

CUYAHOGA FALLS CITY COUNCIL

Minutes of the Public Affairs Committee Meeting

July 21, 2014

Call to Order The meeting was called to order by Mr. Pallotta, Chair at 7:44 p.m. A quorum was present.

Approval of the Minutes Without objection, the minutes of June 16, 2014 and July 7, 2014 were approved as submitted.

Agenda Items

Temp. Ord. A-65 An ordinance authorizing Administration [sic] to enter into a contract or contracts after obtaining proposals for energy efficiency programs, and declaring an emergency.

Motion by Mr. Weinhardt to amend Temp. Ord. A-65 by substitution with Sub. Temp. Ord. A-65 (7/21/14). Seconded by Mr. DeRemer.

Motion adopted by acclamation. The amendment was approved.

Proponent testimony was offered by the Electric Superintendent, Michael Dougherty, the Customer Advocate, Becky McCleary, and Mr. Dave Vaughn, Executive Director of Director of Neighborhood Development Services. Mr. Dougherty stated that the ordinance as amended identifies Neighborhood Development Services as the contractor, and addresses other concerns of Council. Ms. McCleary stated that the scope of work that will be provided by Neighborhood Development Services includes new appliance rebates and home energy audits.

Mr. Vaughn stated that Neighborhood Development Services is a non-profit founded in 1985. The agency focuses in housing and economic development lending and services. NDS has developed 1,100

units of affordable housing. NDS has a staff of 21 people.

The Chair asked if NDS has operated an energy efficiency program for any other electric utility. Mr. Vaughn stated "no." The Chair asked how NDS plans to contact commercial and industrial customers to let them know of the program. Mr. Dougherty stated that NDS will only handle the home energy audit and appliance rebate portions of the program. The Chair asked how the administration will ensure that rebates are not given out for industrial improvements that would have been done anyway. Mr. Dougherty stated that a company would submit an energy efficiency project proposal showing how much money it would cost and how much energy would be saved. It will be analyzed by Go Sustainable, and Go Sustainable would make a recommendation for a rebate. The rebate recommendations will be assessed and awards made accordingly. Go Sustainable will also verify that rebate projects awarded are actually carried out. Rebates over \$50,000 will be submitted to Council, but there will likely be no rebates of this magnitude, since the entire budget for commercial/industrial rebates is \$100,000. Ms. McCleary stated that the legislation does not address the contract with Go Sustainable. NDS will operate only the residential portion of the program.

The Chair recognized Mr. Weinhardt, who asked if the appliance rebates can be awarded post-purchase. Mr. Dougherty stated that program rules have not been established, but the program will probably be retroactive for appliance purchases from January 1, 2014.

The Chair recognized Ms. Pyke, who asked if NDS has ever operated an appliance rebate program. Mr. Vaughn stated that NDS has operated similar programs. Mrs. Pyke asked how residents using the home energy audit will be able to get the audit fee rebated. The Community Development Director

stated that audits will cost \$25. If the resident performs upgrades, the resident will get the \$25 returned to them. NDS will verify whether the resident actually performs the upgrade. Mrs. Pyke asked if the \$54,000 fee to be paid to NDS is linked to the number of home energy audits and appliance rebates performed by NDS. Mr. Dougherty stated that NDS will be paid \$250 or \$300 per audit depending on the nature of the audit. \$4,000 of the fee is for appliance rebates. Mrs. Pyke asked if NDS will subcontract the audits. The Community Development Director stated that they will not be subcontracted. Mrs. Pyke asked if the portion of the program money coming from CDBG will be restricted to income-qualified recipients. The Community Development Director stated this is the case. Mrs. Pyke asked how the appliance rebates will be paid. The Community Development Director stated it will come in the form of a check from NDS. Mr. Dougherty stated it is limited to \$50 per appliance, up to 2 appliances per year.

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

Motion by Mr. Weinhardt to release Sub. Temp. Ord. A-65 (7/21/14) with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-75

An ordinance amending Part Nine of the Codified Ordinances of the City of Cuyahoga Falls by the amendment of Section 933.121(a), and declaring an emergency.

Proponent testimony was offered by the Electric Superintendent, Michael Dougherty. Mr. Dougherty stated that the cost of the energy efficiency program is rolled into the PCF calculation. This ordinance makes it clear that the cost of the energy efficiency program will be added to the PCF portion of the electric rates.

The Chair recognized a member of the public, Don Nelsch (no address given), who stated that the City is raising the electric rates of all customers to provide rebates for a few.

The Chair recognized Mr. Dougherty who stated that the administration worked to ensure that the program has a benefit for all customers.

