

CUYAHOGA FALLS CITY COUNCIL

Minutes of the Meeting of the Public Affairs Committee

December 15, 2014

Call to Order

The meeting was called to order by Mr. Pallotta, Chair, at 6:54 p.m. A quorum was present.

Approval of the Minutes

Without objection, the minutes of the meeting of December 1, 2014 were approved as submitted.

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.

Proponent testimony was offered by Electric Superintendent Michael Dougherty. Mr. Dougherty stated that the administration has responded to the Committee's questions over the last two weeks and the administration has worked with AMP to address the Committee's concerns over the increase in rates from 2014 to 2015 and that is reflected in Temp. Ords. A-114 and A-115.

The Chair recognized Mrs. Pyke who asked for confirmation that there is no change in this legislation from what was originally presented by the administration. Mr. Dougherty confirmed that is correct.

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

Motion by Mr. Weinhardt to release Temp. Ord. A-102 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-103

An ordinance to adopt the Cuyahoga Falls Electric System Cash Reserve Policy, and declaring an emergency.

The Chair recognized Mr. Dougherty. Mr. Dougherty stated that this ordinance would establish a policy to maintain cash reserves on hand to meet emergencies and debt requirements, and to help the City maintain its credit rating with AMP and thus the banks.

The Chair recognized Mr. Weinhardt who asked what the minimum reserve amount would be. Mr. Dougherty stated that the calculation will change year-to-year based on various factors. Exhibit A to the ordinance sets forth the calculation factors. The minimum cash reserve for 2015 will be around \$8 million.

The Chair recognized Mrs. Pyke, who asked Mr. Dougherty if the policy has changed at all from the original that was first submitted to Council. Mr. Dougherty stated it has not changed. Mrs. Pyke asked how long the City would have to replenish the reserve if it should need to be used. Mr. Dougherty said the reserve would be reviewed each year, and in the event of a deficit there would be three years to come up with a plan to replenish the fund, which may include reducing expenses and/or increasing rates.

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

Motion by Mr. Weinhardt to release Temp. Ord. A-103 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-114

An ordinance authorizing participation in American Municipal Power's Rate Stabilization Program, the execution of a Loan Agreement, execution and delivery of a Promissory Note, and declaring an emergency.

The Chair recognized Mr. Dougherty, who stated that this ordinance, in conjunction with Ord. No. A-115, is the solution to high power costs that will start next year. Mr. Dougherty introduced Craig Kleinhenz of AMP. Mr. Kleinhenz stated the cause of increased power costs for next year are reliability costs, transmission costs, a new hydropower plant coming on line, and a new market contract. Most of these cost increases are unavoidable, but one strategy is to install new “behind the meter” generation which would permit the City to reduce reliance on high-cost power. This is a long term solution.

The new market contract starts in 2015 and runs through 2020 and it was signed in 2010 when electric prices were higher than they currently are. The new contract is \$63/MWh for 14 megawatts of power. In 2021 and 2022, the cost to replace that contract will be \$45/MWh. A savings of \$18 per megawatt hour, or \$4.3 million annual savings beginning in 2021 and 2022. This ordinance would authorize the purchase of power for no more than \$46/MWh in 2021 and 2022. The \$4.3 million in savings in 2021 and 2022 will be brought forward as \$3.9 million in savings to be applied to reduce rates in 2015. The savings will be applied to rates as of June, 2015, when the higher power costs will hit the rate base. The savings will be brought forward by means of a \$4.3 million rate stabilization loan from AMP to the City through AMP’s line of credit, with an interest rate currently at 1.5%. The City would be responsible for the loan and whatever carrying costs apply, including changes to the interest rate. The loan would commence in June 2015 and run through December 2022. The maximum liability of the City would be \$5 million.

This loan will have the effect of cutting the 2015 rate increase from 13% to 7%.

The Chair recognized Mr. Weinhardt, who asked what the history of the variable interest rate has been. Mr.

Dougherty stated it has been between 1 and 1.5% over the past 3 years.

The Chair recognized Mrs. Klinger, who asked the Finance Director to review the debt covenants contained in the proposed agreement, and respond as to whether the City can agree to those items. Mr. Hoffman stated that he is comfortable that the City can meet all of these conditions.

