Hoffman, Finance Director, stated that, on the Revenue side in the General Fund, Interest Income is \$62,197 over 2018 and still on pace for projections in the budget. There are a couple timing issues in the General Fund. One is Real Estate Tax. That number is an advancement from the County Fiscal Office that varies from month to month. They won't get a real number until sometime in April or May when they receive the final settlement for the first half of taxes. Admissions Tax is one month off. Revenue is booked at the first of March instead of the very end of February. In the Municipal Income Tax Fund, during the period between January 1st and April 15th, there is always some ups and downs until a little bit past April 15th, and then things get caught up on a processing scale. With the transition of RITA, there are some fluctuations, also. They are running reports as to Tax ID numbers and seeing some areas that have submitted taxes in 2018, but have not submitted yet for 2019. In the State Motor Vehicle License Tax, there's a double timing issue. In 2018, they received a December payment the first of the year, which inflated the 2018 numbers a little bit. In 2019, they booked the payment for February and March. In the Enterprise Funds, he wanted to make note of the Electric Fund, where charges for services seem to be down this year. That is due to less consumption of electricity, because, on the expense side, the Purchase of Power line item is down at almost a one-for-one ratio. In the Leisure Time Fund, charges for services, 2019 compared to 2018, Natatorium is up \$7,102. Brookledge is down \$3,227 and Downview is down \$2,188 from last year being weather-dependent facilities.

On the Expense side, in the Personal Services line item, there was Retro pay for all employees that hit in February, so those will be up from 2018. In the Self-Insurance Fund, Hospitalization and Dental is down \$28,599 over 2018, and Prescriptions are down \$4,998 over 2018. That is considered to be relatively flat.

Mr. James moved to adjourn, second by Mr. Iula. Motion passed, voice vote (11-0). Meeting adjourned at 6:57 p.m.

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Mary Nichols-Rhodes, Council President

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Dana M. Capriulo, Clerk of Council