

**Cuyahoga Falls City Council
Public Affairs Committee Meeting
June 2, 2003**

Members: Mr. James, Chair
Mr. Gorbach
Mr. Flinn

Mr. James called the meeting to order at 8:12 p.m. All members of Committee were present.

The minutes from the May 19, 2003 Public Affairs Committee meeting were approved as amended.

LEGISLATION CONSIDERED

Temp. Ord. No. B-67
Temp. Ord. No. B-68
Temp. Ord. No. B-89

Mr. James indicated he would be working out of order.

DISCUSSION

Temp. Ord. No. B-89

Mr. James read B-89 (second reading). Mr. Bell stated the federal EPA has started requiring cities to meet NPDES to eliminate silts and inappropriate discharges into storm sewers. On March 10, the City filed a permit with the State EPA as part of this program. This legislation is part of that permit. We have an ordinance that says you cannot connect into the sanitary sewer but it does not include storm sewers. This legislation does not affect anything existing today, only something that comes from this point on. There are new regulations regarding pre-, during- and after-construction controls. They now state you must maintain controls after construction. This legislation will allow the City to get a handle on people who are doing clearing or grading on their properties. It allows the City to enforce some erosion control.

Mrs. Hummel stated that Section 929.05 states upon approval of plan from City engineer and asked if this was a plan Mr. Bell was permitted to approve. Mr. Bell indicated it was and added we would not have to send it elsewhere to be approved. She wondered if it wouldn't be part of the site plan approval. Mr. Bell stated that right now that is the City's only recourse. Mrs. Hummel stated that Section 929.04 mentions a \$20 fee and asked why it was being credited to the general fund instead of building or engineering. Mr. Brodzinski stated that both

building and engineering are in the general fund. Mrs. Hummel stated that Section 2 states the engineer shall promulgate site erosion and sediments. Mr. Bell stated they are working on those and will have them in July. Mrs. Hummel asked if they would be more stringent than the EPA. Mr. Bell stated they would not. Mrs. Hummel pointed out that the word "illicit" in line 32 was missing an "l". Mr. Potts stated with regard to 929.05, he would like to see something more specific regarding filling. Mr. Bell indicated from his perspective the term "grading" includes filling and, basically, any movement of soil. It is defined in the definitions section of the regulations. Mrs. Klinger asked if a resident takes out a tree, and it is the only tree on their property, would that be considered as clearing their land. Mr. Bell stated it would.

Committee recommended bringing out B-89.

Temp. Ord. Nos. B-67 and B-68

Mr. James stated they had a meeting on Friday with members of the safety forces, Hope Jones and Mr. Arrington. There was not too much accomplished. Mr. Flinn took the minutes and said he will provide them as soon as they are finished.

Mr. Gorbach stated that the copy of the petition language differs from the legislation in front of Council. One of the differences is that the leap-frogging referred to in the legislation was eliminated. Also, the petition states that the promotions would be just those who pass the examination. The legislation says it would be the Rule of Ten. Sometimes there are more than ten or less than ten, the language in the petition states that you pick from whoever passes the test. He likes both of those changes. He did not agree with jumping ranks. Insofar as the Chief goes, he does not like the idea of an appointment with no type of test. He also would agree with going from the Rule of One to a Rule of Three, either within or outside the department. He would prefer looking inside the department first. He thought that perhaps someone from the department could be given a leg up by receiving a certain number of points just for being from inside the department. Someone from the outside has to learn the City, the department and its personnel. He also feels the Chief's position should remain protected by civil service. He stated the safety forces work under the mayor but should not serve at his leisure. There should be some type of separation there. Mr. Flinn stated that one of the things that came out of the meeting on Friday was that the language concerning the Chief was acceptable to the Fire and FOP Gold unions. Mr. James stated he would hope there would be some kind of protection instead of firing at will. Mr. Flinn stated if the Mayor's appointment is with City Council approval, maybe a dismissal should be with Council's approval. However, the Chief's position is basically a management position and management positions are not protected. Mr. Flinn asked Mr. Gorbach to clarify what he said about the sergeant and captain levels being a Rule of 3. Mr. Gorbach stated for promotions only. He did not like using the language "all who pass" for these

positions because the top three results show the extra effort and time put into getting to one of those top three spots.

Mr. Walters asked with the exception of the Mayor's appointments of Chief, couldn't the rest of the language be accomplished with B-69. Ms. Jones stated it was a possibility. She stated that since the City's Charter is basically its constitution, it would be better to change the Charter than to change the Civil Service. The extra points to be given mentioned by Mr. Gorbach would really fall under Civil Service.

