

Cuyahoga Falls City Council

Minutes of the Cuyahoga Falls City Council Meeting

January 26, 2004

CALL TO ORDER Mrs. Klinger at 6:35 p.m.

ROLL CALL Mrs. Hummel, present; Mr. Gorbach, present; Mr. Walters, present; Mrs. Ritzinger, present; Mr. James, present; Mr. Potts, present; Mr. Barnhart, present, Mrs. Pyke, present, Mr. Flinn, present; Mr. Mader, present; and Mrs. Klinger, present.

INVOCATION Mr. Mader

PLEDGE Mr. Potts

APPROVAL OF MINUTES

The minutes of the January 5, 2004 Organization Meeting along with the January 12, 2004 City Council regular meeting were approved as submitted.

REPORTS AND COMMUNICATIONS

1. A letter dated 1/21/04 from Gann Associates requesting public information records was referred to our Law Dept.
2. A letter dated January 15, 2004 from Finance Director, Joseph Brodzinski, regarding Ordinance No. 79-1987 addressing adjustments of annual wages.

NEW LEGISLATION:

- A-13 AN ORDINANCE AUTHORIZING AND APPROVING THE SITE PLAN FOR DEVELOPMENT OF A NEW 4-STORY 86,688 SF INDEPENDENT LIVING FACILITY AT FALLS VILLAGE RETIRMENT COMMUNITY LOCATED AT 318 EAST BROADWAY IN A HIGH DENSITY MULTIPLE-FAMILY DISTRICT (R43) AND DECLARING AN EMERGENCY.
- A-14 AN ORDINANCE ACCEPTING THE PLANNING COMMISSION APPROVAL, FINDINGS AND CONDITIONS OF A LOT FRONTAGE VARIANCE ASSOCIATED WITH A MINOR LOT SPLIT AT 3460 ANTOINETTE (PARCEL 35-04161) AND DECLARING AN EMERGENCY.
- A-15 AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT OR CONTRACTS, ACCORDING TO LAW, FOR THE PURCHASE OF CERTAIN SUPPLIES AND MATERIALS FOR USE BY THE STREET DEPARTMENT DURING 2004, AND DECLARING AN EMERGENCY.
- A-16 AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT OR CONTRACTS, ACCORDING TO LAW, FOR THE ANNUAL REQUIREMENTS OF THE MUNICIPAL GARAGE FOR 2004, AND DECLARING AN EMERGENCY.
- A-17 AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT OR CONTRACTS, ACCORDING TO LAW FOR THE PURCHASE OF CERTAIN MATERIALS AND SUPPLIES IN THE WATER/SEWER UTILITIES DEPARTMENT DURING 2004, AND DECLARING AN EMERGENCY.
- A-18 AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT FAND/OR CONTRACTS FOR TREE SERVICES FOR A PERIOD OF TWO YEARS, AND DECLARING AN EMERGENCY.
- A-19 AN ORDINANCE AUTHORIZING THE PARK AND RECREATION BOARD TO ENTER INTO A CONTRACT OR CONTRACTS UNDER THE STATE OF OHIO DEPARTMENT OF ADMINISTRATION SERVICES PURCHASING COOPERATIVE FOR THE PURCHASE OF A COMMERCIAL ROTARY WIDE AREA MOWER, AND DECLARING AN EMERGENCY.
- A-20 AN ORDINANCNE AUTHORIZING THE MAYOR, AS DIRECTOR OF PUBLIC SAFETY, TO ENTER INTO A CONTRACT WITH MEDTRONIC PHYSIO CONTROL FOR THE PURCHASE OF TWO (2) LIFEPAK 12 DEFIBRILLATORS, AND DECLARING AN EMERGENCY.
- A-21 AN ORDINANCE AUTHORIZING THE FINANCE DIRECTOR TO ENTER INTO A CONTRACT AND/OR CONTRACTS WITH NEW WORLD SYSTEMS FOR SOFTWARE MAINTENANCE AND SUPPORT OF THE PUBLIC SAFETY AND FINANCE SOFTWARE MODULES, AND DECLARING AN EMERGENCY.
- A-22 AN ORDINANCE AUTHORIZING THE MAYOR, AS DIRECTOR OF PUBLIC SAFETY, TO ENTER INTO A CONTRACT WITH FINLEY FIRE EQUIPMENT FOR WEEKLY VEHICLE MAINTENANCE SERVICE, AND DECLARING AN EMERGENCY.
- A-23 AN ORDINANCE AUTHORIZING THE MAYOR, AS DIRECTOR OF PUBLIC SAFETY, TO ENTER INTO A CONTRACT OR CONTRACTS, ACCORDING TO LAW, FOR THE PURCHASE OF FIFTY-TWO (52) PORTABLE DIGITAL RADIOS WITH BATTERIES, FIVE (5) MULTI-UNIT CHARGERS AND SIX (6) SINGLE-UNIT CHARGERS FOR THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY.
- A-24 AN ORDINANCE AMENDING THE 2004 REPORT ON STAFFING AND DECLARING AN EMERGENCY.
- A-25 AN ORDINANCE AMENDING SECTIONS 161.02 AND 161.03 OF THE CODIFIED ORDINANCES AND DECLARING AN EMERGENCY (ON LOTTERY AND OTHER GAMBLING WINNINGS)
- A-26 A RESOLUTION AUTHORIZING THE SUPERINTENDENT OF PARKS AND RECREATION TO FILE A GRANT APPLICATION WITH THE DEPARTMENT OF NATURAL RESOURCES, AND DECLARING AN EMERGENCY.
- A-27 A RESOLUTION AUTHORIZING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO FILE A GRANT APPLIACION WITH THE DEPARTMENT OF NATURAL RESOURCES, AND DECLARING AN EMERGENCY.

