

Cuyahoga Falls City Council
Minutes of the Council Meeting
February 10, 2003

CALL TO ORDER Mrs. Hummel at 6:30 p.m.

ROLL CALL Mr. Schmidt, present; Mr. Gorbach, present; Mr. Flinn, present; Mr. Barnhart, present; Mr. Potts, present; Mr. James, present; Mr. Walters, present, Mrs. Pyke, present, Mrs. Klinger, present; Mr. Bauer, present; Mrs. Hummel, present.

INVOCATION Mr. Schmidt

PLEDGE Mr. Walters

APPROVAL OF MINUTES

The minutes of the January 27, 2003 regular Council meeting were approved as submitted.

REPORTS AND COMMUNICATIONS

1. A letter dated February 7, 2003 to Members of Council from Mayor Robart regarding his appointment of Deborah Graef, 225 Portage Trail #1, Cuyahoga Falls, OH 44223 to the Civil Service Commission. Mrs. Hummel assigned a Special Committee consisting of Mr. Schmidt as Chair, Mr. Bauer and Mrs. Klinger.
2. A Notice from Ohio Division of Liquor Control for a transfer of liquor license from Sherol Management Corp. dba North Lanes, 4190 State Road, Cuyahoga Falls, Ohio to Strike One Enterprises Ltd. dba North Lanes, 4190 State Road, Cuyahoga Falls, Ohio.
3. A report of the Building Department for January, 2003.
4. The 2002 Annual Report of the Cuyahoga Falls Police Department for Law Enforcement Trust Fund #215-015.
5. The 2002 Annual Report for the Cuyahoga Falls Municipal Court District.

NEW LEGISLATION

Temp. Ord. No. B-22 (Finance Committee)

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT OR CONTRACTS, ACCORDING TO LAW, FOR PORTABLE TOILET AND SINK RENTAL AND SERVICE FOR USE BY THE MALL OPERATIONS/STREET DEPARTMENT, AND DECLARING AN EMERGENCY.

Temp. Ord. No. B-23 (Finance Committee)

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT OR CONTRACTS, ACCORDING TO LAW, FOR THE ANNUAL RESURFACING AND/OR REPAIR OF VARIOUS STREETS AS DESCRIBED IN EXHIBIT 'A', ATTACHED HERETO, IN THE CITY OF CUYAHOGA FALLS, AND DECLARING AN EMERGENCY.

Temp. Ord. No. B-24 (Finance Committee)

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT OR CONTRACTS, ACCORDING TO LAW, FOR STORM WATER PROJECTS DURING 2003, AND DECLARING AN EMERGENCY.

Temp. Ord. No. B-25 (Finance Committee)

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT OR CONTRACTS, ACCORDING TO LAW, FOR THE IMPROVEMENT OF FRONT STREET FROM STATE ROUTE 8 TO OAK PARK BOULEVARD, AND HUDSON DRIVE FROM FRONT STREET TO STATE ROUTE 8, AND BAILEY ROAD FROM FRONT STREET TO SECOND STREET, IN THE CITY OF CUYAHOGA FALLS, AND DECLARING AN EMERGENCY.

Temp. Ord. No. B-26 (Public Improvements Committee)

AN ORDINANCE DETERMINING TO PROCEED WITH AND AUTHORIZING A CONTRACT OR CONTRACTS FOR THE IMPROVEMENT OF HIGH STREET FROM TALLMADGE ROAD TO TAYLOR AVENUE INCLUDING SILL AVENUE FROM THE INTERSECTION WITH HIGH STREET TO ITS EASTERN TERMINI, INCLUDING CONCRETE CURBS, CATCH BASINS, WATER LINES AND STORM AND SANITARY SEWERS WHERE REQUIRED, ROADWAY ASPHALT OR CONCRETE PAVING, CONCRETE DRIVEWAY APRONS AND CONCRETE SIDEWALKS WHERE REQUIRED, TOGETHER WITH NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

Temp. Ord. No. B-27 (Public Improvements Committee)

