

Cuyahoga Falls City Council
Minutes of the Public Affairs Committee Meeting
April 7, 2008

Members: Kathy Hummel, Chair
Don Walters
Ken Barnhart

Mrs. Hummel called the meeting to order at 7:15 p.m. All members were present.

The minutes from the February 25, 2008 and March 3, 2008 committee meetings were approved as submitted.

Legislation Considered

Temp. Ord. A-44
Temp. Ord. A-45

Discussion:

Temp. Ord. A-44

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

Mrs. Hummel stated this is in regard to two streets, both of which are on the east side. The first would prohibit parking on the odd side of Bancroft. The second would prohibit parking on 11th Street.

Mrs. Ritzinger stated they have been looking at the parking situation on Bancroft for some time and the ban affects only a small section. When you turn from Davis, it is hard to see when there are trucks or vans parked on Bancroft. It has caused a lot of near accidents. Mr. Rubino agreed. He stated the turn is a little difficult and will be easier to navigate with the parking ban.

Mr. Ihasz indicated he spoke with Chuck Novak about the situation on 11th Street. They decided to reduce the number of cars allowed to park from the first driveway to Broad Blvd. by one car. Currently, you sometimes have to stop on Broad Blvd. before being able to complete the turn onto 11th which causes a traffic hazard. The stop sign was also moved. Chief Conley added that by removing that one parking space, you remove the potential of a visual block.

Committee recommended bringing out Temp. Ord. A-44.

Temp. Ord. A-45

An ordinance amending Section 151.01 of the Codified Ordinances and declaring an emergency.

Mr. Arrington stated that in 2006, the state legislature passed a bill that would abolish the Cuyahoga Falls Municipal Court and create the Stow Municipal Court. When it did that, the question became what would happen to the employees. S.B. 71 fixed that by stating that all employees would be transferred to, and become employees of, Stow. The City began looking at the affects that would have on benefits. Stow has different benefits than Cuyahoga Falls and one thing that became clear was that it could be conceivable under the City's ordinance that a Cuyahoga Falls court employee could resign from Cuyahoga Falls in 2008, cash out his or her sick leave, and then be re-employed by Stow Court on January 2. He feels that

possibility is not in keeping with what the state legislature intended when it said that employees would simply transfer. There are about 17 employees that would be eligible under the City's practices if they cash out their sick leave this year. This would have a tremendous impact on the City. He stated it is not the City's intent to penalize a person who is truly retiring. In looking at the City's sick leave ordinance, it refers to employees of the City. It is his opinion that municipal court employees are not employees of the City which is why he added the language in line 19. According to the new language beginning on line 57, if anyone cashes out their sick leave after May 1, 2008, it will be held by the City for two years to insure that the individual would not be re-employed by a court system. He stated that the May 1, 2008 date is not cast in stone and reiterated that the purpose of the legislation was to prevent a situation for an employee to resign in December, 2008 and go to Stow in January, 2009.

Mrs. Hummel asked if Mr. Arrington or anyone else on Administration spoke with management in either department to check if they had a sense of what their employees intended to do. It was her understanding that the employees believed they are transferring, not resigning, that the location is changing and that their paycheck will just be coming from another entity. Mr. Arrington stated if that is what happens, then passage of this ordinance would not affect that situation. However, the law currently would allow the possibility for a person to cash out his/her sick leave. There may not be anyone who has an intention to do that but right now the law would permit it so it is a loophole that needs to be closed. If the employees intend to just transfer, then this ordinance would not affect them. He stated that in those cases, the sick leave hours would just transfer with the employee. Mrs. Hummel asked if this legislation would affect employees who resign and go to the Summit County court system. Mr. Arrington indicated this would apply to them as well, and the City would still hold the sick leave for a two-year period. Mrs. Hummel asked if the legislation would affect employees who resigned and went to the Summit County Engineer's office. Mr. Arrington stated it would not. He stated there are four employees from the judge's office and 13 from the Clerk's office who are eligible for cash out.

Mr. Arrington also indicated that the employees recently gave notification of their intent to form a collective bargaining unit. Should that occur, this legislation would have no affect on them. This sick leave ordinance only applies to nonbargaining employees. Mrs. Hummel confirmed the total as being \$222,000. Mr. Arrington agreed and added it was based on the amount of sick leave that would be accumulated by the end of the year with none of it being used between now and then. Mrs. Hummel stated City employees have cashed out in the past and asked how much was in that fund now. Mrs. Klinger provided the answer that \$5,400 was in the fund. Mrs. Hummel asked whether Administration decides to put money into the fund based on what they expect to pay out. Mr. Brodzinski stated in past years they had money and in others they funded it as they went.

