

**SPECIAL COUNCIL MEETING
OCTOBER 29, 2003**

At the call of Mayor Oyaski, a Special Council Meeting was held on Wednesday, October 29, 2003 at 7 p.m. in the Euclid City Hall Council Chamber.

Members Present: Delaney, Gruber, Holzheimer Gail, Langman, Lisy, Miller, Sustarsic, Gudenas

Councilwoman Miller moved to excuse Councilman McTighe; seconded by Councilman Sustarsic. Yeas: Unanimous.

Others Present: Public Service Director Gulich, Acting Law Director Vento de Crespo, Assistant Law Director Meister, Administration Director Johnson, Acting Fire Chief Cosgriff, Sgt.-at-Arms Volk, Clerk of Council Cahill

COMMITTEE OF THE WHOLE

President Gudenas – Anybody who wishes to speak on either of the two items can so do at this time.

Acting Director Vento de Crespo – If I may, I'd like to point out that this is a Special Meeting called by the Mayor pursuant to Revised Code Section 121.04. And when the meeting was announced, there was only one item on the agenda and that was the Fact-Finder's Report. The other item, in my legal opinion, is not properly before this body because the meeting was called by the Mayor and he did not include it on his agenda.

President Gudenas – We appreciate your opinion.

Lisy moved to go into the Committee of the Whole for Legislative Matters Only. Councilman Langman seconded. Yeas: Unanimous.

Mr. Dennis Glasney – 731 E. 263rd St. I'm hear tonight to address members of Council about the first item on the agenda, which pertains to a Fact-Finder's Ruling regarding the Waste Water Treatment Plant's contract negotiations with the City. I'm not sure how aware any of you are because I understand most of you just got copies of this today and that was kind of thrown on you. But back in February or January actually, we reached a stalemate with the City in our contract negotiation and at that point it was decided we should go to fact finding and let a Fact-Finder decide what a fair and equitable settlement might be.

In the meantime prior to that, members of the negotiating team for the Teamsters Local 244 came back to members of this Administration and made two counter offers to try to circumvent the fact finding process. And we were turned down on both of those. And essentially what we agreed to take at that point was the same contract with the same wage increases, the same percentages and the same health care contributions that the Police and Fire had both agreed to and reached agreement to with the City.

At that point we were told no that that wasn't acceptable. They wouldn't give that to us. I'm not sure, also, if any members of Council recall correctly that the original award for the Fire Department that was ruled on by the Fact-Finder was for a half a percent less than what they ended up getting. And the reason that came about was the Police union insisted on an extra half of per cent for one year of that three-year contract. The City in its infinite wisdom came back to the Fire Department at that point and said well, since the Police Department has agreed to this extra half of a per cent to make it 4-1/2, 4 and 4 we feel it's only right to give that to you. So basically what they did was circumvent a Fact-Finder, an arbitrator's ruling for the 4, 4 and 4 and gave them an extra half of a per cent.

And yet when we approached the City and offered to take the original agreement, we were told no and we had to go to fact finding. Well, as most of you know here tonight, that Fact-Finder's ruling came back in favor of the employees of the Waste Water Treatment Plant and of Local 244. We're being told that some members have been told that it's a bigger raise than any of the other departments in the City received and that's not true. If you look at the percentages, you'll see that the, we'll end up with a half of a per cent less, in fact, than the Police and Fire over the course of the three-year contract but that was because we got some increases in licensing fees.

I find it a little ironic that the Mayor would ask you to vote this down after asking us to play by the rules. And asking the employees repeatedly through all the financial crises that the City has had to make sacrifices. And when we agree to make a sacrifice or play by the rules and the ruling comes down in our favor, the Mayor doesn't think it's time or proper for the City to play by the rules. Now he's left us in a position that if Council sees fit tonight to turn this down, it puts us in a position to have to do some serious talking with the union and the possibility of a strike. And I can't help but think that this being 6 days before the election that I think this kind of puts members of Council and anyone else who's running for election in kind of a precarious position. I don't think it was fair to have this dropped on all of you at the last minute.