AN ORDINANCE DETERMINING TO PROCEED WITH AND AUTHORIZING A CONTRACT OR CONTRACTS FOR THE IMPROVEMENT OF ALBEMARLE AVENUE, INCLUDING CONCRETE CURBS, CATCH BASINS, WATER LINES AND STORM AND SANITARY SEWERS WHERE REQUIRED, ROADWAY ASPHALT OR CONCRETE PAVING, CONCRETE DRIVEWAY APRONS AND CONCRETE SIDEWALKS WHERE REQUIRED, TOGETHER WITH NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

Temp. Ord. No. B-28 (Public Improvements Committee)

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE REPAIR OR REPLACEMENT OF SIDEWALKS IN THE DISTRICT KNOWN AND DESIGNATED BY THIS COUNCIL AS A SIDEWALK REPAIR DISTRICT FOR THE YEAR 2002 CONTAINING ALL NECESSARY STREETS, ALLEYS OR PUBLIC ROADWAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF CUYAHOGA FALLS, AND DECLARING AN EMERGENCY.

Mr. Walters moved to suspend the rules to hold a committee meeting on the same night as Council, second by Mrs. Pyke. Motion passed. Voice vote (11-0).

Temp. Ord. No. B-29 (Public Affairs Committee)

AN ORDINANCE AMENDING THE TRAFFIC CONTROL FILE BY PROVIDING FOR INSTALLATION AND REMOVAL OF VARIOUS TRAFFIC CONTROL DEVICES, AND DECLARING AN EMERGENCY.

Temp. Ord. No. B-30 (Public Affairs Committee)

AN ORDINANCE AUTHORIZING THE MAYOR TO GRANT AN EASEMENT AND/OR LICENSE TO DOMINION EAST OHIO GAS COMPANY FOR THE USE OF A PORTION OF CITY PROPERTY FOR UTILITY LINES, AND DECLARING AN EMERGENCY.

Council recessed at 6:37 p.m. to go into committee meetings.

Special Committee

Mayor Robart introduced Debbie Graef. He stated she was very active in the community and on school levy committees. He feels she is a doer and that is what we need. She has been at Sheraton Suites and he believes she will do a good job. Mr. Schmidt stated he has known Debbie for a number of years and thinks she is an outstanding candidate. He wanted to make sure she knew the job was very time-consuming. Debbie Graef stated she feels the time will be there for her to serve and she is ready to face the challenge. Mrs. Klinger stated she knows Debbie and thinks she will make a great contribution to the Civil Service Commission. Mr. Potts recommended Debbie also and feels she will do an excellent job. Mrs. Pyke pointed out that Debbie not only served on the Historical Society but was the Chairperson. She did a wonderful job and has great attention to detail. She feels Debbie is an excellent choice. Mr. Flinn stated he has known Debbie for over 30 years and thinks very highly of her. She is someone who can get the job done. He thanked her for stepping up to the plate.

Committee recommended bring out the recommendation.

The Special Committee adjourned at 6:40 p.m.

Public Improvements Committee

Legislation Considered

Temp. Ord. No. B-17

Temp. Ord. No. B-18

Temp. Ord. No. B-17

Mr. Walters read B-17 (second reading). Mr. Arrington stated this is the next step in the equalization and assessment process, and indicated that Council had the report. Mr. Walters stated there were two errors for two of the residents on Taylor Avenue so they will be holding this until those are corrected and Council receives a new report. Mr. Arrington stated they would like to get the three members of the Board together to run the report. Mr. Walters confirmed with Mr. Arrington that Council would receive a new Exhibit A. Mrs. Pyke thanked Council for suspending the rules so the legislation could be discussed. She stated the two errors were miscalculations. The residents affected were Jeffrey Rocco and James and Joyce Michniak. She also stated the three individuals on the Equalization Board were very fine members of Ward 2 and they did a fine job.