The Chair recognized Mrs. Pyke, who asked how the current energy efficiency program is being paid for. Mr. Dougherty stated the cost is being added to the PCF. Mrs. Pyke asked, if the cost is already being added to the PCF, why the need to pass an ordinance to add the cost to the PCF. Mr. Dougherty stated that the prior energy efficiency program, was structured as a purchase power contract and appeared on the bill as power supply. Mrs. Pyke asked if bills will go up if this ordinance is passed. Mr. Dougherty stated bills will go down, but if the ordinance is not passed and there is no energy efficiency program, bills will go down further, but residents and businesses will have no access to the energy efficiency program benefits. Mr. Dougherty stated that offering energy efficiency program benefits is a competitive necessity because First Energy can offer these same benefits to some of the system's major customers who could switch providers. Mrs. Pyke asked whether the system's rate advantage doesn't outweigh any competitive threat. Mr. Dougherty stated that First Energy has rate flexibility for large customers that CFES does not have, and First Energy could undercut CFES on a particular customer if it wished to do so.

The Chair recognized Mr. Colavecchio, who asked if the per customer cost for the energy efficiency program is \$13 per month or per year. Mr. Dougherty stated that it is per year, or is one-third of that amount per year, depending on which program it is, which he could not recall.

The Chair recognized Mrs. Pyke, who asked if First Energy does not need a franchise to serve customers in Cuyahoga Falls. Mr. Dougherty stated that First Energy has distribution lines in Cuyahoga Falls at this time.

The Chair recognized Mr. Mader, who stated that portions of his ward have double sets of distribution wires, and residents have access to both systems. Mr. Mader asked if it would be possible to consolidate these systems under CFES. Mr. Dougherty stated that it is unwise to have First Energy with such access to CFES customers. Expansion of the CFES distribution system led First Energy to agree to sell some lines to CFES in the 1980's, but nothing along these lines has occurred recently. Mr. Mader asked if CFES could serve Indian Springs trailer community. Mr. Dougherty stated that CFES has no service in that area, and has received no requests for service from that area in three years.

The Chair recognized Mrs. Snyder, who asked Mr. Dougherty to clarify the per customer cost of the energy efficiency program and provide it to the Council. Mr. Dougherty agreed to do so.

The Chair recognized Mrs. Pyke, who asked Mr. Dougherty to provide what component of the bill is currently related to energy efficiency, and what it will be under the new program. Mr. Dougherty agreed to do so.

The Chair recognized Mr. Rubino, who asked if it would be appropriate to have the information from Mr. Dougherty before voting on this ordinance.

The Chair recognized Mrs. Pyke, who stated that a special committee meeting could be scheduled for the evening of the next Council meeting.

There was no opponent testimony.

Motion by Mr. Weinhardt to hold Temp. Ord. A-75 for the next committee meeting. Seconded by Mr. DeRemer. Motion adopted by acclamation. The ordinance was held in committee.

Temp. Ord. A-76

An ordinance authorizing the Mayor to enter into a contract or contracts, according to law, to allow Don Sitts Auto Sales, Inc. access to the City's rights of way, and declaring an emergency.

Proponent testimony was offered by the City Engineer, Tony Demasi. Mr. Demasi stated that Don Sitts Auto Sales has requested permission to install an aerial fiber optic cable across Front Street for the purpose of providing connectivity to its locations on Front Street. The City Electric Department has no objection. The Law Department will negotiate the terms of the agreement.

The Chair stated that he spoke with representatives of Don Sitts, who stated that they currently have Wi-Fi access at that location, as well as access to the telephone network. The Chair stated that it seems unnecessary to install another line across the street.

Mr. Demasi stated he did not know, but presumes Don Sitts would prefer to use the 6-strand fiber optic cable it proposes to install.

The Chair stated that the City should be looking to reduce, not increase the number of wires in city streets, and that it sets a bad precedent to permit private lines across city streets. Mr. Demasi stated that the City has a long history of allowing private facilities in the public right-of-way.

The Chair asked if the line could be installed underground. Mr. Demasi stated that it could. That would still require an agreement with the City.

The Chair recognized the Mayor, who stated that this is simply air space, and there are already lines that go across the road. It will not be noticed.

The Chair asked if the City has a policy of seeking to reduce the number of lines in public streets, and whether this one is really necessary. The Law Director stated that the agreement with Don Sitts will be an encroachment or license agreement under which the City can order removal of the line in the future if the need arises, without paying compensation for the removal.

The Chair recognized Mr. Weinhardt, who asked if the cable is needed when there are other means to establish communications links. Mr. Demasi stated that the concern of Don Sitts is reliability.