Mrs. Klinger asked if the additional debt would affect the City's overall debt coverage ratio. Mr. Hoffman stated that this new debt would be taken into account in assessing the City's overall debt coverage ratio. The City's consultant has devised a plan accordingly and the debt will be recovered in the PCF charge. Mrs. Klinger asked what interest rate would trigger the need for the City to seek alternative financing. Mr. Hoffman said he has not looked at that but is comfortable with the interest rate risk.

The Chair recognized Mrs. Pyke, who asked if the plan as a whole reduces the rate increases that will be imposed on residents. Mr. Dougherty stated that the loan will allow the cost of power to be reduced by \$3.9 million in 2015. Mrs. Pyke asked if the purpose of the loan is simply to borrow \$4.3 million in order to spread the total increase over three years instead of one. Mr. Dougherty acknowledged the increases are being spread out over a three-year period. The purpose is simply to avoid increasing rates all in one year.

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

Motion by Mr. Weinhardt to release Temp. Ord. A-114 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-115

An ordinance authorizing the execution of Energy Purchase Power Supply Schedule with American Municipal Power, Inc., and declaring an emergency.

The Chair recognized Mr. Dougherty who stated that this ordinance is related to Temp. Ord. A-114.

The Chair recognized Mrs. Klinger, who asked if the contract presented at the meeting is different than the contract attached to the Ordinance as Exhibit 1. Mr. Dougherty stated that it is.

Motion by Mr. Weinhardt to amend the ordinance by substitution of existing Exhibit 1 with revised Exhibit 1 distributed at this meeting. Seconded by Mr. DeRemer. Motion adopted by acclamation.

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

Motion by Mr. Weinhardt to release Temp. Ord. A-115 as amended 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. In response to questions from Council, Ms. Ciotola stated that the cost to install a new pole is \$2000.00. The proposed agreement would require any abandoned poles to be taken down within a certain period of time.

Ms. Ciotola introduced attorney Natasha Ernst, Director of Small Cell Deployment for Fiber Technologies Network. Ms. Ernst stated that the eleven locations will provide a massive increase in wireless speeds. She stated she would not name the carrier due to confidentiality agreements.

The Chair asked if the company considered mounting its equipment on public buildings. Ms. Ernst stated "No." The distributed antenna system is sited in the public right-of-way where the fiber optic cable is. The fiber is going back to the cathedral site.

The Chair asked if the company has the legal right to use the City's rights-of-ways. Mrs. Ciotola stated "Yes." The Chair asked if the company already has the legal authority, why the matter is before Council. Ms. Ernst responded that it has been brought before Council "because you asked us to bring it before Council."

The Chair asked if the City has a plan that establishes pole attachment rates. Ms. Ciotola stated that AMP developed a master agreement in 2013. The City is following this master plan.

The Chair recognized Mr. Weinhardt, who asked why the City is following the AMP Plan when many cities charge other fees. Ms. Ciotola stated that the City did not want to be sued and the AMP Plan is one negotiated between the carriers and AMP. The costs allowed to be charged are also limited by state law.

Mr. Weinhardt asked why 5 poles were put up by the company before receiving authorization. Ms. Ernst stated that she apologizes for that mistake.

Mr. Weinhardt asked if it was possible for the City to own the poles. Ms. Ernst responded that there can be agreements where the municipality owns the pole, but the city would be required to maintain the pole.

Mr. Weinhart asked whether the poles can be used or rented out for the use of other service providers. Ms. Ernst answered that as a public utility, Fiber Tech is required to allow other utilities access to the pole.

Mr. Weinhart asked if the 400 other registered utilities in Ohio have the same right to do this, would there be a risk of the City being inundated with more utility poles. Ms. Ernst stated that there is only one carrier interested in the “densification” that is being pursued by this carrier.

Mr. Weinhart asked if the wire capacity will be used solely by Fiber Tech or whether will it be sold to others. Ms. Ernst stated that the company does overbuild in areas where there is a market for services that would be attractive to other businesses.

