

**Cuyahoga Falls City Council
Minutes of the Public Affairs Committee Meeting
May 16, 2011**

Members: Mark Ihasz, Chair
Kathy Hummel
Jeff Iula

Mr. Ihasz called the meeting to order at 7:35 p.m. All members were present.

The minutes from the April 4, 2011 and April 18, 2011 Committee meetings were approved as submitted

Legislation Discussed:

Temp. Res. B-52

Temp. Ord. B-53

Temp. Ord. B-54

Temp. Ord. B-55

Discussion

Mr. Ihasz stated the Committee would be holding Temp. Ord. B-53.

Temp. Res. B-52

A resolution expressing Council's support for the development of a drinking water source protection plan, and declaring an emergency.

Mrs. Carr stated this is a housekeeping resolution. The EPA urges cities to develop water protection plans. This is just following the guidelines set forth by the EPA. One of the requirements is that the plan must have the approval of City Council. The City has set up a committee. Dave Young and Becky McCleary are two of the members and are present this evening. Mr. Young stated that the development of this plan is strongly recommended by the EPA. Protecting the City's drinking supply is extremely important. The Committee's report identifies potential contamination dangers. One area they have identified is near the railroad tracks. They have developed protective strategies against potential contaminants. The completed plan needs to be continually reviewed and updated as needed. Mr. Ihasz asked when the plan needed to be submitted. Mr. Young stated there is no deadline. The only requirement would be if there was a new well. In that case, a plan must be in place; however, the City's wells have been in existence for a long time. Mrs. Pyke asked if the committee was looking at area communities looking at drilling near the City's aquifers. Mrs. Carr stated they are and they are taking a cautious approach. Some of the regulations of drilling are not strong. ODNR regulates drilling and has allowed drilling near the City's drinking source. The City takes extra precautions when that happens and they look at extra monitors. There are 1 year and 5 year zones of protection in the City. Mr. Young stated that water moves from east to west so they are more concerned about areas to the east than they are about those to the west. Mrs. Carr stated if something is in the 5 year zone, that means the City has a 5-year timeline to correct the situation. It is scientific in terms of how it moves across the area. The drilling issue has gone all the way to the Supreme Court. She did not know of any driller who has ever lost. Mrs. Pyke asked about a resolution that was before Council a while ago asking a driller not to drill. Mrs. Carr stated the City has some gas wells within its water zones that have existed since the 1980s and they monitor them to make sure they are operating correctly. If a driller gets a permit, it does not matter what legislation the City passes. Mrs. Pyke hoped the City's neighboring communities respected the City's need to have clean water. Mrs. Carr stated they do. They are trying to fight this on a different angle because you cannot fight against an ODNR permit.

Mrs. Hummel moved to bring out B-52 with a favorable recommendation, second by Mr. Iula. Motion passed (3-0).

Temp. Ord. B-54

An ordinance amending Section 505.18 of Part 5 of the Codified Ordinances, relating to feeding of birds, and declaring an emergency.

Mr. James stated there was a misrepresentation made on this ordinance. What people saw was the word “restrict”, which means “you cannot do.” He stated that word made it appear he was trying to ban bird feeders in the City. This legislation is meant only to be a regulation of maintaining bird feeders in the City. It is not asking for a ban of birdfeeders or of feeding birds or wildlife. This is an amendment to an existing ordinance and addresses the maintenance of birdfeeders and the area around the feeders. There are two reasons for this legislation: (1) seed can spill onto the ground which draws rodents; and (2) seed spoils as it lays on the ground for long periods of time and if birds eat it, they can contract five different kinds of diseases that are potentially life-threatening. Mr. James also corrected a misstatement made in an on-line report. The questioner had asked him if there were any reports of dead birds in the area. What was stated in the on-line report was that Mr. James had indicated there was an increased number of bird deaths in the area related to bird feeders. That was an incorrect quote. Mr. James also consulted with a local avian expert who concurred about rotting seed making birds sick. In conclusion, he stated he is not anti-bird. In fact, he likes to sit and watch them. This is Tree City USA and there are a lot of birds in those trees. He is just asking people to clean up the area around the bird feeders. He is actually trying to help the birds out.