The Chair recognized Mrs. Pyke, who asked if it is necessary that Council vote on the ordinance at this meeting. The Law Director stated this request was made on behalf of Don Sitts. Mrs. Pyke asked if the Council could see the contract before voting on the ordinance. The Law Director stated he would supply a draft of the contract.

Motion by Mr. Weinhardt to hold Temp. Ord. A-76 for the next committee meeting. Seconded by Mr. DeRemer. Motion adopted by acclamation. The ordinance was held in committee.

Temp. Ord. A-77

An ordinance establishing compensation levels for non-bargaining employees of the City of Cuyahoga Falls for calendar years 2014, and 2015, and declaring an emergency.

Proponent testimony was offered by the Law Director, Russell Balthis. Mr. Balthis stated that the ordinance adjusts salaries of non-bargaining employees according to the wage increases provided to bargaining unit employees. The increase is 2.25% from January 1, 2014 to June 30, 2015.

The Chair asked if employees who were not employed on January 1, 2014 are eligible. Mr. Balthis stated that to be eligible, the employee must be employed by the City on the effective date of the

ordinance, and it is retroactive to the employee's start date or January 1, whichever is earlier.

The Chair asked if these raises were budgeted. Mr. Balthis stated the raises were not budgeted, but due to savings elsewhere, the raises can be made without increasing appropriations.

The Chair recognized Mr. Weinhardt, who asked Mr. Balthis to clarify how the raises can be paid through the existing budget. Mr. Balthis stated that there has been turnover and salary savings.

The Chair recognized Mrs. Klinger, who asked how the notations PCI 1, 2 and 3 come into play on the exhibit. Mr. Balthis stated that new employees are hired at PCI 1 and then move by time of service. Mrs. Klinger stated that years of service are already accounted for in the chart. Mrs. Klinger asked the Assistant Finance Director to research how an employee moves through the PCI steps and provide an explanation by e-mail. The Assistant Finance Director agreed to do so.

There was no opposition testimony. There was no public comment.

Motion by Mr. Weinhardt to release Temp. Ord. A-77 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Temp. Ord. A-78

An ordinance authorizing the purchase of the Mill Pond Property owned by First Akron Development Corporation to assist in redevelopment by Menard's to create job and employment opportunities, to protect open space and to create recreational and storm water management opportunities; and declaring an emergency.

Proponent testimony was offered by the Community Development Director, Diane Sheridan. Ms. Sheridan stated that this ordinance permits the Mayor to enter into a purchase agreement with First Akron

Development Corp. for the 24 acre Mill Pond parcel of which 11.5 acres is the pond. The parcel is located east of State Road between Bath and Graham Roads, and acquisition will assist the development of the Menard's site. The transaction will facilitate construction of the Menard's, create 140 jobs, ensure timely redevelopment of the former Giant Eagle site, and protect open space. The purchase price is \$600,000. If the transaction is approved and Menard's is further granted a tax abatement, Menard's will begin construction in 2015, with a total investment of \$8.5 million in building improvements. The CDBG Annual Action Plan includes a budget for redevelopment of the former Giant Eagle site. The City will also apply for a Nature Works grant for passive recreation at this site. The City completed a Phase 1 environmental assessment of the site. A Phase 2 has been ordered. Three transactions, between Giant Eagle, Menard's, the City and First Akron, are in play. No money will change hands unless all three deals succeed. \$241,000 of the money for the purchase of the parcel will come from the Land Preservation Fund, which is funded from developer fees. This money must be used for acquisition of green space. The remainder will come from the CDBG Fund.

The Chair asked Ms. Sheridan to review the sources of funding for the purchase. Ms., Sheridan stated that the \$600,000 purchase will be paid \$241,156 from the Land Preservation Fund. \$358,844 will be paid from the FY 2014 CDBG Fund.

The Chair asked what the City's liability would be for the pond site after acquisition. Mr. Balthis stated that as a passive recreational site, the City would generally be protected by governmental immunity.

The Chair recognized Mr. Mader, who asked how this purchase relates to the City's historical plan to create a green corridor to the Merriman Valley area. The Planning Director stated that the City owns about 30

acres acquired in two purchases in 1999 and 2003, with the intent to create a greenway from Wyoga Lake Road to the Valley. The purchase of the Mill Pond property is consistent with this goal. After this purchase, the City will have acquired about one-third of the necessary property for the greenway. Mr. Mader asked if there will be trails associated with this. The Planning Director stated there is a trail plan. Acquisition of the pond will allow further development of that plan.

