

**Cuyahoga Falls City Council
Minutes of the Public Affairs Committee**

July 16, 2018

Members: Mike Brillhart, Chair
Drew Reilly
Vic Pallotta

Mr. Brillhart called the meeting to order at 6:39 p.m. All members were present.

Ms. Nichols-Rhodes moved to dissolve into Executive Session, second by Mr. Gorbach. Roll Call: Mr. Brillhart, Yes; Mr. Colavecchio, Yes; Mr. Gorbach, Yes; Mr. Iona, Yes; Mr. Iula, Yes; Mr. James, Yes; Mr. Miller, Yes; Ms. Nichols-Rhodes, Yes; Mr. Pallotta, Yes; Mrs. Pyke, Yes; Mr. Reilly, Yes. Motion passed, voice vote (11-0). Council dissolved into Executive Session at 6:39 p.m.

Ms. Nichols-Rhodes moved to dissolve out of Executive Session, second by Mr. James. Roll Call: Mr. Brillhart, Yes; Mr. Colavecchio, Yes; Mr. Gorbach, Yes; Mr. Iona, Yes; Mr. Iula, Yes; Mr. James, Yes; Mr. Miller, Yes; Ms. Nichols-Rhodes, Yes; Mr. Pallotta, Yes; Mrs. Pyke, Yes; Mr. Reilly, Yes. Motion passed, voice vote (11-0). Council dissolved out of Executive Session at 6:50 p.m.

Legislation Discussed:

Temp. Ord. A-62
Temp. Ord. A-63
Temp. Ord. A-64
Temp. Ord. A-65

Discussion:

Temp. Ord. A-62

An ordinance amending Chapter 505 of the Codified Ordinances, relating to animals and other fowl in the City of Cuyahoga Falls, and declaring an emergency.

Mr. Pallotta stated that this ordinance would change the prior language of having a dog under control to having, more or less, a dog leash ordinance. What prompted this was a constituent, while walking his dog, had another dog attack his dog because that dog wasn't on a leash. Mr. Pallotta contacted the Law Department, and it was decided that, rather than be reactive, to be proactive, asking people if they walk their dog, that they keep it on a leash. He stated that there have been a couple times he has been bitten by a dog. He thinks that it would be wise, before a child gets attacked or somebody else gets attacked, that Council be proactive on this.

Mr. Reilly stated that, as an owner of two dogs, he and his wife always use a leash when walking them, not just for their safety, but for their dogs' safety and the neighborhood's safety. He thanked Mr. Pallotta for bringing this legislation forward and stated that he was in favor of it. Mr.

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Colavecchio stated that, in his neighborhood, he would have to catch his two little dogs in his arms when a big dog would come around. There are a lot of elderly people who, if a large dog came up and jarred them, could be knocked over, not to mention the people who are not courteous and let their dogs run loose in the neighborhood so they can do their business in neighbors' yards. When outside of their property, residents' dogs should be on a leash for many, many reasons, and he applauds Mr. Pallotta for bring this legislation forward. Mr. James stated that he would like his name added to this ordinance. He has a senior dog and has never walked her without a leash. He takes her down to Waterworks Park, too, and there are a lot of dogs there that are unleashed and running through the fields. There have been countless times when he has been approached by a dog somewhat aggressively. Fortunately, it's never been where they attacked have attacked his dog, but it gets testy. Mr. James stated that he is very much in support of this ordinance.

Ms. Nichols-Rhodes ask if other neighboring communities have leash laws. Ms. Janet Ciotola, Deputy Law Director, stated that they do. Mrs. Pyke stated that what was difficult about the way this was written previously was it said reasonable control of some person, so the only time that someone could have been cited was if the dog got out of control and either did harm or ran out in front of car and got hit, and then the person could be cited for not having their dog under control. When constituents would ask her if people have to have their dog on a leash, she would answer that, as long as it's under control, they don't have to. Once again, as soon as it goes out of control, now you're not following the letter of the law. This ordinance defines it. When a constituent asks if a person has to have a dog on a leash, the answer is yes. They get rid of anything that's ambiguous, and if someone gets ticketed for their dog not being on a leash, it's not because they weren't under control; it's because they weren't on a leash. Mrs. Pyke stated that she is very much in support of this ordinance. Mr. Gorbach asked how they are going to inform residents of this new law, because this is a substantive change. Residents can be cited even if their dog doesn't create any type of disturbance. They need to be sure that residents know what this new rule is. Mr. Gorbach stated that he is in support of this ordinance.