Mrs. Hummel repeated her question about whether discussions took place with either management. Mr. Arrington stated there were none. She asked whether there were any discussions with Stow's administration regarding its intent. Mr. Arrington indicated there were none and added he was only looking at what Cuyahoga Falls' law allows. There is nothing Stow can do about what the City law allows. Mrs. Hummel asked whether there has been any kind of transition team in place to talk with personnel about their benefit issues. Mr. Arrington stated that Stow has the obligation of taking over these benefits so he would have expected Stow to contact the City to send information regarding the City's current benefits. Stow is going to be responsible for these employees. Mrs. Hummel found it upsetting that the City of Cuyahoga Falls has several employees who are concerned about what is going to happen to them and their benefits yet has done nothing to address these issues with either those employees or Stow.

Mrs. Klinger stated that both she and Mr. Rubino have spouses who work for the courts but are not eligible for these types of benefits so they both plan to participate in this discussion and vote. With regard to no discussions with employees, she asked if City Administration reached out to the affected employees.

She had in front of her a letter dated January 4, 2007 addressed to both Mayors requesting that they work together with the court to make a smooth transition. Mr. Brodzinski stated it was not the responsibility of the City of Cuyahoga Falls, it is the responsibility of the City of Stow's. Administration is available should Stow wish to have discussions, however, Stow would need to initiate. He said that employees have been coming to his payroll department to get some answers to their questions because they cannot get any answers from Stow. Mrs. Hummel clarified she was not laying the whole blame at the City's feet and added that Stow shares responsibility in this. However, the people on this list have been loyal employees so the City should show some common courtesy. It is disappointing that the City did not make any effort to make sure there was some transition team formed to deal with issues and benefits that are paramount to the employees and their families. This should have been handled by the parties and Cuyahoga Falls is one of the parties. Mr. Arrington stated when you are dealing with rights created by an ordinance, Administration officials do not have the authority to make decisions internally. Mrs. Hummel stated she is only suggesting there needs to be communication. The employees have not indicated they intend to cash out their sick leave. Mr. Arrington disagreed because people's minds change. This discussion alone could have planted the idea in someone's mind. The City is only trying to close this loophole. Mrs. Colavecchio stated she did not believe the Clerk intended to be part of the move. The employees did not ask for the move. She feels it is more of an involuntary transfer. They are not resigning or retiring.

Rick Klinger is the Court Administrator. He indicated they sent both Mayors a letter in January, 2007 asking that a transition team be put in place. He spoke with both Mrs. Carr and Mr. Brodzinski about it and have had no response. He has had three meetings with Stow regarding benefits and they are still slugging through it. It will take a couple more meetings before an agreement can be reached. He did not become aware of this legislation until the Council packet was delivered to his wife and did not think that was very neighborly. He added that the judges have committed to working things through so that the employees are not adversely affected. Mayor Robart felt Mr. Klinger was out of line in accusing the City of not responding. Mr. Klinger disagreed. He stated the letter to both Mayors was signed by two judges. Mr. Arrington asked everyone to please understand that the City of Stow is taking responsibility for the Court. They are taking care of benefits for the court. If asked, the City would be part of the transition team but Stow has never made contact. The City of Cuyahoga Falls is going to have no responsibility for Court employees so the City will not approach Stow. Mayor Robart added that during this whole transition time, he has never received a call, letter or email from Stow. He thinks it is highly irregular to suggest that he should initiate that. It is not his job to initiate it. Mrs. Hummel felt to some extent it was, if only out of respect to the 35 employees. If the Mayor chooses not to reach out, that is his call. Mrs. Carr told Mr. Klinger she felt they have both worked well together. She has been consulted with regard to the physical transition and is offended that he would now say she has not responded. The City's health care consultants have called her because they cannot get answers from Stow. It is not fair that Administration is being accused of not cooperating when it has cooperated whenever asked. The courts have always wanted to be totally separate so it is difficult for her to understand why they now want the City to start administrating things. Mr. Brodzinski stated this legislation was not designed to be a hand grenade. The judge decided he wanted to move. He added that if the City receives an ordinance from Stow that says everyone moves over with no loss of service, this legislation goes away. They are only trying to insure it does not fall back on the taxpayers of Cuyahoga Falls.

