

Cuyahoga Falls City Council

Minutes of the Council Meeting of July 27, 2015

Call to Order Mrs. Pyke called the meeting to order at 6:33 p.m.

1. Roll Call

Present: Mr. Brillhart
Mr. Colavecchio
Mr. DeRemer
Mr. Iula
Mr. James
Mrs. Klinger
Mr. Mader
Mr. Pallotta
Mr. Rubino
Mrs. Pyke

Absent: Mr. Weinhardt

2. Invocation

The invocation was given by Mr. Mader.

3. Pledge of Allegiance

The Pledge of Allegiance was led by Mr. Iula.

4. Approval of Minutes of Previous Council Meeting.

Without objection the minutes of the meetings of July 13, 2015 and July 20, 2015 were approved as submitted.

5. Reading of petitions, claims, communications and reports of City officials.

1. From the Finance Director, Report 21 dated July 20, 2015, for the period ending June 30, 2015.
2. From the Department of Liquor Control, a notice dated July 10, 2015 that all liquor permits in the City will expire as of October 1, 2015, and providing instructions on how to object to renewal applications that will be filed as a result.
3. Correspondence from Judy and Ed Biskner concerning Front Street Mall and road conditions.
4. From the Dept. of Liquor Control, notice of issuance of a new D5J liquor permit to AV Nail Spa, Inc. dba Anthony Vince Nail Spa, 2021 Portage Trail.

5. From the Dept. of Liquor Control, notice of the transfer of C-1 and C-2 liquor licenses from Dhami eXpress, Inc. dba One Stop & Shop, 344 Tallmadge Road, to 344 Tallmadge Country Store LLC, dba One Stop & Shop, 344 Tallmadge Road.

6. Introduction of new ordinances and resolutions.

No new ordinances or resolutions were introduced.

7. Public Hearings.

(None.)

8. Reports of Special Council Committees.

There were no reports of special committees.

9. Reports of Council's Standing Committees

Planning & Zoning Committee:

Temp. Ord. B-40: An ordinance approving a zoning map amendment for Parcels 35-00857, 35-02577 and 35-00103, from MU-3 Sub-Urban Center to E-1 Employment District, as more fully described and depicted herein, and declaring an emergency.

Motion by Mr. Mader to adopt Temp. Ord. B-40. Seconded by Mr. Rubino.

Remarks by the Committee Chair: None

Mr. Rubino called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Finance & Appropriations Committee:

Temp. Ord. B-56: An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the demolition and removal of demolition debris from a dangerous building located at 2360 4th Street and certifying the cost thereof to the County Fiscal Officer for collection in the manner provided by law, and declaring an emergency.

Motion by Mrs. Klinger to adopt Temp. Ord. B-56. Seconded by Mr. James.

Remarks by the Committee Chair: None

Mr. James called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Temp. Ord. B-57: An ordinance authorizing Declarations of Official Intent under U.S. Treasury Regulations with respect to reimbursements from Note and Bond proceeds of temporary advances made for payments prior to issuance, and related matters.

Motion by Mr. Iula to adopt Temp. Ord. B-57. Seconded by Mr. Iula.

Remarks by the Committee Chair: None

Mr. Iula called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Public Improvements Committee:

Temp. Ord. B-58: An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the reconstruction of concrete pavement at various locations in the City, and declaring an emergency.

Motion by Mr. Iula to adopt Temp. Ord. B-58. Seconded by Mr. Mader.

Remarks by the Committee Chair: None

Mr. Mader called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Temp. Ord. B-59: An ordinance consenting to the improvement of the pavement along State Route 8 within the City of Cuyahoga Falls, by the State of Ohio, using Microsurfacing Technology, authorizing financial cooperation thereof, [sic] and declaring an emergency.

Motion by Mr. Iula to adopt Temp. Ord. B-59. Seconded by Mr. Brillhart.

Remarks by the Committee Chair: None

Mr. Brillhart called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Public Affairs Committee:

Temp. Ord. B-52: An ordinance providing an amendment to the Charter of the City of Cuyahoga Falls, Ohio, originally adopted by the electorate on November 3, 1959, and amended from time to time, to be submitted at the next general election on November 3, 2015, which amendment will revise Article VII, Section 2, and declaring an emergency.

Motion by Mr. Rubino adopt Temp. Ord. B-52. Seconded by Mr. DeRemer.

Remarks by the Committee Chair: None.

Mr. DeRemer called the question.