Ms. Ciotola stated that they can discuss this with Ms. Crawford-Smith on getting the word out. Mr. Gorbach asked if she could let Council know how the City plans on alerting the residents. Ms. Ciotola stated that she would. Mr. Colavecchio suggested that they put a sign in every neighborhood, alerting residents that they must keep their dog on a leash. Mrs. Pyke suggested they put it on the City's web page. Once it goes on there, it hits social media. The Neighborhood Ambassadors also could get out in the neighborhood and give notice. She asked if there is any idea how many dog complaints the City has had on a yearly basis. Ms. Ciotola stated that she had checked into that with the Chief of Police and prosecutors. They haven't had any person report to them. Mr. Colavecchio stated that the way the law is written now, it discourages people from reporting anything, because it's a subjective thing, but if it says they have to have a leash, it's on a leash. He is sure the police will use their discretion and probably give a warning the first time. This would be a way to eliminate any loopholes. Mr. Reilly stated that residents should be sure to register their dogs with the County. That's the best way to get a dog back if it runs away.

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Mr. Reilly moved to bring out Temp. Ord. A-62 with a favorable recommendation, second by Mr. Pallotta. Motion passed (3-0).

Temp. Ord. A-63

An ordinance authorizing and directing the submission to the electors of the City of Cuyahoga Falls a proposal to amend Article V, Section 2 of the Charter of the City of Cuyahoga Falls, to establish a May primary election date for municipal elections in the City of Cuyahoga Falls, in order to reduce the cost of the primary election for Cuyahoga Falls taxpayers and uphold the voting rights of overseas military service members, to be voted upon at the next regular City-wide election on November 6, 2018, and declaring an emergency.

Mayor Walters stated that the City was approached by the Board of Elections to move the primary from the first Tuesday after the first Monday in September to the first Tuesday after the first Monday in May. The reasons are listed in the title of the ordinance. Other cities are doing this, too, because it does cut down on the cost. Having it in the September, there's a dilemma for the Board to do what they need to do to get ballots certified. Sometimes, there's a recount, and there is not enough window to do that and also to get the ballots out to those overseas in September. Again, this is just for the charter amendment to go onto the ballot in November, so this is up to the voters to decide. Most other communities have passed this. In Akron, it is still being discussed. Ms. Ciotola stated that everyone offers it in around the same time, but other cities that are considering it are Tallmadge, Green, Barberton, Norton and New Franklin.

Mr. Pallotta stated that his one concern is, when running in a primary, a candidate needs to get out there and go door to door. What was beneficial with having it in September is you have the time, in June, July and August, to go door to door. Those months are fairly nice months. If they're not home, you can leave some information at the door. With this change, candidates would mostly be campaigning in February, March and April. Those are kind of inclement months. He doesn't know if it would be a hindrance to those people that want to run in a primary. Mr. Reilly stated that they had to have their petitions in by June last year for the September primary. He stated that he believes there are some other communities that are already doing a May primary. Ms. Ciotola stated that, of all the counties in the state, a very small minority have a September primary.