Katheen Musitano, 1779 23rd Street, stated she has been an employee for the Clerk's office for 26 years. Before this started, she was thinking about retiring. She has started selling back her sick time twice, the latest being in February. However, if she now decides to retire this year, the City would hold her sick time for two years. Also, she may want to work part-time at another court, which is where her experience is, however, the City would now be punishing her for that. She asked should something happen to her during the two years the City would be holding the money whether that money would get paid to her estate. Mr. Arrington pointed out that the Clerk's office is in a state of flux by joining a bargaining unit

so this ordinance may not apply at all. Mrs. Musitano stated she is a supervisor and, therefore, not eligible to join a bargaining unit. Mr. Arrington stated then the City would hold her final pay-out until after it was determined whether she was employed by the Stow Municipal Court. He realized there are other employees in this same situation. Mrs. Musitano asked if the money being held for two years would be held with interest. Mr. Arrington stated the ordinance does not say that. Mr. Brodzinski stated this is the first flush at the ordinance and it is not the intent to punish anyone. The true intent is to not allow an employee to resign on December 31 and come back on January 2 as an employee of the City of Stow. Mrs. Musitano pointed out that the City knew she was working toward that third year. Mrs. Hummel stated it was certainly not her understanding that this would affect individuals in Mrs. Musitano's position. If an individual started the process and notified the City that they were retiring, they should not be affected by this ordinance. Mr. Arrington stated it is not their intent to affect that situation and they can draft language to exempt the situation. Mr. Brodzinski added that they can also limit it to working for the Stow Municipal Court only. However, if Stow will put everything into an ordinance, this all goes away. The employees have not lost any service and all hours will be transferred.

Ms. Kinney, 144 Grant Street, is not employed by the Court but is just a member of the community. She has friends who work for the City. It seemed to her that anyone who accumulates 960 hours of sick leave deserved to have some of that bonus. She has called other H.R. departments, including Stow, and found that Cuyahoga Falls has a uniquely generous buyout. Most do not allow it until actual retirement.

Kevin Edwards (no address given) has worked for the City for 16 years. The employees have nothing to do with this move. They are just puppets. No one was thinking about cashing in. They just want to know who will be buying their sick time, and he wanted that answer tonight. If they transfer, is Cuyahoga Falls or Stow going to pay. Mr. Brodzinski stated that raised a good point. He agrees that the employees are entitled to those benefits, however, the City of Stow has acquired another company. With that, they assume the liabilities along with the assets. The sick leave hours are one of those liabilities. He indicated he would make a call to Stow by the end of the week. Mr. Edwards stated Stow does not want to take on the liabilities. Those hours are benefits for which the employees have worked very hard.

Mrs. Hummel stated Council has obviously not heard Stow's position on this. She is glad to hear Administration is willing to make a call and start a discussion. What the employees are looking for is information. She did not hear from anyone that they are going to resign. As a Council member, she is not on a transition team but she hopes one will get going.

Mrs. Klinger indicated that Council has a letter from Teamsters and requested that Mr. Arrington provide his opinion in writing on how that letter affects this legislation.

Mrs. Hummel stated in view of all of the information, she would like to see the Committee hold this ordinance for further discussion.

Committee recommended holding Temp. Ord. A-45.

The meeting adjourned at 8:15 p.m.

Meacham, Cathy

From: Carol Klinger [Carol@klingers.us]
Sent: Tuesday, April 08, 2008 8:59 PM
To: ArringtonVE@cityofcf.com
Cc: Kathy Hummel; Meacham, Cathy
Subject: RE: legal opinion

Virgil,

Please provide a legal opinion how the passage of this ordinance will not violate any Ohio Labor Relation laws. This legal opinion should include a timeline based on the date of the posting of their right to organize, the date of your introduction of the ordinance, the possible dates referred in the ordinance, and case law that addresses the timing sequence.

Given that we have been served notice by the Teamsters I would like to fully understand the implications of their notice.

Thank you,
Carol Klinger

-----Original Message-----

From: ArringtonVE@cityofcf.com [mailto:ArringtonVE@cityofcf.com]
Sent: Tuesday, April 08, 2008 8:05 AM
To: cak@Klingers.us
Subject: legal opinion

Carol,

Last night, you requested a legal opinion concerning the Teamsters' letter.

As you know, by Charter, requests for legal opinions must be in writing. I don't cite the Charter because of any love for formality. I do so only because, with a written request, there is no question as to what I am being asked.

So, if you could, please present to me your question(s) in writing so I can make sure I'm addressing the concerns you have rather than the concerns I may mistakenly believe you have. An email will suffice.

Thank you.

Virgil Arrington Jr.