I also want to make sure that everyone is aware of the fact that in the contract negotiations prior to going to fact finding, the Superintendent of the Waste Water Plant in a sit-down meeting with the Law Director. At that point, explained to them that he didn't feel it was in the City's best interest to go to fact finding over this because he felt that his department had the money and had the money put aside to take care of these raises.

There's also some rumors going around that this money comes out of General Fund. And I think Dr. Lisy knows that Waste Water Treatment Plant is its own entity. Waste Water Treatment Plant's payroll comes out of the Waste Water Treatment Plant funds. So I guess in closing I'd just like to ask Council tonight to carefully consider this resolution and to keep in mind that we offer to make this settlement long before it went to fact finding. It's my understanding that it cost the City over \$9,000 to go through this procedure to end up with a ruling that was basically something we agreed to do 7 or 8 months ago. I appreciate your time and I'll appreciate your consideration on that matter. Thank you.

President Gudenas – Thank you. All right I see no one else.

Councilman Delaney moved to rise and report; seconded by Councilman Gruber. Yeas: Unanimous.

Res. (579-03) Fact-Finder's Report – WWT Union Local 244

A resolution rejecting the Fact-Finder's October 23, 2003 report in the labor negotiations between the City of Euclid and the City, County and Waste Paper Union, Teamsters Local 244. (Sponsored by Mayor Oyaski)

Councilwoman Holzheimer Gail moved for passage; seconded by Councilman Langman.

Acting Director Vento de Crespo – I want to respond to Mr. Glasney's comment that a strike is a possibility. This contract does include a No-Strike Clause. It would be a violation of this contract for any employee to lobby for a strike or encourage others to strike as well as their union representative, their business representative. So we could charge them with an unfair labor practice for either attempting to strike or striking as a result of the vote tonight, which would go before the State Employees Relations Board and they would deal with the situation.

We offered the Waste Water Treatment employees the same offer we offer all the other employees. We had to treat the Police and Fire differently, obviously as you know, because we knew that those would be vigorously litigated, arbitrated, you know, gone through the entire process with them. And those two contracts were the result of intensive arbitration, fact finding and a lot of studies and a lot of argument. Now, we all know that the funds are dwindling. The Police and Fire contract as they are now have put, placed a considerable impact on our budget for this year, for next year when the deferred compensation, the overtime that they've chosen to defer that's the sort of, you know, that's hanging over our budget for next year.

So we recommend that this Fact-Finder's Report be rejected as excessive. We simply can't afford it.

President Gudenas – And so if we vote yes on this resolution, will that mean negotiations continue with the union?

Acting Director Vento de Crespo – We would proceed to arbitration.

President Gudenas – No more negotiations?

Acting Director Vento de Crespo – That's true. We could potentially negotiate it. We are reminded by the Fact-Finder in his report that we have the ability to go back and renegotiate if we want to come up with something different. However, we cannot offer them anything other than what we've offered AFSCME. The FOP AFSCME has settled for the offer we gave Waste Water. The FOP had settled but, as you know, they turned around and decided that they wanted what the Police wanted, the same with the other units. We offered them 2-1/2, 3-1/2 and 4, 0 for 2002. Some of the units agreed to it. Then some haven't, obviously.

President Gudenas – And are there deadlines for these potential negotiations and arbitration dates?

Acting Director Vento de Crespo – Those would be set as we go along. You know, if the parties agree, deadlines can be waived but tonight's deadline was firm.

President Gudenas – Right, I understand the law was for tonight. In other words if the Council would do what the Administration asks, negotiations still could continue?

Acting Director Vento de Crespo – Yes, they could.

President Gudenas – Thank you.

Councilwoman Miller – Yes, I have question. You said you go to arbitration. I thought that they didn't have it in their contract to go to arbitration. I thought it was just fact-finder.

Acting Director Vento de Crespo – Well, you follow the procedure that's outlined in the Administrative Code.