Mr. Colavecchio asked if there is a reason for May. Ms. Ciotola stated that that is the State law. The State's primary is in May. After doing a study over a 10-year period, from 2007 to 2017, voter turnout was 45-46 percent higher in May. Mr. Gorbach stated that Council is not here to make a decision for this to go on the ballot based on whether it's good for them individually or not. The weather is inclement all over Ohio. If the City is going to save around \$50,000 by making this move, this is a no-brainer on a lot of levels. Having been on the Board of Elections, this was discussed a lot. As the Mayor indicated, the Board of Elections sometimes did not meet the deadlines, because there was not enough time. They discussed the military ballots and getting those in time, and it just didn't happen because of the time compression. If there were recounts, it was impossible. It's good for everybody. It's good financially. It's going to help run these elections better and allow those people that have the right to vote get their votes counted and get

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everything done. Mr. Gorbach stated that he is in favor of it, and he would hope everybody around the rail would vote in favor of the ordinance next week to let the citizens make their decision. Mr. Iula stated that he is in favor of the ordinance. He also worked at the Board of Elections, and it would be a lot easier. He asked if this law passes in November, would next year's municipal election be in May. Mayor Walters stated that is correct.

Mr. Pallotta moved to bring out Temp. Ord. A-63 with a favorable recommendation, second by Mr. Reilly. Motion passed (3-0).

Temp. Ord. A-64

An ordinance authorizing the Mayor to enter into an agreement to allow MCImetro Access Transmission Services Corp. to access the City's rights of way and electric poles for the construction and maintenance of fiber optic cable, guy wires and other appurtenances, and declaring an emergency.

Mr. Michael Dougherty, Electric Superintendent, stated that this ordinance is very similar to what the City did with the Woodridge School District several weeks back; it is just with MCImetro. They have asked that the pole attachment route be kept confidential. Ms. Ciotola stated that the City would do that.

Ms. Nichols-Rhodes asked if this is a for-profit company. Mr. Andrew Crouch, of MCImetro, stated that was correct. Ms. Nichols-Rhodes asked if there was any cost to the City for having these added to its poles. Mr. Dougherty stated that this is a make-ready survey, so the City goes out and determines how much it's going to cost for these improvements to its poles to be made to make room for their lines to be on the poles. The National Electric Safety Code sets out what the spacing has to be on the pole. That has been done. They would have to pay those fees for the City to move the lines. Ms. Nichols-Rhodes asked if their company is responsible for maintaining and correcting anything that happens. Mr. Dougherty stated that that is correct. The pole attachment agreement covers that they've got to do everything to maintain the lines, move them when they need moved, et cetera. Mrs. Pyke asked if they are paying for this per pole. Mr. Dougherty stated that they were. Mrs. Pyke asked if there was anything written into the contract that if there is a damaged pole, there is a timeframe when they have to get everything off of the damaged pole. Mr. Dougherty stated that there is going to be some language that's going to be proposed that has to do with how fast they have to move their equipment from an old pole to a new pole. That's going to be coming before Council before long. Mrs. Pyke asked if they the City shouldn't be proactive with this company and do it now on the contract that is before Council. Mr. Dougherty stated that wasn't going to be in this contract. Ms. Ciotola stated that the contract states that MCImetro has 90 days to remove damaged poles, and, if they don't, the City has the discretion to remove them or transfer their apparatus onto a new location.

Mr. Gorbach asked how many similar agreements the City has in effect now. Ms. Ciotola stated that they are at least three that she can think of. This was a cooperative effort with AMP Ohio and several telecommunication companies. They were getting ready to do a big push with the State

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Legislature because of fees and things that cities were doing. They sat down at the table and collaboratively came up with this agreement, including the fees. Mr. Gorbach asked if the City foresees similar agreements in the near future. Ms. Ciotola stated that she foresees a comprehensive ordinance being presented to Council in the future. Mr. Gorbach asked what part of this MCImetro wants to keep confidential. Ms. Ciotola stated that it is where they're attaching to. It's called for in the agreement that there's a level of confidentiality. They don't want certain people to know where the City's or company's lines are located. Mr. Gorbach asked what is being attached to the poles. Mr. Dougherty stated that it is fiber. Mr. Gorbach asked how the amount per pole is arrived at. Ms. Ciotola stated that AMP came up with that figure. The City could either go with what AMP suggests, or there's a calculation that is set forth in the code of Federal Regulations where the City would have to hire an expert to calculate it. It was decided to go with the standard fee that AMP was recommending, because the cost hiring a consultant to calculate what the fee should be was pretty expensive. Mr. Gorbach asked if the fee was based on the type of lines and would that fee change for future requests, or is that the standard fee. Ms. Ciotola stated that the City is looking into that to change that in the future, but that's what is recommended by AMP. It goes up two percent every year. They will be exploring changes over the break.