Mr. Mader stated his ward has some farms. This legislation talks about disturbing noises and he wondered how that would apply to roosters. He’s already had complaints from people about roosters waking them up. Mr. Janis stated this ordinance is an amendment to an ordinance that is already on the books applicable to pigeons. Mr. Mader had a concern since he has a lot of constituents with chickens and ducks that this legislation would cause a conflict with those. He didn’t want someone calling the police because a rooster is waking them up. He asked if someone would be charged with a misdemeanor in that case. Mr. Janis stated that there would be enforcement discretion involved. Mr. Mader stated he is in agreement for the health of the birds but, because of the situation in his ward, he is opposed to this legislation. Mr. Barnhart didn’t feel the City needed more legislation telling residents to clean out bird feeders. If their feeder creates a mess, he felt they were intelligent enough to clean it themselves. There is already legislation on the books pertaining to pigeons and he cannot see taking this any further. Mrs. Pyke stated if there are concerns with rodents, the City has an ordinance that covers garbage or food attracting rodents. There is also a section in the Codified Ordinances. She did not feel the City needed to be responsible for bird feeders. If nothing else, all of the talk generated by this legislation has caused her to clean up her bird feeders and to buy better bird seed. People should have an ethical obligation not to jeopardize wild birds.

Mr. Walters stated he did not interpret the underlined language to include poultry or roosters but only nuisance conditions. He thought it may cover offensive odors. This legislation is just adding the birds to existing legislation. If offensive odors is already covered by the existing legislation, there may not be a need to change it. Mr. Janis stated this matter is covered under Section 1652.11 of the Health Code of Summit County. The County has inspectors to deal with this. There is a provision that addresses accumulation of rotting food, and it would be applicable to the City. He added that the reason the City has nuisance provisions is because of the difficulty of defining a nuisance. Mr. Ihasz asked if the City had any situations this year due to unsanitary conditions caused by animals. Mrs. Truby stated as it relates to bird feeders, in the last couple of years, they had a handful where there was too much seed. They issued an ordinance and the people complied. They were able to address the issues with the current City ordinance.

Mr. James stated one of the things elected representatives do is to take any and all complaints and concerns from residents. When there is an occurrence that happens three or four years and we try to make amendments by sending inspectors to homes where the problems are, there is only so much we can do. If there is nothing on the books to enforce anything, the representative has to do what he or she thinks is right. Because it may not affect you or your area does not mean it doesn’t affect another property. He makes no apologies. The legislation was

well intended. What he did, he did out of his good faith and in good conscience in trying to help his constituents. He felt it was something he needed to do as these people's representative.

Brian Nank, 2602 Sylvan Rd., felt it came down to performance responsibility. He cannot garden effectively because of all of the chipmunks. People are infringing on his rights by not being as responsible as they should be.

Mila Theiss, 2607 Woodward Rd., thanked Mr. James for not turning his back on her because she is the one with the problem. If there was not a problem, why was Charles Nettles called to her home in February. Bird seed was six to eight inches deep. The neighbors in that neighborhood live on top of each other. She loves birds. They've lived there for 23 years and never had a rodent problem but when you have so many bird feeders, you will have a large amount of bird seed under the bird feeder, and you will be in trouble. It attracts mice. Even night creatures like raccoons and opossums are walking around during the day. She is upset because where are her rights. She keeps her property clean. She should not have to call City inspectors to come in to get someone to clean up their mess. This situation did not happen over night. It has been going on for a while. She cannot stop these animals from coming into her yard. If the City told her it was because of the bird feeders, then it was. She feels bad about the way the media is handling this. She called the Summit County Board of Health and Charles Nettle and they all told her there was no ordinance to address this. She did not know what else to do. This situation is affecting the neighborhood. Mr. Ihasz asked if John Dailey or Charles Nettle could go out to look at the property again. Mrs. Klinger stated the Administration has stated there are rules to cover this but yet there is a constituent who is being told there is nothing to address it. Mrs. Truby stated there was a problem during the winter months. Mr. Nettle issued an ordinance and the neighbor complied. They were recently called again so Mrs. Truby asked him to take photographs. The photos show the property in question has three bird feeders and also corn hanging. There is some seed on the patio. She asked Mr. Nettle if he observed any rodents and he indicated he had not. Mrs. Klinger asked how the proposed legislation would change what has already happened. Basically, the residents would be in no different place than they are now if this legislation were adopted.