SPECIAL COMMITTEES

None.

PUBLIC HEARINGS

None.

STANDING COMMITTEES

Planning and Zoning:

Temp. Ord. No. A-1

Council Clerk read A-1 (third reading). Mr. Mader moved to adopt A-1, seconded by Mr. Potts. Motion Passed. Voice Vote (11-0).

Finance:

Temp. Ord. No. A-2

Council Clerk read A-2 (third reading). Mr. Flinn moved to adopt A-2, second by Mr. Gorbach. Motion passed. Voice Vote (11-0).

Temp. Ord. No. A-3

Council Clerk read A-3 (third reading). Mr. Flinn moved to adopt A-3, second by Mr. Barnhart. Motion passed. Voice Vote (11-0).

Sub. Temp. Ord. No. A-4

Council Clerk read Sub A-4 (third reading). Mr. Flinn moved to amend A-4 by substitution, second by Mr. Gorbach. Motion passed. Voice Vote (11-0). Mr. Flinn moved to adopt substitute A-4, second by Mr. Gorbach. Motion passed. Voice Vote (11-0).

Temp. Ord. No. A-5

Council Clerk read A-5 (third reading). Mr. Flinn moved to adopt A-5, second by Mr. Barnhart. Motion passed. Voice Vote (10-1).

Temp. Ord. No. A-6

Council Clerk read A-6 (third reading). Mr. Flinn moved to adopt A-6, second by Mr. Gorbach. Motion passed. Voice Vote (11-0).

Temp. Ord. No. A-7

Council Clerk read A-7 (third reading). Mr. Flinn moved to amend A-7 by substitution, second by Mr. Barnhart. Motion passed. Voice Vote (11-0). Mr. Flinn moved to adopt substitute A-7, second by Mr. Gorbach. Motion passed. Voice Vote (11-0).

Public and Industrial Improvements:

Temp. Ord. No. A-8

Council Clerk read A-8 (third reading). Mr. Potts moved to amend A-8 on the floor to lines 9 & 18 to remove the word "replacement" and correct it to read "installation", second by Mr. Mader. Motion passed. Voice Vote (11-0). Mr. Potts moved to adopt amended A-8, second by Mr. Gorbach. Motion passed. Voice Vote (11-0).

Temp. Ord. No. A-9

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

Temp. Ord. No. A-10

Council Clerk read A-10 (third reading). Mr. Potts moved to amend Line 25 of A-10 to correct the date to read "2004", second by Mr. Pyke. Motion passed. Voice Vote (11-0). Mr. Potts moved to adopt amended A-10, seconded by Mrs. Pyke. Motion passed. Voice Vote (11-0).