Mrs. Hummel asked Mr. Bell for the dollar amount of change of these errors. Mr. Bell stated he has not recalculated that but the assessment portion will be going down. Mrs. Hummel stated the project was coming in at \$234,166 and that the equalization was 23% of the cost of the project even though Council approved it at 30%. Mrs. Pyke stated the change would be approximately \$4,000. Mr. Barnhart asked if that meant the City would be picking up \$65,000. Mr. Bell stated he wasn't sure but it sounds close. He reiterated these were only estimates. Mr. Barnhart asked if the people apply and receive the breaks, who pays the difference. Mr. Bell stated any money taken out goes to the City and goes to the Capital Projects Fund. Mr. Barnhart stated that when this comes to Council, it doesn't have a budget. He feels we all need to be on the same level of playing fair. Whether it is 100% or 30% or 10%, when that number is called for in the resolution, he feels that is what the people should be expected to pay. Mr. Arrington stated he submitted an amendment to the legislation which would allow Council to adopt a report that would differ from the percentage in the original resolution of necessity. Mr. Barnhart stated that the City needs to come up with \$500,000 for five projects done since 2001. He feels that standards need to be set so all projects are equal. Mr. Arrington stated that when you throw in the mix of human element on an equalization board, neither City Council nor Administration can control what those individuals will do. You will get different results. Some may give breaks and some may stick to the percentage. They cannot guaranty the equality of the results. Mr. Barnhart stated that if the assessment equalization members had some guidelines, it would be easier for them to be more consistent. Mr. Arrington stated that in terms of providing a standard, the law does not provide what you give a break for. That is something that has developed over the years in the City because people have persuaded assessment equalization boards to do that. City Council can accept or not accept a report and continue to do that until they get a board that does what they want it to do. If there is a standard formula, you don't need a board...you just plug in a formula. He is preparing a set of guidelines on what the law requires on assessment projects but it won't provide anything financial because that is not provided by law. In regard to 23rd Street, Mr. Arrington stated they are working on getting the equalization report. He stated an assessment equalization board is selected by the Council representative in the project's district. If the Law Department does not receive names, it will come up with them.

Mr. Walters wanted to clarify that people must file an objection in order to receive an equalization. Mrs. Klinger stated that the two projects in Ward 2 will generate \$.75 million of State funds to Capital Projects Funds. If the City does not get that money, it would have

to dig into the Capital Projects Fund to come up with it. She feels Council should go forward and accept the report on this project as well as the other.

Mr. Gorbach stated there have been a lot of valid arguments and issues brought up. He reiterated these are estimates that could be lower or higher. He understands Mr. Barnhart's frustration. In this economy, we do not want to lose State funds, which may be impossible to come by in the future. We are getting 50% from the State, the residents pay 30% and Council decided to subsidize 20%. We are committed to that amount of money. We are coming up on deadlines but the price we have decided to pay has just jumped. He would like to move forward with the project as well. He stated perhaps Mr. Arrington's guidelines will help Council at the beginning of these projects.

Tracy Pearson, 1710 High Street, stated when she purchased the property, the piece of the property was a mess and she was going to clean it up. She is an owner of one of the oversized lots. She also pointed out there is a marked difference between the 23rd Street neighborhood and this side of town. Mr. Barnhart emphasized he is for the project. He is just asking for fairness as far as an equalization report.

Joyce Michniak, 525 Taylor, stated she is one of the errors and once it is fixed, she is in support of the resolution. She thanked Council and the Equalization Board for their time.

James Waickman, 1757 High Street, stated this project is a long time coming and encourages Council to vote for the project.

Lori Zellefrow, 614 Sill Ave., stated she is for the resolution. She is tired of her family from Kent coming to her home and laughing.

Margaret Pfromm, 1671 High Street, stated the east side of the Falls is an older side and cannot compare to 23rd Street. She also felt the east side had a reputation. She appreciated the help that Council was going to give the neighborhood.

Sharon Ray, 532 Falls Avenue, stated that Council would be discussing paying \$200,000 for the mall project. She feels this reconstruction is a very worthwhile project and that putting the money into the infrastructure is an excellent move.

Mrs. Pyke stated these projects are both rewarding and frustrating. She indicated she would be willing to sit on a committee that makes these projects more consistent. She

thought that if properties were assessed based on property value vs. linear feet, it may be easier. She stated the average lot is still paying 30% and there have been no changes to the average lot.

Mr. Gorbach stated insofar as the Assessment Equalization Board is concerned, he understood that some people were told an amount that they may be able to expect and made decisions based on perhaps getting a lower amount. He would hate for someone to think they will pay X amount of money and then end up paying more because of the equalization board make-up of people. Mr. Arrington should make that part of what he is putting together.