Mr. Colavecchio asked why MCImetro insists on confidentiality and why is the City withholding information without a good reason. Mr. Dougherty stated that MCImetro told the City that it had to do with competitive advantage; that people would know what points they're connecting and that kind of thing. Ms. Ciotola stated that it was also for terrorism reasons, too, if people were know the pattern of the lines. Mr. Colavecchio asked if this gives them a competitive advantage. Ms. Ciotola stated that she does not believe so. Mr. Colavecchio asked if Mr. Dougherty has more information, that she would e-mail him or any other members of Council that are interested. Mr. Dougherty stated that Section 2.1 of the agreement talks about confidentiality. Mrs. Pyke asked for what purpose the fiber is being run. Mr. Crouch stated that it is for communications. They are a competitive local exchange carrier, so there's telephone service that's going to be riding on this. It's also targeting business in the area and potential municipal use. Mrs. Pyke asked if they will be competing with AT&T or Time Warner. Mr. Crouch stated that there is nothing, at this point, that is going to any residential services; just businesses. This targets their existing wireless network in Cuyahoga Falls, as well as potential business opportunities.

Mr. Brillhart asked how many additional poles or total poles there are. Mr. Dougherty stated that those 255 poles are what they discussed with the City, but they are still talking about them going underground and going around some poles and not attaching to them, so the final number is yet to be determined. Mr. Brillhart asked if that would follow along the City's existing underground wire for electric. Mr. Dougherty stated that it would go around the poles that are in the right-of-way. Mr. Brillhart asked if this agreement includes accessories or assigns and what would happen if this company goes out of business. Mr. Dougherty stated that the City has an agreement with Ohio Edison from 1939 that is used for AT&T right now and an agreement in 1970's with Time Warner that is now being used for Spectrum. They have been moved along with successor companies to date. Ms. Ciotola stated that the agreement does address assignments, and states that they may not assign their rights to any other entity without the City's prior written consent

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and, notwithstanding that, they may assign its rights to an entity acquiring 51 percent or more of their stocks or assets or a subsidiary or affiliated company. Mrs. Pyke asked if they will be adding poles. Mr. Crouch stated that they are not adding poles.

Mr. Gorbach asked if the Mr. Crouch could explain to Council the rationale for keeping this information proprietary. Mr. Reilly asked if the City has the same confidentiality agreements with Ohio Edison and with Time Warner. Mr. Dougherty stated that he would check on that and get back to Council. Mr. Crouch stated that going beyond the fact that this is known as basically a trade secret, it is something that they try to keep confidential. MCImetro shared its maps with City Council prior to this meeting. They are keeping it from going to public records that all the competitive carriers have access to. The company also could have emergency service communications that flow through this network, so 911 services all flow through this network. They try to keep those confidential, as well, so that the City's entire communications network is not available to everyone in case there were some terrorist attack on those networks.

Mr. Reilly moved to bring out Temp. Ord. A-64 with a favorable recommendation, second by Mr. Pallotta. Motion passed (3-0).

Temp. Ord. A-65

An ordinance authorizing and directing the appropriation of certain interests in real property necessary for the improvement of Howe Avenue between Main Street and Buchholzer Boulevard, and declaring an emergency.

Mr. Tony Demasi, City Engineer, stated that he has nothing further to add to what was discussed earlier tonight in Executive Session. Mr. Brillhart thanked Mr. Demasi for his hard work on this.

Mr. Pallotta moved to bring out Temp. Ord. A-65 with a favorable recommendation, second by Mr. Reilly. Motion passed (3-0).

The meeting adjourned at 7:32 p.m.