

# CUYAHOGA FALLS CITY COUNCIL

## Minutes of the Meeting of the Public Affairs Committee

December 1, 2014

Call to Order The meeting was called to order by Mr. Pallotta, Chair, at 7:24 p.m. A quorum was present.

Approval of the Minutes Without objection, the minutes of the meeting of November 17, 2014 were approved as submitted.

The Chair announced that although Temp. Ords. A-102 and A-103 would be discussed at this meeting, any vote on releasing these ordinances would wait until they are considered with another piece of legislation, to be introduced at the next Council meeting and considered at the Committee meeting scheduled for December 14, 2014.

### Agenda Items

Temp. Ord. A-102 An ordinance amending Chapter 933 "Electricity" of Title 5 "Public Utilities" of Part 9 "Streets and Public Services" of the Codified Ordinances of the City of Cuyahoga Falls, Ohio relating to electric rates, and declaring an emergency.

Temp. Ord. A-103 An ordinance to adopt the Cuyahoga Falls Electric System Cash Reserve Policy, and declaring an emergency.

The Chair asked Mr. Dougherty to provide the Rate Stabilization Loan Plan to all members of Council in preparation for the discussion at the next committee meeting.

There was no opponent testimony. There was no public comment.

Without objection, Temp. Ords. A-102 and A-103 were held in committee.

Temp. Ord. A-108

An ordinance authorizing the Mayor to enter into an agreement with the Utility Workers' Union of America, Local 399 effective January 1, 2015, and declaring an emergency.

The Chair recognized the Law Director Russell Balthis, who stated he had no further information to provide other than what was conveyed in executive session.

There was no opponent testimony. There was no public comment.

Motion by Mr. Weinhardt to release Temp. Ord. A-108 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-109

An ordinance authorizing the Mayor to enter into agreements to allow Fiber Technologies Networks, LLC, to access the City's rights of way and electric poles for the construction and maintenance of fiber optic cable, guy wires, new poles and other telecommunications equipment, and declaring an emergency.

The Chair recognized Deputy Law Director Janet Ciotola, who stated that Fiber Technologies Networks, LLC seeks to attach fiber optic cable to the City's utility poles, to install other wireless facilities, and to install 11 new poles in the City's public right-of-way. The proposed ordinance authorizes the Mayor to enter into a pole attachment agreement and a license agreement. Ms. Ciotola stated that five other companies currently use the City's poles. Ms. Ciotola stated that the expansion of Fiber Technologies' network will make wireless services faster, eliminate dead spots in the city, and provide the City's residents with increased services.

The Chair recognized Steve Drake, Market Operations Manager for Fiber Technologies Networks, LLC. Mr. Drake stated the company is seeking approval to attach fiber optic cable to the

City's poles. The equipment will provide better services to the community, eliminate dead zones, dropped calls, and help with the speed.

The Chair stated that the new pole locations and the fee charged for each pole has been provided to each Council member. The Chair asked if the City has previously permitted cell phone towers or cellular backhaul networks in the public right-of-way, or permitted third parties to install utility poles in the public right-of-way. Ms. Ciotola stated Time Warner, First Energy and AT&T have done so. The Chair asked if this includes cell phone towers. Ms. Ciotola stated she was not aware of any requests other than to attach to poles. The five companies that have agreements to do so are AT&T, Time Warner, SGS, KMC, and OneCommunity. The Chair asked if the City has a franchise agreement with OneCommunity. Ms. Ciotola stated it does not. The Chair recognized Law Director Russ Balthis, who stated there is a franchise agreement with OneCommunity, but OneCommunity is "not necessarily" a public utility. The Chair asked which cellular provider is involved with this request. Ms. Ciotola stated that this information cannot be divulged. The Chair asked if the installations are strictly for cellular telephone and not for wi-fi. Mr. Drake stated they are for cellular telephone, but data will be transferred over the network. The Chair asked if other cellular providers would likely make similar requests. Mr. Drake stated that is a possibility. The Chair stated that ACD.net wishes to make the same request. Ms. Ciotola stated that the City is in negotiations with ACD.net. The Chair asked if there is a maximum number of wires that can be mounted on each pole under the National Electrical Safety Code. The City Engineer, Tony Demasi, stated there is no maximum. If the number of wires threatens to encroach upon the space allotted for electric wires, a taller pole would be installed.