The Clerk called the roll and the votes were recorded as follows:

Yes:	Mr. Brillhart	No:	Mr. Iula
	Mr. Colavecchio		Mr. Pallotta
	Mr. DeRemer		Mrs. Pyke
	Mr. James		
	Mrs. Klinger		
	Mr. Mader		
	Mr. Rubino		

Absent: Mr. Weinhardt

Motion adopted 7-3. The ordinance failed.

[Clerk's note: Council rule 111.06(g) provides that a simple majority vote is sufficient to pass any motion. City Charter Art. 10, Section 1 provides that Council may submit a Charter amendment to the electors only upon an affirmative vote of two-thirds of its members.]

Temp. Ord. B-60: An ordinance authorizing the Director of Public Service to apply for and accept a grant from the Ohio Environmental Protection Agency and authorizing the payment of the City's local share, and declaring an emergency.

Motion by Mr. Pallotta to adopt Temp. Ord. B-60. Seconded by Mr. DeRemer.

Remarks by the Committee Chair: None.

Mr. DeRemer called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Temp. Ord. B-66: An ordinance authorizing the Parks [sic] and Recreation Board to enter into a contract or contracts, according to law, for replacement of asphalt roadway, reinforcement and repair of slopes and improvement of storm water structures in Babb Run Park, and declaring an emergency.

Motion by Mr. Pallotta to adopt Temp. Ord. B-66. Seconded by Mr. DeRemer.

Remarks by the Committee Chair: None.

Mr. DeRemer called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Community Development Committee:

Temp. Res. B-61: A resolution accepting the recommendations of the Tax Incentive Review Council and the Community Reinvestment Area Housing Council concerning Enterprise Zone and Community Reinvestment Area tax exemption agreements within the City of Cuyahoga Falls, and declaring an emergency.

Motion by Mr. Pallotta to adopt Temp. Res. B-61. Seconded by Mr. Colavecchio.

Remarks by the Committee Chair: None.

Mr. Colavecchio called the question.

Motion adopted by acclamation, 10-0. The resolution was adopted.

Temp. Ord. B-62: An ordinance authorizing the Mayor to enter into a contract with MKSK according to law, for professional services to complete the Downtown Area Circulation Plan, and declaring an emergency.

Motion by Mr. Pallotta to adopt Temp. Ord. B-62. Seconded by Mr. Colavecchio.

Remarks by the Committee Chair: None.

Mr. Colavecchio called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Temp Ord. B-63: An ordinance authorizing the City to accept the donation of property on [sic] 1659 Front Street from the Community Improvement Corporation, and declaring an emergency.

Motion by Mr. Pallotta to adopt Temp. Ord. B-63. Seconded by Mr. Colavecchio.

Remarks by the Committee Chair: None.

Mr. Colavecchio called the question.

Motion adopted by acclamation, 10-0. The ordinance was passed.

Temp Ord. B-64: An ordinance authorizing the Mayor to enter into a lease agreement or agreements with Arkay Properties, LLC and Metro Parks, Serving Summit County, [sic] Board of Commissioners, [sic] and declaring an emergency.

Motion by Mr. Pallotta to adopt Temp. Ord. B-64. Seconded by Mr. Colavecchio.

Motion by Mr. Colavecchio to amend Temp. Ord. B-64 by way of substitution with Substitute Temp. Ord. B-64 dated July 20, 2015. Seconded by Mr. Pallotta.

Remarks by the Committee Chair: Mr. Pallotta stated that the changes to Temp. Ord. B-64 are reflected on lines 15 , 33, 34 and 35.

Mr. Colavecchio called the question.

Motion adopted by acclamation, 10-0. The amendment was adopted.

The matter on the floor became the adoption of Sub. Temp. Ord. B-64 (7/20/15).

Motion adopted by acclamation, 10-0. The ordinance was passed.

Temp Ord. B-65: An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the Chestnut Trailhead Parking Lot & Trail Improvements Phase I, and declaring an emergency.

Motion by Mr. Pallotta to adopt Temp. Ord. B-65. Seconded by Mr. Colavecchio.

Motion by Mr. Colavecchio to amend Temp. Ord. B-65 by way of substitution with Substitute Temp. Ord. B-65 dated July 20, 2015. Seconded by Mr. Pallotta.

Remarks by the Committee Chair: Mr. Pallotta stated that the changes to Temp. Ord. B-65 are reflected on lines 20, 21, 22, 23 and 24.

Mr. Colavecchio called the question.

Motion adopted by acclamation, 10-0. The amendment was adopted.