Committee recommended holding B-17 until a corrected Exhibit A is received and bring it out for voting on the 24th.

Temp. Ord. No. B-18

Mr. Walters read B-18 (second reading). Mr. Arrington stated this was the next step in the project and has not been apprised of any errors,. Mrs. Pyke wanted to point out that Albemarle is one of the busiest streets in her Ward. It is a cut-through for the south part of town to get to the expressway by Swenson's, so this will be a major improvement for the entire south side of Cuyahoga Falls.

Ronald Nash, 835 Albemarle, stated he has lived there for 25 years. When he first purchased the home, he tried to get Council to do the roads. He thanked the Equalization Assessment Board and the people in the neighborhood who voted for the improvement.

Tom Sullivan of Tallmadge Road stated he once served on an assessment equalization board. One thing he feels may help is if each board is given a list of past practices on other projects to go on. He thinks the neighborhoods look wonderful and well worth continuing.

John Rumbold, 1350 Meriline, stated he lived in his house through the reconstruction of Meriline. It was a tremendous improvement. He stated there is a safety issue on Albemarle because it is narrow and people park on it. He thanked the Assessment Equalization Board for its time and effort and would like the project to move forward.

Committee recommended bringing out B-18. Public Improvements Committee adjourned at 7:24

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PUBLIC HEARINGS

A public hearing was held on A-182. Mr. Guerra stated this request was recommended by the Planning Commission on December 17, 2002. The property is being rezoned from R-8 to PORT District. PORT zoning makes a good transition between a commercial and residential parcel. The rezoning on this parcel is being requested by Dr. Fabry who wants to build a dentist office and maybe one or two other buildings. The owner of the other residential structure is requesting that her parcel (455 E. Bath Road) be included in the rezoning and plans to keep it until she decides what to do.

Charles Hounshell was present representing Dr. Fabry. He stated the rezoning is in line with the City's future plans. The building would be a low profile architectural structure that will help ease into the residential area. The proposed buildings are designed for these types of transitional situations where you have a mix of commercial and residential.

Mrs. Hummel stated this will be discussed again at the Planning & Zoning Committee meeting on Tuesday, February 18.

SPECIAL COMMITTEES

Mr. Schmidt recommended bringing out the appointment of Debbie Graef to the Civil Service Commission, second by Mrs. Klinger. Motion passed. Voice Vote (11-0).

Council reconvened at 7:31 p.m.

STANDING COMMITTEES

PLANNING & ZONING

Nothing to report.

FINANCE

Temp. Ord. No. A-168

Council Clerk read A-168 (third reading). Mr. Gorbach moved to amend A-168 by adding the term "not to exceed \$25,646.25," second by Mr. Walters. Motion passed. Voice vote (11-0).

Mr. Gorbach moved to adopt amended A-168, second by Mr. Barnhart. Mr. Schmidt stated he believed what happened to the Tomlinsons was a travesty of justice. He was still not clear that it warranted how they were treated. These officers learned the hard way that you cannot fight City Hall. He has no choice but to vote for this legislation. The City says we owe it. Mr. Gorbach stated this legislation has sparked much debate. He believed it was an over simplification of the issue to just state that the bill must be paid because the vendor did the work. This topic does not compare to emergency services that are performed on streets or water lines where Council approves payment after the work is done. He stated that the argument that the nonpassage of this ordinance would set a precedent that the City would be labeled as one that does not pay bills and thereby create an atmosphere of hesitation on the part of other vendors is far reaching and without merit. An investigation began without any input from Council, more money was encumbered than was permitted without Council's participation and there was no final report documenting the results of the investigation. To be asked to support legislation under these circumstances is, for him, too much to ask. Roll call: Mr. Schmidt, yes; Mr. Gorbach, no; Mr. Flinn, yes; Mr. Barnhart, yes; Mr. Potts, yes; Mr. James, yes; Mr. Walters, yes, Mrs. Pyke, yes, Mrs. Klinger, no; Mr. Bauer, no; Mrs. Hummel, no. Motion passed. (7-4).

Temp. Ord. No. B-8

Council Clerk read B-8 (third reading). Mr. Gorbach moved to excuse Mrs. Hummel and Mr. Flinn from voting on the legislation, second by Mrs. Pyke. Motion passed. Voice Vote (11-0). Mr. Gorbach moved to adopt B-8, second by Mr. Barnhart. Motion passed. Voice Vote (9-0).