Chair recognized Mrs. Pyke, who asked if the services provided by the company will be available to residents as well as businesses. Ms. Ernst said “Yes.” Mrs. Pyke asked if the company has begun marketing this service. Ms. Ernst stated she does not know.

Mrs. Pyke asked why the City wouldn’t want to maximize the amount of money it can charge if there is a precedent that other cities are getting higher fees. Ms. Ernst stated that the rate under the proposed agreement is adjustable based on costs, and fees to attachers must be nondiscriminatory. Mrs. Pyke asked for a copy of the Agreement and a photo depicting the poles. Mr. Demasi stated that the administration has provided this.

Mrs. Pyke asked if any of the poles are directly in front of a resident’s home. Ms. Ernst stated they are not. Mrs. Pyke asked if homeowners can be notified before a pole is installed in front of a home. Ms. Ernst stated the company prefers not to give advance notice. Mrs. Pyke stated that advance notification should be given before any pole is installed in Ward 2.

Mrs. Pyke asked the City Engineer if the City will receive advance notice of the installation of poles. City Engineer Tony Demasi asked a Fiber Tech representative (unidentified) in the room if the company plans to install any more poles than the 11 authorized by the agreement. The representative responded "No."

Mrs. Pyke asked that the administration examine increasing the pole attachment rate from what is proposed. Ms. Ciotola stated there are other rate formulas available, but she and Mr. Dougherty could not obtain the information necessary to consider them.

Mrs. Pyke asked if there is a time frame in which a damaged pole will be replaced. Ms. Ernst said there is a 4 hour maintenance window.

Mrs. Pyke asked if the company is permitted to contract out services to companies that are in competition with their client. Ms. Ernst said "Yes." There is no exclusivity to the current provider.

Mrs. Pyke asked if the services are marketed by the company or by its client. Ms. Ernst stated that the company markets its facility and their client markets their services to the community.

The Chair recognized Mr. Rubino, who stated that residents who have a pole sited in front of their home should have some consideration paid in the form of a lower rate. Ms. Ernst stated this is not possible unless the state legislature requires it.

The Chair recognized Mr. Mader, who stated that no one wants to look at the poles and wires, but consumer demand for better service necessitates more poles and wires.

The Chair recognized Mr. Colavecchio, who asked if there is any alternative to the poles. Ms. Ernst stated that the equipment cannot be placed underground. If

the company were not permitted to install its own poles, the company would seek to attach to the City's poles. Mr. Colavecchio asked the effect of not addressing the dead spots that are to be addressed with this equipment. Ms. Ernst stated it is a decision of individual customers and how much they rely on wireless services. High speed wireless is now necessary for many businesses.

The Chair recognized Mr. Weinhardt, who asked if the company has reviewed the pole sites to be sure there are no underground utilities. Ms. Ernst stated that there are entirely different considerations in underground utility districts. None of these poles are in underground utility districts. Mr. Weinhardt asked if Ms. Ernst has experience with situations where the municipality owns the poles. Ms. Ernst stated that no city has requested that. Mr. Weinhardt asked if Fiber Tech has entered into franchise agreements. Ms. Ernst stated not in Ohio. Ohio has state law governing this. Mr. Weinhardt requested that additional information be provided relative to comparing the proposed agreement with the possibility of the city owning the poles.

The Chair recognized Mr. Colavecchio, who asked why the City would want to take on the ownership of the poles. Mr. Dougherty stated he does not want the City to own these poles.

The Chair recognized Mrs. Pyke, who asked the cost of the City to install a pole. Mr. Dougherty stated he did not have that information, but it would probably be less than \$2,000.

The Chair recognized Mr. Mader, who stated that the City should not own the poles used in this project.

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

Motion by Mr. DeRemer to release Temp. Ord. A-109 with a favorable recommendation. Seconded by Mr.

Pallotta. Motion adopted by acclamation, 2-1, Mr. Weinhardt objecting.

Temp. Ord. A-113

An ordinance authorizing the Mayor to enter into agreements to allow KEPS Technologies Inc, dba ACD.net, 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 Ms. Ciotola, who stated that this is a very similar agreement to A-109. KEPS Technologies is requesting to install 9 poles and to attach to 250 poles. The City will not charge a fee, but the company will provide a 100MB data connection to Fire Station No. 5 to support data communications in the dispatch center and to other City departments.