The matter on the floor became the adoption of Sub. Temp. Ord. B-65 (7/20/15).

Motion adopted by acclamation, 10-0. The ordinance was passed.

10. Announcement of Schedule of Council Committee meetings.

Planning and Zoning:	Subject to call.
Finance:	Subject to call.
Public Improvements:	Subject to call.
Public Affairs:	September 8, 2015 at 6:30 p.m.
Community Development:	Subject to call.

11. Miscellaneous Business

The President recognized Finance Director Bryan Hoffman with respect to Report 21. Mr. Hoffman stated that due to the state's audit findings from last year, interest income is being booked into the General Fund, to be transferred to the Capital Projects Fund. This will be handled at a mid-year supplemental appropriation ordinance to be introduced in September. Admissions tax from the Cinemark theater is projected to finish at \$86,000 for the year. Municipal income tax collections are up 5.5% in June, even higher than the 4.5% increase in May. The Street Construction, Maintenance and Repair Fund receives cable television franchise fees, which had been trending downward in recent years. These fees are up 2.2% over 2014. Charges for services at the Natatorium are up 5.3% over 2014. Water Works, Brookledge and Downview are down. Rainy weather has had a negative effect on these operations. However, July will be a good month at Water Works. On the expense side, the cancellation of the NAPA contract at the Garage made it necessary for the City to buy parts inventory from NAPA. This fund is now negative because of that, but it is anticipated these numbers will go positive once the user departments are billed.

The President recognized the Mayor, who stated that yard signs alerting drivers to “drive slow” would be available for free in the Mayor’s office. The production of the signs was made possible by employees donating money on “Jeans Friday.”

The President asked if people receiving these signs are being informed that they cannot be placed in the devil strip. The Mayor stated that these are “city authorized” signs.

The President asked Community Development Director Diane Sheridan if she could announce the future development at the former Molly Brown’s Restaurant site. Ms. Sheridan stated the site will be used for a new Kentucky Fried Chicken, expected to be open by Spring, 2016.

The President asked if City’s transaction with Menard’s had been completed. Ms. Sheridan stated that the matter has been completed. Construction will begin as soon as the former Giant Eagle has been razed, and opening is planned for Spring, 2016.

The President asked about delays with the street resurfacing program and whether the City’s milling machine is operable. Assistant Director of Public Service Theresa Hazlett stated that the contractor is working and City staff are milling. No specifics on the timing of any particular street are available.

The President recognized Mrs. Klinger, who asked how the motion adopting Temp. Ord. B-52 by a vote of 7-3 is affected by Art. 10, Section 1 of the City Charter, which requires a two-thirds majority of all members of Council to authorize submission of a Charter amendment to the electorate. The Clerk stated that the motion was adopted, but the ordinance cannot be submitted to the electorate.

The President asked the Law Director to elaborate. The Law Director stated that the Charter requires a two-thirds vote for the ordinance to be submitted to the electorate. The ordinance failed because it did not meet the required votes to pass pursuant to the Charter.

The President recognized Mr. Rubino, who asked if a motion for reconsideration was available to those members who voted for the ordinance. The President asked the Law Director to provide a ruling on who is the prevailing party: the members who voted for the successful motion or the members who voted against the failed ordinance.

The President recognized Mr. Colavecchio, who asked about the whereabouts of Mr. Weinhardt and whether he was sick or on vacation. The President stated that the reasons for Mr. Weinhardt’s absence would

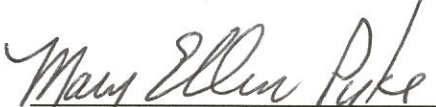
not be debated. If it were, the same would need to be required of each member's absence. Mr. Colavecchio stated that Mr. Weinhardt "has missed more meetings than anybody else on this Council." [The President terminated Mr. Colavecchio's remarks.]

Law Director Russ Balthis stated that the members voting against the failed ordinance were the prevailing party. The "no" vote was the successful vote and a motion for reconsideration can be made only by one of those members.


The President recognized Mr. Rubino, who requested that one of the members voting "no" on the ordinance move for reconsideration. The President stated that she opposed the amendment reflected in Temp. Ord. B-52 because it would be confusing to the voters and she would not make such a motion.

12. Adjournment

Motion by Mr. James to adjourn. Seconded by Mr. Iula. Motion adopted by acclamation. The meeting was adjourned at 7:07 p.m.



Mary Ellen Pyke
Council President



Paul A. Janis
Clerk of Council