Mrs. Colavecchio stated the question is why were these home owners told they cannot be helped because there is no ordinance. She asked what is needed to get their concerns addressed. Mr. Janis stated he drafted this ordinance to add the other species of birds. It was added to an ordinance that specifically addressed the feeding of birds. There are a number of ordinances that address creating unsanitary conditions, and there is also the Health Code, as well. The ordinance does not prohibit feeding birds to create an unsanitary condition. Mrs. Colavecchio stated these homeowners should have been told that the City could help them because it has something on the books. She asked to see the photos Mrs. Truby had. She indicated she was inclined to resume this discussion when Mr. Nettle could be present. Mrs. Hummel asked Mr. Janis if he felt the strongest provision to help with this problem was Section 1652.11 of the Summit County Health Code. Mr. Janis stated this ordinance does not directly address the problem, which is leaving food. The Health Code has inspectors that specifically address those issues. Mrs. Hummel asked if the City could enforce that Code. Mr. Janis indicated he had not investigated that. Mrs. Hummel asked if this were held, would Council be able to get an opinion as to whether the City inspectors can enforce the County Health Code. The issue may be that it is difficult to get enforcement from the County, however, if we find that is the strongest thing to do, we need to direct the residents to the County. That would be another reason to hold this and to have Charles Nettle here as well. Mr. Walters stated the pigeon ordinance was amended in 1984. The intent then is the same as now. Who is to say in 1984 they saw a problem somewhere. It may have been isolated or it may have been widespread. Mr. Mader stated the City has an ordinance necessary for this. It seems like there is a lack of enforcement to take to the level that the people going against existing ordinances are not being made to comply.

George Theiss, 2607 Woodward Rd., wished roosters and pigeons were his problem. He thanked Mr. James for his help. He felt having a bird feeder is a privilege that comes with responsibility and accountability. His backyard is infested with chipmunks, squirrels and night critters. They also have mice in the yard, and he found a dead rat in the driveway. They've talked to the City, to Charles Nettle, to the Mayor and to the Summit

County Health Department. There is seed everywhere and he doesn't know how many feeders. This person comes out every morning to throw more seed on the patio. This is abuse. They need someone watching their back. No one is cleaning those feeders. Charles Nettle was at the house the other day. While they stood talking, the Theisses' cat dropped two chipmunks at their feet. He doesn't know why no one will help. This is all because someone wants to be irresponsible. He cannot get it fixed through the proper channels. The offending party knows who they are. He wanted them to know he has rights, too.

Sherri Nank, 2602 Sylvan Rd., stated their yard and the Theisses' yard are immaculate. Most of the yards in the neighborhood are immaculate. They have been asking for help since February. She did not want to hear anyone say it is a Summit County problem because it is a Cuyahoga Falls problem. The representatives in this room were either elected or appointed. It the residents' responsibility to share their troubles with City officials. It is the responsibility of City officials to do something. Do not pass the buck and tell them to go to Summit County about this issue.

Chris Stranahan, 597 Howe Ave., is the owner of Wild Birds Unlimited. It is the largest nature store in the area. He helps citizens and customers with healthy bird feeding. He does not agree with this legislation and feels it is just a common sense issue. The legislation seems subjective and widely open to interpretation. He is committed to educating the public in preserving wildlife habitats. Low quality food can lead to problems. Wild Birds Unlimited is running a campaign on techniques and ways to feed birds in a healthy and responsible way. He encouraged Council to reconsider the ordinance.

Donna Klett, 2593 Woodward Rd., stated it is her yard that is the source of this issue. She apologized this has come to the point where a personal dispute has to come before Council. She does not know why it is felt that this ordinance is necessary when she isn't doing anything wrong. She has spoken to Charles Nettle. He came to her house on Wednesday but did not find a problem there. She commented on the statement that enforcement discretion will be used. She asked whether this law was going to be used to harass an individual or used for legitimate concerns? She has been feeding the birds in her yard since she moved there. The Theisses do not like how much she does it. They want to force conformity. The Theisses have decided that her yard does not conform to their standards. Next it will be someone else's yard. She wanted them to know there will not be an immaculate place in nature. She is not abusing the privilege of having a bird feeder. She bought property with a lot of trees because she wanted the nature. She felt it was ridiculous that she was standing here defending this issue. She went on to correct some misstatements. With regard to the comment that there was 6-8 " of bird seed, she conceded that the thaw in February left an accumulation of bird seed but it was not rotted. It had been frozen, which preserves food. Apparently, a complaint was made to the City on the first day of the thaw. Charles Nettle contacted her about it and she cleaned it up. With regard to the comment about mice in their yard, she has not seen mice in her yard. She has seen a lot of chipmunks but never mice. She has also never seen a rat. She has seen mice while walking in the neighborhood--once on the other side of the street and once on Oakpark. She did not know why the mice and rats were in the Theisses yard. She was shocked over the personal venom on the internet and the vendetta against her. She is a constituent, too. There are laws on the books that impact what she can do in her yard. She is not violating anything, and she did not feel it was right to use Council to mediate a personal dispute. She wondered if regulating the number of bird feeders will be next. She said she will be looking forward to coming before Council again in six months when that ordinance is discussed.