The Chair recognized Mr. Weinhardt, who asked if the rates charged by the City per pole are adjustable. Ms. Ciotola stated every year the rate will go up by 2%. Mr. Weinhardt asked how many poles will be subject to attachment. Ms. Ciotola stated that 244 poles will be attached, generating attachment fees and electric sales. The City will not receive any fees from the poles installed by Fiber Technologies.

The Chair recognized Mrs. Pyke, who asked if the proposed contract permits the City to require that poles be removed if necessary. Ms. Ciotola stated it does. Mrs. Pyke asked if the contract requires damaged poles to be repaired in a timely manner. Ms. Ciotola stated it does. Mrs. Pyke asked if any of the 11 new pole locations are in front of homes. Mr. Demasi stated that they are. Mrs. Pyke asked why a new pole is necessary if the location is next to another pole, and whether these poles are taller than standard poles. Mr. Demasi stated they will be smaller. Mr. Drake stated that these poles will pick up a signal which will be run back to a large cellular tower facility. Mrs. Pyke asked if the cellular carrier involved in this request has transmitters on Cathedral Tower. Mr. Drake stated he does not know that. The company is placing new poles because it is not permitted to attach cellular equipment to City electric poles. The poles are 35' tall and include cabinets with radio equipment. It is similar in size to a cable television box: 2' x 1.5' x 14". Mrs. Pyke asked how high the AT&T lines are. Mr. Dougherty stated it varies; there is a 16' minimum when over a public roadway. Mrs. Pyke asked how high the electric lines are. Mr. Dougherty stated they need to be 40" above the telecommunications lines. Mrs. Pyke asked how tall the poles are on Chestnut Blvd. Mr. Dougherty stated they are probably 40' tall. Mrs. Pyke asked if any resident will have two poles on their devil strip after these poles are installed. Mr. Demasi stated (inaudible). Mrs. Pyke asked for a list of the street addresses where the new poles would be installed.

The Chair recognized Mr. Mader, who asked if these installations are to amplify the cell towers ability to furnish service. Mr. Drake stated the carrier strategically selected location to eliminate dead zones and locations where large amounts of data are being used. Mr. Mader asked if the equipment is similar to an amplifier. Mr. Drake stated it is simply to send the signal back to the main tower.

The Chair recognized Mrs. Klinger, who asked if the City has any say as to where these cabinets will go. Ms. Ciotola stated that the City cannot adopt a regulation that has the effect of prohibiting a provider from providing a telecommunications service. The City may regulate for safety considerations.

The Chair recognized Mr. Demasi, who stated that the City did work with AT&T to mitigate safety considerations.

The Chair recognized Mr. Weinhardt, who asked why the equipment cannot go on the City's poles. Mr. Demasi stated it is not a weight or structural issue. The City has a policy of not permitting these devices on its poles. Mr. Weinhardt asked if the devices could be put on City poles. Mr. Demasi stated they could.

The Chair recognized Pat Murphy, an employee of the Electric Department, who stated that these devices would be difficult for linemen to climb around. It is a safety issue.

The Chair recognized Mrs. Pyke, who asked if Mr. Murphy had ever seen one of these devices. Mr. Murphy stated he had not.

The Chair recognized Mr. Weinhardt, who asked if the devices cannot go on City poles because of a safety issue. Mr. Dougherty stated the devices need to go on top of the pole, where the City's electric lines are located. There is a conflict between where the company wants to place its equipment and where the City's electric equipment is. The City had to make a

policy determination that these devices cannot be on City poles.

There was no opponent testimony. There was no public comment.

Motion by Mr. Weinhardt to hold Temp. Ord. A-109 in committee. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-110

An ordinance authorizing the Director of Law to enter into a contract or contracts with Mazanec, Raskin & Ryder Co., LPA, for legal services related to pending and potential tort litigation, and declaring an emergency.

The Chair recognized the Law Director Russell Balthis, who stated he had no further information to provide other than what was conveyed in executive session.

There was no opponent testimony. There was no public comment.


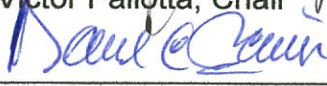
Motion by Mr. Weinhardt to release Temp. Ord. A-110 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Non-Agenda Items

The Chair recognized Joshua Hillman, who gave a presentation supporting the creation of a youth development center in Cuyahoga Falls.

Adjournment

Without objection, the Chair adjourned the meeting at 8:04 p.m.

  
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Victor Pallotta, Chair  
  
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Paul A. Janis, Clerk of Council