

UTILITIES COMMITTEE MINUTES FEBRUARY 7, 2017

The Utilities Committee meeting was held on February 7, 2017 at North Royalton City Hall, 14600 State Road. The meeting was called to order at 6:42 p.m.

PRESENT: **Committee Members:** Chair Paul Marnecheck, Vice Chair John Nickell, Dan Kasaris; **Council:** Larry Antoskiewicz, Gary Petrusky, Dan Langshaw; Cheryl Hannan. **Administration:** Mayor Robert Stefanik, Law Director Thomas Kelly, Wastewater Supt. Dave McNeeley, City Engineer Mark Schmitzer, Service Director Nick Cinquepalmi; Other: Lou Krzepia.

APPROVAL OF MINUTES

Moved by Mr. Kasaris, seconded by Mr. Nickell to **approve the January 3, 2017 Utilities Committee minutes.**
Yeas: 3. Nays: 0. **Motion carried.**

UNFINISHED BUSINESS

1. Inflow/Infiltration of storm water

Mr. McNeeley said that 94 violation letters were sent out; Sprague Road: 27 (90 day), Albion Road: 38 (90 day), York Road: 10 (60 day), Pamela Drive: 19 (60 day). There have been a few residences in the last month who have remediated some of their I&I or have had permits issued to get the work done. Mr. McNeeley gave a brief overview of the notification process. Mr. Marnecheck asked if there is any progress on where they are going to go this year. Mr. McNeeley said that they are planning to start at Hunters Creek as soon as the weather permits.

2. Telecommunication code amendments

Mr. Kelly said that he has read and reread SB 331 as it pertains to the distributive antenna systems and small cell placement. He said that he does not see where we have any room to legislate. The fact is that the state legislature has basically issued orders that tell us what we may not do and it is very hard to craft positive legislation around this. He said that we may end up simply advising the Planning Commission as to how to handle the applications and what limitations the state has placed on us in this regard. He said that it comes down to the fact that the state has again gutted our authority and reduced any opportunity for the exercise of home rule and there is no reason to craft legislation that is redundant of the state statute. He feels that it will simply come down to a memo to the Planning Commission saying that when an application comes in from a recognized and certified utility for the placement of a small cell tower, these are the restrictions, this is what they are held to, they may not do anything more than that and this is the extent of our authority to restrict their ability to make placements within the right of way. Mr. Antoskiewicz asked if what we have on the books now would be able to be applied. For example we have many developments that have underground utilities. Will this be able to circumvent the state legislation and maintain the aesthetic. Mr. Kelly said no. The fact is that the legislation is very clear that the public right of way is available to the public utilities and we may not impede their ability to use the public right of way for the construction of these towers. He said that we have some reason to anticipate that they will be cooperative with us because they obviously don't want to place a 50 foot high tower or antenna system in a nice development where there are no above ground utilities and incur the wrath of the community as a result. There will be some push-pull on this. He said that we can challenge this if this is what the Mayor and Council want to do, but unlike the old days when we could say yes or no, we now can only say yes or yes. He said that we have the right to express our views, the Planning Commission in this case is likely going to be the focal point for this experience. The applications will come in to the Building Department, and Mr. Kulchytsky and Mr. Schmitzer will vet them and send them on to the Planning Commission. Mrs. Hannan said that Mr. Kelly mentioned that this could be challenged and asked if he anticipates that other cities will do so. Mr. Kelly said that he expects that many will, but that is yet to be seen. The legislation is not effective until mid March and at that point he anticipates that there will be some challenges, particularly from those municipalities that are more the target for this experience. He said that so far we have had only one company, Mobility which is the spin off from Sprint, come to us last September. They have a Certificate of Necessity from the PUCO and he has heard from their representative within the past 48 hours. They are looking to come in and start placing their antenna systems. Mr. Nickell asked where the utility right of way is located in developments with underground utilities. Mr. Schmitzer said that utility

right of ways are adjacent to the public right of ways. The public right of way is 60 feet and 10-12 feet on the back side of each of those right of ways on the other side of the street are utility easements. So whatever companies were given rights to these utility easements have the right to go in there or within the public right of way. Mr. Nickell said that he lives in an older development and his utilities are in the back. He asked if this is where these antenna systems would go or would they be placed in the tree lawn. Mr. Schmitzer said that they can be placed in the public right of way based on the way our ordinances are written, but he is unsure about the rear yard easements. Mr. Nickell asked that this be something that gets looked into as we go forward. Mr. Langshaw said that what the general assembly did in a lame duck session again is a complete disservice and most importantly they sold out all Ohioans and all municipalities to special interests. He said that this is shameful and that he hopes that there are lawsuits. If there are, he urges the Law Department to join in with an amicus brief. He feels that this is a violation of Ohio Revised Code and the Ohio Constitution, at least of the single subject rule. Mr. Kasaris said then that a utility could erect a pole in the right of way where there are no other public utility poles and there is nothing we can do to stop it. Mr. Kelly said yes, that is his reading of the state statute. The state legislature very plainly intended that the utility companies should have the opportunity to place a tower or antenna in the right of way with no restrictions other than the 50 foot height limit. Our zoning codes do not apply. Mr. Kasaris asked about the health, safety and welfare of the residents. Mr. Kelly said that the ability of a municipal corporation to employ home rule is effectively eliminated. This is a state statute that was intended to apply on a state wide basis and therefore home rule does not apply. Mr. Kelly said that he has spoken with John Sindyla whom we employed as an expert to assist us in this matter and Mr. Sindyla advised him that the utility companies do have poles that may be able to be disguised as trees. He is unsure of what they look like, but there is a means of disguising some of these poles in a way that makes them less visibly offensive. He said that until we see where they want to place them we won't know for certain how deep into the developments they intend to go, or if they even intend to do this at all. They may be able to get sufficient cell phone coverage and/or data transmission coverage from nearby thoroughfares and arteries that are already subject to poles and above ground utilities.