Temp. Ord. No. B-9

Council Clerk read B-9 (third reading). Mr. Gorbach moved to adopt B-9, second by Mr. Barnhart. Motion passed. Voice Vote (11-0).

Temp. Ord. No. B-10

Council Clerk read B-10 (third reading). Mr. Gorbach moved to adopt B-10, second by Mr. Schmidt. Motion passed. Voice Vote (11-0).

Temp. Ord. No. B-11

Council Clerk read B-11 (third reading). Mr. Gorbach moved to adopt B-11, second by Mr. Barnhart. Motion passed. Voice Vote (11-0).

Temp. Ord. No. B-12

Council Clerk read B-12 (third reading). Mr. Gorbach moved to adopt B-12, second by Mr. Schmidt. Motion passed. Voice Vote (11-0).

Temp. Ord. No. B-13

Council Clerk read B-13 (third reading). Mr. Gorbach moved to adopt B-13, second by Mr. Barnhart. Mr. Gorbach stated these moneys will be reimbursed in full by the State of Ohio. Motion passed. Voice Vote (11-0).

Temp. Ord. No. B-19

Council Clerk read B-19 (third reading). Mr. Gorbach moved to adopt B-19, second by Mr. Barnhart. Roll Call: Mr. Schmidt, yes; Mr. Gorbach, no; Mr. Flinn, yes; Mr. Barnhart, yes; Mr. Potts, yes; Mr. James, yes; Mr. Walters, yes, Mrs. Pyke, yes, Mrs. Klinger, yes; Mr. Bauer, no; Mrs. Hummel, no. Motion passed. (8-3).

PUBLIC IMPROVEMENTS

Temp. Ord. No. B-14

Council Clerk read B-14 (third reading). Mr. Walters moved to adopt B-14, second by Mr. Bauer. Motion passed. Voice Vote (11-0).

Temp. Ord. No. B-15

Council Clerk read B-15 (third reading). Mr. Walters moved to adopt B-15, second by Mrs. Pyke. Motion passed. Voice Vote (11-0).

Temp. Ord. No. B-18

Council Clerk read B-18 (third reading). Mr. Walters moved to adopt B-18, second by Mrs. Pyke. Motion passed. Voice Vote (11-0).

PUBLIC AFFAIRS

Temp. Ord. No. B-20

Council Clerk read B-20 (third reading). Mr. James moved to excuse Mrs. Hummel and Mr. Flinn from voting on this legislation, second by Mrs. Pyke. Motion passed. Voice Vote (11-0). Mr. James moved to adopt B-20, second by Mr. Gorbach. Motion passed. Voice Vote (9-0).

COMMUNITY DEVELOPMENT

Temp. Ord. No. B-21

Council Clerk read B-21 (third reading). Mr. Bauer moved to adopt B-21, second by Mr. James. Motion passed. Voice Vote (11-0).

SCHEDULE OF MEETINGS

Planning & Zoning Committee:	February 18, 2003 at 6:15 p.m.
Finance Committee:	6:20 p.m.
Public Improvements Committee:	6:25 p.m.
Public Affairs Committee:	6:30 p.m.
Community Development Committee:	Subject to call.

MISCELLANEOUS BUSINESS

Mrs. Pyke received a letter from Mrs. Truby and wanted to make sure all of Council received it.

Mrs. Hummel asked if Administration had an anticipated date in mind for the position of Chief test. Mr. Arrington stated they put a request to the Civil Service Commission. It is now up to them to follow the time constraints. He will check with the Commission to see what the date will be.

Mrs. Hummel stated she had asked Mr. Brodzinski for a total amount of money paid to Clemons & Nelson. Mr. Brodzinski stated for the investigation it was \$12,445 and for everything else, such as systems audit, miscellaneous human resource issues and help with law department, it was \$8,115.

Mrs. Klinger moved to adjourn, second by Mr. Schmidt. Motion passed. Voice vote (11-0). Meeting adjourned at 7:50 p.m.

Kathy Hummel, Council President

Cathleen J. Beebe, Council Clerk