Mrs. Hummel stated she was disappointed to hear there was not some give and take. There seemed to be some hope of compromise the first time Council talked about this. She was very interested in the comments made by Mr. Gorbach. She agrees with a requirement for some form of testing for the Chief. She would also support the Rule of Three. Ms. Jones stated that Mr. Arrington expressed that there is a willingness to look at some amendments to these ordinances. Mrs. Hummel stated that based on the newspaper article, she was assuming it was time to get moving on this legislation, whether we amend it or vote on it the way it is. She stated Council needs to hear from the safety forces. Several Council members are willing to make amendments, but she does not like to be charged with holding up this legislation when that is not Council's intent. Mr. Gorbach stated he spoke with Mr. Arrington regarding the fact that no mention is made in the ballot language concerning accreditation qualifications of the Chief. Ms. Jones stated that under the ballot language, the Mayor could appoint anyone as chief. That is the language they thought was fair. She stated Mr. Arrington indicated they are willing to look at amendments to the ordinances. They do not need dueling charter amendments out there. She agreed there are no qualifications mentioned in the ballot language. Mr. Gorbach felt they should give some thought to including qualifications. He stated that Council has shown a spirit to work with Administration. If this legislation is amended and passed by Council, he hoped that the petitions would cease to circulate. A lot of people may not vote if they are confused.

Mayor Robart stated that Administration is not opposed to testing. He stated the reason behind pulling the Chief's position out of Civil Service is because if you do get an individual who is not performing adequately, he'd like to be able to remove that individual without going through the Civil Service process. It's difficult to remove individuals under Civil Service unless they do something dastardly. He pointed out that if the City uses test criteria and the Rule of Three, we are right back where we started. We currently follow the system because it is State law. He feels testing is a small piece of decision-making and, in fact, some members of his cabinet would not even be here if he used the Rule of Three for their positions. We need to open it up. Whether it is by petition or legislation, the appointment has to be confirmed by Council. He feels Administration made a good proposal. They dropped the leapfrogging because he wasn't completely sold on that either. He stated it is time to let the people vote. That is the

democratic process. He believes the petition language is better than the ordinances. He stated the unions do not run the City. He and Council run the City. He felt that if the union members were so opposed to the matters, they would be present to voice their opinions. He is the last guy in the world who wants to go outside to hire a chief but a mayor needs to have some options. We need to do what is right for the City -- not the unions.

Mr. Gorbach agreed with some of the Mayor's comments. He stated testing is important but not the number one issue. Some people are good test takers but when it comes to certain hands-on job situations, they struggle. Unless Council has been mislead, the assessment centers test for that. By giving the Mayor the option of three people and the ability to go outside, it gives him more flexibility than he has now. If the assessment tests need to be tweaked or revised, that is where we could look to do that. He agrees that the unions do not run the City but stated they are important to the City. He has not had pressure from them to do one thing or the other. He feels his proposal gives more flexibility. The passage of B-69 also gives the City more flexibility to get more changes made. If what is decided is not working, it can always come back to Council to be taken care of with legislation. As far as removing the Chief from the protection of Civil Service, Mr. Gorbach feels an employee should not be able to do something wrong and still keep his job. He wondered if that scenario couldn't be handled with B-69. He would like to see the steps one must go through in a Civil Service disciplinary action. Mr. Flinn asked if testing could be done for the Chief's positions without going through Civil Service. The Mayor pointed out that he is not going to hire someone less than qualified because if that happens, he'd have nothing but headaches and he doesn't want that. Therefore, he will pick the very best person out there. He feels people expect a mayor to do that.

Mrs. Klinger stated that Mr. Gorbach has mentioned a lot of different ideas, one of which was addressing the disciplinary issue. If someone has a history of disciplinary issues and still gets promoted, she feels something is broken in the system. She believes the Mayor is trying to address that. She stated that all of the changes discussed are charter issues and are significant. She would not feel comfortable voting on something through a motion on the floor. She would like to have something in writing beforehand. Ms. Jones pointed out that the excellent candidates are going to rise to the top no matter how many we limit it to.

Mr. Gorbach stated it appears that there is a lot of agreement except for a few key issues. He agrees with Mrs. Klinger. He will be happy to put his amendments in writing and pass them out to Council members. He would hate to vote on the legislation just to vote on it. Mr. Flinn asked if it was necessary for this legislation to be voted on next Monday. If not, it would give Council and Administration time to review everyone's suggestions. Mr. Gorbach does not disagree but, in light of the recent newspaper article, he was gun shy about suggesting the legislation be held.