Temp. Ord. No. A-11

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

Public Affairs:

Temp. Ord. No. A-12

Council Clerk read A-12 (third reading). Mrs. Pyke moved to adopt amend A-12 by substitution, second by Mr. Barnhart. Motion passed. Voice Vote (11-0). On line 273 the sentence, "No person shall dispose of any solid waste in any receptacle not owned by or under the control of the person without the consent of the owner or person in control of the receptacle" was included. Also, on line 373, the language "provided that there shall be no additional fee for licensing said replacement vehicle" was included to ensure that additional license fees are not charged when a hauler merely replaces vehicles without adding to their fleet. And finally, Section 14 was deleted for the "non-fee" provision of the ordinance will take effect upon passage and approval and the fee provision will take effect on 4-1-2004. Mrs. Pyke moved to adopt substitute A-12, seconded by Mr. James. Motion passed. Voice Vote (11-0).

Community Development:

No Report.

SCHEDULE OF MEETINGS

Planning & Zoning Committee:	February 2, 2004 at 6:15 p.m.
Finance Committee:	February 2, 2004 at 6:20 p.m.
Public Improvements Committee:	February 2, 2004 at 6:25 p.m.
Public Affairs Committee:	February 2, 2004 at 6:30 p.m.
Community Development Committee:	February 2, 2004 at 6:35 p.m.

MISCELLANEOUS BUSINESS

Mrs. Klinger indicates that Mr. Walters has requested that our March 22, 2004 meeting be moved to March 29, 2004 since there are five Mondays in the month of March. Please check your calendars and we will discuss at our next meeting.

Kathy Hummel moved to immediately withdraw the City Council's request for a hearing with the Department of Liquor Control regarding JR's Pub Permit no. 41445210005, seconded by Don Walters. Mr. Barnhart states this issue should have been simple procedure, but has been turned into World War III. It is great that we have a forum, like City Council to give the state our views. We heard in City Council last week that there are complaints of noise, parking issues, and patron's disturbing neighbors. Although these issues are important, they aren't relative to the request and I have tried to explain this in detail over the last weeks. This hearing has to do with whether or not Mr. Richard's is entitled to a liquor license. His past performance constitutes investigation. Mr. Barnhart sees a bigger problem, or a fundamental right by the Board of Liquor Control, which is supported by the Ohio Revised Code, which expresses that we have the right to request this hearing. The Clerk of Council filed a request for hearing and provided a copy to the Ward Councilman. This process is done for a reason. It gives the councilman an opportunity to look at the applicant/site is suitable. If the councilperson has legitimate complaints, it needs to be brought to the Board of Liquor Control. We do not want to suggest the next time an application is filed that we simply have a copy filed and not bother giving it to the councilman. I respectfully request that council think about the accountability for Mr. Richards. This is what the Board of Liquor Control is for. City Council is not a judge/jury on this issue. Mr. Gorbach states this process wasn't handled the way Mr. Barnhart stated. Mr. Barnhart was absent during the time the hearing notification was sent. The Law Department directed our Clerk to sign and send in the request for hearing due to time constraints on the request. It wasn't actually done by Council; I feel it was done in error.

Details have surfaced, however, there is not enough evidence to support a hearing. Council is not acting as judge/jury, but rather is deciding if there is enough evidence to have a hearing. I feel there isn't enough evidence. This is how we are where we are today. Mr. Barnhart indicates he was out of town, however, Virgil Arrington and he had many conversations about this issue. Virgil knew how I felt and acted on my behalf. Who and what caused the request is moot. Due process must be held as part of the process. We can't control when the Board of Control will schedule a hearing. Motion passed (6-5) Roll Call: Mrs. Hummel, yes; Mr. Gorbach, yes; Mr. Walters, yes; Mrs. Ritzinger, yes; Mr. James, yes; Mr. Potts, no; Mr. Barnhart, no, Mrs. Pyke, yes, Mr. Flinn, no; Mr. Mader, no; and Mrs. Klinger, no.

Mr. Flinn motioned to adjourn the meeting at 7:12 p.m. seconded by Mr. Potts. Meeting Adjourned.

Carol Klinger
Council President

Melissa Wilkinson
Clerk of Council