3. **WWTP "B" Screw Pump Replacement Project**

Mr. McNeeley said that they are still processing the first pay request and the contract is moving forward.

4. **WWTP "A" Influent Pump Station Project**

Mr. McNeeley said that due to undocumented underground obstructions in the contract documents, we have had a 6-8 week delay. The contractor ran across some electrical conduits that were not shown on the contract documents so we had to do some redesign work on the discharge piping of the new pump station. He said that the contractor got a work directive to continue working and came up with a new design that they started working on yesterday. Mr. Marnecheck asked if this impacts the cost. Mr. McNeeley said yes. The contractor and our consultants are reviewing cost estimates and he said that the original cost estimate of \$300,000 has been reduce to the \$150,000-\$160,000 range. He said that we are doing some additional things to reduce costs in other areas as well. Mr. Kasaris asked when Mr. McNeeley expects a change order to be presented to Council. Mr. McNeeley said that he currently has a \$250,000 allowance and we are trying to keep this below this figure. He said that he is hoping that he does not have to come before Council for additional funds, but he expects that he will come before Council towards the end of the contract for a change order to extend the length of the contract. Mr. Kasaris said then that the extra costs will be made up some place else. Mr. McNeeley said he anticipates that they will be able to make up some of the costs and still stay within the allowance item.

NEW BUSINESS

1. **Purchase of Vactor - Wastewater Department**

Mr. McNeeley asked for a recommendation for the purchase of this vehicle. This is a replacement for the existing 2004 vehicle. Mr. Kasaris said this is a combination sewer cleaner and asked what this means. Mr. McNeeley said that the vactor has the capability of not only cleaning the sewer but also doing what is called hydro excavating. He said that if you have multiple underground assets that are in close proximity and you need access to only one of those assets, a bucket may attach and grab more than one of those assets. The hydro excavating allows you to power wash, liquefy and suck the debris out at the same time while keeping other

utilities undistributed and intact. Mr. Kasaris asked if we have any combination sewers in the city. Mr. Schmitzer said no. Mr. Nickell asked if there is a trade in value for the old vehicle. Mr. McNeeley said yes, \$50,000.00. Mr. Nickell asked if this type of vehicle is typically leased. Mr. McNeeley said no and as you can see the previous vehicle was in service for almost 13 years. Mayor Stefanik said that this item and the next two on the agenda are all items that will be able to be used by the storm water crews. As we get to that transition point with the next rate study, we will be incorporating the storm water crews in with the sanitary sewer crews.

Moved by Mr. Marnecheck, seconded by Mr. Kasaris to **recommend approval of Ordinance 17-13 to Council**. Roll Call: Yeas: 3. Nays: 0. **Motion carried.**

2. **Purchase of 2 Tandem Cab and Chassis Trucks - Wastewater Department**

Mr. McNeeley said that he is seeking committee recommendation to Council for the approval of these trucks. They will be used for debris removal, plowing and other ancillary activities. Mr. Antoskiewicz asked if these were replacement vehicles. Mr. McNeeley said one is a replacement and the other is an additional vehicle.

3. **Purchase of Street Sweeper - Wastewater Department**

Mr. McNeeley said that he is seeking committee recommendation to Council for the approval for the purchase of this vehicle. He said that this sweeper will have benefits to the collection system by keeping the debris out of the collection system and the wastewater plant as well. Mr. Nickell asked if this will be used by the Wastewater Department in addition to the one that is currently being used by the Service Department. Mr. McNeeley said that the street department will be using the vehicle but the wastewater department will be benefiting from its use. Mayor Stefanik said the old sweeper is being used for things other than just street sweeping. Mr. Cinquepalmi said that both of these sweepers will perform 2 functions. They act as another vac truck. They can actually be used to suck out catch basins, in addition to street sweeping. Mr. Kasaris asked for the cost of the vehicle. Mr. McNeeley said that the cost is \$259,137.00.

ADJOURNMENT

Moved by Mr. Kasaris, seconded by Mr. Nickell to **adjourn the February 7, 2017 meeting**. Yeas: 3. Nays: 0. **Motion carried. Meeting adjourned at 7:05 p.m.**