Dennis Weekland, 3310 Wilson Street, stated it is clear to him that they are not going to get together on this. If Council does not act on it, the petition will cover it.

Rick Grohowski, staff representative of FOP Labor Union, stated his members are opposed to the petition. They are of the opinion that it is not much use to study hard to become #1 when there is the Rule of Ten, or whatever. It also makes it no longer competitive because basically all you have to do is pass the test. Then, personality and politics come into play. This puts us back in the "good ole boy" system which the present system eliminates. Promotional opportunities only come once or twice in an officer's career. He stated the Rule of Three was talked about tonight which was never discussed. He also feels the Chief's position should have some type of protection to have the right of appeal.

Steve Dirkit, representative of the Fire Union, confirmed that they do support the Mayor's approach to appointing the Chief.

Eric Prange, the day shift representative for the unions, stated the reason there aren't more union members present is because the members have allowed their union representatives to come and represent their opinions. They polled their members. They are very much opposed to the charter language as it is. In that vote, they had six members approve of the language because they are expecting a favor. He feels the Chief needs some protection. While he does not believe it would be an issue under the current Mayor, a Mayor somewhere down the line may be a problem. He likes opening it up to outside individuals if they are qualified. The system currently in place has turned out people who were good leaders. They've just had a couple of rotten eggs. As far as having to choose someone from the Rule of Three when, perhaps, all three of the individuals have bad records, he does not think Administration will find that scenario to be true with all three sitting on one test. There might be a scattering of three with bad records but not all will be on the same test.

Perry Tabak, representative of FOP Gold, stated they would like to get on board with some positive changes for the Department. He realizes the Mayor does not need their blessing but they want something they can all work with and support. They have a good working relationship with the Mayor. The Gold membership does not support the charter changes as written but would work with Council and Administration on something that would have a positive affect. He supports the Mayor's appointing the chief and thinks that could have a positive affect on the Department. The Chief works very closely with the Mayor and it is important that they get along. As far as testing procedures, something his membership suggests is the addition of some language that allows the personnel files for the individuals to be brought into the decision-making. The members would like to see that.

Rick Knotek, representative of the Detective Bureau, stated he had asked if the City was willing to put in some guidelines on the qualifications for an appointment. He stated the charter language is like a blank check. He wanted to know how the Mayor would appoint someone and was told by the Mayor that the Mayor did not have to tell him.

Mayor Robart stated something has to be submitted to the Board of Elections by the middle of August. Whether the City does it by ordinance or goes the petition route, it will be submitted. The petitions still have to be passed by Council, and pointed out that if they are brought to Council, there is no leeway in the language. Discussing the legislation now is Council's opportunity to make language changes. He stated he has heard a lot more conciliation today. He suggested that perhaps Council President Hummel could choose three Council members to get together with Administration this week. Mrs. Hummel stated she really did not have the authority since it was committee meeting. Mr. Flinn suggested the meeting be an open meeting so that the three Public Affairs Committee members would be able to attend without violating the Sunshine Law. Ms. Jones added that anyone could attend that meeting. Mrs. Klinger suggested continuing to hold a committee meeting on a weekly basis and look at actual language changes. Council already has Administration's suggestion in the form of petitions. If the rest of Council could put their ideas in writing and share it with everyone else, a more organized discussion could take place at the next meeting. Mrs. Hummel agreed with Mrs. Klinger. She added that she liked the suggestion of including the personnel files. She stated that was an excellent suggestion and feels progress is being made.

Sharon Ray, 532 Falls Avenue, stated she has been on the police force for 15 years. She stated that a lot of reference has been made to the last six months. She feels the Department is ready to move forward and start healing. She doesn't want everyone to lose sight of what was before the past six months. She feels a lot could be handled through Civil Service and pointed out it is the same system that gave us Don Smith, who the Mayor appointed to supervise the Department during its transition period.

Mr. Flinn requested an updated chart showing the comparison between the ballot language and the ordinance language so Council has something current to look at. Ms. Jones stated she would supply that. Mrs. Pyke agreed with Mrs. Klinger and Mrs. Hummel. She felt it was a productive evening and suggested that people e-mail their ideas to the rest of Council. Mrs. Hummel asked that copies of the ballot language be distributed to all Council members.

Mr. James called a Public Affairs committee meeting for Monday, June 9, at 6:35 p.m., immediately following the Council meeting.

Committee recommended holding B-67 and B-68.

Other Business

Mrs. Hummel asked Mrs. Truby to make sure that Council members received the information on the sign and landscaping ordinance. Mrs. Truby indicated it would be in Council's packets this week.

Meeting adjourned at 9:35 p.m.