The Chair recognized Brad Rothfuss from KEPS Technologies. KEPS is doing exactly the same thing as Fiber Tech. The company operates in 4 states.

The Chair asked if KEPS will be serving the same zones as Fiber Tech. Mr. Rothfuss stated this is not the case. Verizon Wireless awarded various sites to different providers in an RFP process. The company focuses on "big bandwidth," building private networks for clients.

The Chair asked if there is an estimated value of the services that will be provided to the City. Mr. Rothfuss stated the value is \$100,000 in the first year and \$60,000 per year thereafter.

The Chair recognized Mr. Weinhardt, who asked what is stopping other companies from following the same business model and flooding the City with more poles, and whether there are other companies who will do so. Mr. Rothfuss stated "Yes."

The Chair asked if these competitors can use the same poles. Mr. Rothfuss stated the competition

would need to make their own decision how to build their network.

The Chair recognized Mrs. Pyke, who asked if, as a PUCO regulated company, whether the company would need to allow any other company to use its antenna. Mr. Rothfuss stated that the antenna can accept other carriers but it creates too much interference. Antennas will need to be improved in the future to allow another carrier. Verizon will own the antennas installed by the company.

Mrs. Pyke requested a list of the locations of the 9 poles to be installed, and a copy of the agreement. Mrs. Pyke asked what would happen if the City no longer needs the service that the Company is providing in exchange for the poles, and whether the City would begin charging a fee for the pole. Mrs. Ciotola stated she could add that to the contract.

The Chair recognized Mr. Rubino, who asked whether the terms of the deal offered to KEPS is comparable with the deal with the Fiber Tech. Mr. Rothfuss stated "Yes."

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

Motion by Mr. Weinhardt to release Temp. Ord. A-113 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-116

An ordinance amending the compensation and classification plan for full-time non-bargaining positions and assigning and re-assigning various job classifications to appropriate established salary grades, and declaring an emergency.

The Chair asked if there are any changes in the compensation plan. The Chair recognized Service Director Eric Czetli, who stated there are 3 changes. Assistant Utility Billing Manager was taken off the list in 2011 because it had not been filled and the person was transferred. Due to issues the City is having with

with AMR, Mr. Czetli determined to add the position. The person who as removed from that position has been returned to that position.

The second change is to increase the pay scale of the Street & Sanitation Superintendent. Mr. Novak was hired in 2002. He does a fine job and is deserving of the increase. It is consistent with the pay scale of other superintendents in the Service Dept.

The Chair recognized Mr. Stewart. Mr. Stewart stated the position of Golf Course Supervisor has been added. The Department has been without this position for 5 to 6 years. It supervises maintenance at Brookledge and Downview. The Department wishes to re-establish this position.

The Chair recognized Mrs. Klinger, who asked what additional revenues will be generated by bringing back the Golf Course Supervisor. Mr. Stewart stated there will be no additional revenues. The Department cannot continue to perform without this position.

There was no opponent testimony. There was no public comment

Motion by Mr. Weinhardt to release Temp. Ord. A-116 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-117

An ordinance establishing pay ranges for part-time, per diem, and special classification workers, and declaring an emergency.

The Chair recognized Law Director Russell Balthis.

Mr. Balthus stated this ordinance has been brought to remain compliant with federal and state minimum wage laws, and additional language in Section 2 has been added that permits the administration to adjust pay grades without further Council approval to be consistent with federal and state laws.

The Chair recognized Mrs. Pyke who asked if the additional language will result in this type of legislation not being brought to Council in the future. Mr. Balthis stated that is not the intent. Mr. Balthis stated he does not want the City to have an ordinance in violation of the minimum wage laws.

Mrs. Pyke stated the intent may be to bring an amendment back to Council, but there is no requirement to do so.

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

Motion by Mr. Weinhardt to release Temp. Ord. A-117 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Non-Agenda Items

None

Adjournment

Without objection, the Chair adjourned the meeting at 8:47 p.m.



Victor Pallotta, Chair



Paul A. Janis, Clerk of Council