Mr. James told Ms. Klett that the catalyst was the complaint from the Theisses but he has had complaints from other constituents as well. In the River Estates area, he had some complaints from residents off Oakpark, Ruth and Sylvan. Ms. Klett was not the target of this ordinance. Ms. Klett stated she understood that but none of the other people having a problem were in attendance.

Mary Myers, 1871 6th St., stated she is a retired police officer. She appreciated that Council was trying to solve a problem, but she did not think adding the species would solve it. She felt the legislation could include banning certain trees, bushes and flowers that birds eat from. She also asked how it would apply to birds inside homes

because parrots, mynah and love birds are very loud. None of that was considered when this ordinance was written. She asked Council to investigate ways to help residents solve problems so each can enjoy what they love.

Jennifer Sviridenko, 1101 Meredith St., stated that proponents of this legislation are completely ingenuous. This is about forcing the conformity of a sterile suburbia. Wildlife is attracted to many types of trees. The property owners stated the reason they've called everyone is because they have not gotten satisfaction. That should tell you there is not a problem. She asked whether Cuyahoga Falls wants the reputation of resolving petty disputes? She did not feel Council should pass this law.

Mrs. Hummel stated she would be in favor of holding this. She stated it would help if Charles Nettle could be present for the next discussion and also if she could get an answer to her question of whether City inspectors can enforce the County Health Code.

Mrs. Hummel made a motion to hold B-54, second by Mr. Iula. Motion passed (3-0).

Temp. Ord. B-55

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

Captain Davis stated this addresses three items. All were approved by the Traffic Control Committee. Mr. Ihasz asked if they were all safety issues. Capt. Davis stated some were sight issues. Parking on Shaw Avenue was previously permitted on both sides but the plows could not get through so they are restricting it to the odd side of the street. The change to Chestnut Boulevard was to make it easier to turn from Second onto Chestnut.

Mrs. Hummel moved to bring out B-55 with a favorable response, second by Mr. Iula. Motion passed (3-0).

Mrs. Hummel stated she saw something in the paper about the recycle weigh station on Graham Road closing due to funding costs, and over the weekend saw something about a site in Stark County where they will be accepting waste for a fee. She stated that the City has a representative on the County Board and asked if there has been any discussion about initiating a fee to keep the Graham Road facility open. If not, would the City be willing to take that discussion to the Board. Mrs. Carr stated she would check with the representative to see what discussions there were. They do not seem to be pursuing any kind of funding or asking for a fee but she will forward it to them to see if they would consider it. The Canton fee was \$25 and permitted no commercial waste. It was all household. It is something that should be considered in Summit County before it is closed down. They did not even know if it would open next year. Mrs. Hummel stated the City has a directory of how to get rid of stuff and thought perhaps that directory could be published by the press.

Mrs. Pyke asked Mr. James to announce when he would be ready to discuss the composting legislation because there were people present tonight who had come to talk about it.

Meeting adjourned at 9:10 p.m.

James, Jerry

From: Jerry James [jjames1@earthlink.net]
Sent: Sunday, May 15, 2011 3:24 PM
To: James, Jerry
Subject: Fw: bird feeders

-----Forwarded Message-----

From: garyriggs@aol.com
Sent: May 15, 2011 11:34 AM
To: jjames1@earthlink.net
Subject: bird feeders

Mr. James

Those of us who deal with birds and wildlife appreciate any attempts to improve their welfare. Bird feeders certainly provide an oasis of help during difficult weather conditions and I understand your intention is to promote an expanded use of wildlife feeders in our area. Your concerns regarding feeder cleanliness is also an important one for wildlife welfare. As a communal site for wild birds of many species, unclean feeders have been shown to facilitate disease transmission among birds using them. These diseases can include Salmonellosis, trichomonas, aspergillus, avian pox, and mycoplasma. In addition, feeders that are allowed to spill over and have material accumulate on the ground below are an attractant for rodents and other ground animals that can further the spread of pathogens. The good thing is, the cleaning frequency needn't be overly troublesome or difficult to be effective. Hopefully, people will get involved in the clean-feeding plan and provide **more** feeding stations to help out wild birds and to also bring them closer for home owners to view and appreciate.

Gary Riggs DVM, ABVP
North Coast Bird & Exotic Specialties
Wild4Ever: Wildlife Conservation Foundation
www.wild4ever.com

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