The Chair recognized Mrs. Pyke, who asked when was the last time the Land Preservation Commission met. The Planning Director stated he did not know this. Mrs. Pyke stated that the Land Preservation Commission is tasked with keeping a list of open space priorities, and asked whether the Mill Pond property is on this list. The Planning Director stated that the Mill Pond property is mentioned in the City's Master Plan and the Summit County Greenway Plan. Mrs. Pyke asked if the Land Preservation Commission should meet before Council votes on this ordinance, inasmuch as the Commission's primary task is to recommend open space projects and expenditures. Mr. Balthis stated the Commission is non-functional and hasn't met in at least 10 years. However, since the transaction authorized by this ordinance would not occur until 2015, there is time to assemble the Commission before then. Mrs. Pyke asked what was the appraised value of the pond parcel. Ms. Sheridan stated that its appraised value is \$325,000. Mrs. Pyke asked if the Phase 2 environmental assessment finds the pond to be contaminated, whether the City would be responsible to clean it up. Ms. Sheridan stated that the City would not be responsible. Mrs. Pyke asked whether the City could leave the pond contaminated. Mr. Balthis stated that the purchase agreement allows the City to cancel if the City finds the parcel to be contaminated. Mrs. Pyke asked how the public would have access to the pond for recreational purposes. The Planning

Director stated there are various ways to site trailheads on adjacent parcels and public streets.

The Chair recognized Mr. Mader, who asked if there are concerns from the Woodridge School District.

The Chair recognized Water Davis, Superintendent of the Woodridge School District. Mr. Davis gave a statement in support of the ordinance and the proposed transaction, stating that the proposed Menard's is a "win-win" "even with the likely abatement that will come." Because of the large size and footprint of the Menard's, the Woodridge District will gain even during the period of abatement.

The Chair recognized Mrs. Klinger, who asked if the land splits shown on the documents are part of the deal going forward. The Planning Director stated that the document shows one parcel will be split into three parcels: open space, residential, and Menard's. Mrs. Klinger stated that the ordinance does not mention contingency of the other transactions, and there is no dollar amount specified or source of funding specified. Mrs. Klinger asked that these issues be addressed in the ordinance. Mr. Balthis stated that he would provide that information and would also share a draft development agreement between the parties.

The Chair recognized Mrs. Snyder, who asked how many of the 140 jobs will be full time or part time. Ms. Sheridan stated she did not have this information, but would provide it. Mrs. Snyder asked if there will be parking for the trails at the site. The Planning Director stated that there will be a master plan prepared which will address this.

The Chair recognized a member of the public, Mark McCulloch, 2300 Larchdale, who asked if the pond will be preserved in its current size. The Planning Director stated that the parcel is 59 acres, of which only 10 acres will be devoted to Menard's. 24 acres

will be devoted to open space, and 15 acres will be retained for residential uses. Menard's will not need to reduce the size of the pond.

The Chair recognized a member of the public, Dan Rice, 1622 Grant Ave., who stated that this parcel is identified on the Summit County Greenway Plan as a priority project. While this is a complicated deal, the opportunity to acquire this land now accomplishes a critical linkage to the greenway plan and should be pursued. Mr. Rice presented a letter of support from the Ohio and Erie Canalway Coalition.

The Chair recognized David Hunter (no address given), on behalf of the First Akron Development Corp., who stated that he would answer any questions from the Council.

The Chair recognized Mr. Mader, who thanked Mr. Hunter for his work to bring this transaction to fruition.

There was no opponent testimony.

Motion by Mr. Weinhardt to hold Temp. Ord. A-78 in committee. Seconded by Mr. DeRemer. Motion adopted by acclamation. The ordinance was held in committee.

Non-Agenda Items

Temp. Res. A-80

A resolution authorizing the Director of Community Development to file a grant application with the Department of Natural Resources, and declaring an emergency.

Proponent testimony was offered by Community Development Director Diane Sheridan. Ms. Sheridan stated the NatureWorks grant is provided by the Department of Natural Resources and is dedicated to acquisition of property for passive recreation. This grant will reimburse up to 75% of the expense for acquisition of property. However, only \$140,642 in grant funding is allocated to Summit County. If this

project is ranked number one for Summit County, this project will receive the entire amount. The grant application is due on September 4, 2014. The applications will be reviewed and scored by ODNR, and awards will be in December 2014. It is a reimbursement grant.

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

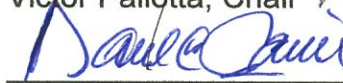
Motion by Mr. Weinhardt to release Temp. Res. A-80 with a favorable recommendation. Seconded by Mr. DeRemer. Motion adopted by acclamation.

Adjournment

Without objection, Chairman Pallotta adjourned the meeting at 9:11 p.m.



Victor Pallotta, Chair



Paul A. Janis, Clerk of Council