Councilwoman Miller – And it would go to arbitration?

Acting Director Vento de Crespo – Yes.

Councilwoman Miller – You said that the money, the money doesn't come out of General Fund does it?

Acting Director Vento de Crespo – No, it doesn't.

Councilwoman Miller – It comes out of their own fund.

Acting Director Vento de Crespo – Yes, it does.

Councilwoman Miller – And is the money there for them to have this?

Acting Director Vento de Crespo – I would defer to the Public Service Director.

Director Gulich – Yes.

Councilwoman Miller – The money is there for that.

Director Gulich – Yes.

Councilwoman Miller – And it's earmarked and that money cannot be used for General Fund.

Director Gulich – That is correct.

Councilwoman Miller – Okay, thank you.

President Gudenas – Any other comments? It has been a very long tradition for the Council not to negotiate settlements on the Council floor. Let the Administration negotiate the settlements and we approve the final settlement at the end of the day, which is what the Administration is asking us to do today. Any other comments? I see none.

Councilwoman Holzheimer Gail moved to close debate; seconded by Councilman Gruber. Yeas: Unanimous.

President Gudenas – And to make it clear, a yes vote would be what the Administration is asking us to do. A no vote would be what the Administration is not asking us to do.

Roll Call: Yeas: Delaney, Holzheimer Gail, Lisy, Gudenas
Nays: Gruber, Langman, Miller, Sustarsic

Clerk Cahill – It's tied.

President Gudenas – What happens then?

Councilwoman Miller – It fails.

Acting Director Vento de Crespo – It fails.

President Gudenas – Negotiations will continue then.

Acting Director Vento de Crespo – No, the Fact-Finder's Report is deemed accepted.

President Gudenas – Oh, it is accepted. All right.

Councilwoman Miller – Fact-Finder's findings has been accepted.

Ord. 209-2003 (580-03) Settlement-Estate of Aminata Diallo

An emergency ordinance pursuant to Section 107.04 (d) of the Euclid Codified Ordinances authorizing and approving a settlement agreement with George L. Forbes, Administrator for the Estate of Aminata Diallo, et al. V. City of Euclid, et al. as part of the Self-Insurance Program. (Sponsored by Council President Gudenas)

Councilman Lisy moved for passage; seconded by Councilman Delaney.

President Gudenas – This is a legal matter that we have the attorneys here in the back to discuss this and I guess we go to Executive Session to discuss the matter in full and then come right back, hopefully, right after that.

Councilwoman Holzheimer Gail moved to excess into Executive Session; seconded by Councilman Delaney.

Roll Call: Yeas: Delaney, Gruber, Holzheimer Gail, Langman, Lisy, Miller, Sustarsic, Gudenas
Recessed to Executive Session.

Councilwoman Miller moved to reconvene the Council meeting; seconded by Councilman Lisy.

Roll Call: Yeas: Delaney, Gruber, Holzheimer Gail, Langman, Lisy, Miller, Sustarsic, Gudenas

President Gudenas – And the motion had been before us to approve the settlement as negotiated presented to the City Council. Any further discussion on that? I see none. I see one.

Councilman Sustarsic – What I was wondering, if I might refer to the, if I might ask the Law Director, Acting Law Director, was this ordinance, under the circumstances was an ordinance really necessary in this particular case?

Acting Director Vento de Crespo – The ordinance is a nice way for the Council to formalize their approval of this settlement. In my opinion after my reading of the Euclid Codified Ordinances I believe that we could legally follow the procedures that we have in the past regarding these settlements. Whereby the Law Department and the Administration works out the settlement. We confer with Council and then we, we finalize the settlement without a public, without a public hearing. And normally we prefer to keep these delicate negotiations out of the public debate. But this is a nice way for us all to demonstrate our consensus on this matter. I'm pleased that we're able to talk about it at this hearing.

I do want to point out that this settlement does stretch the payments out over a longer period of time. It's a slightly lower, present value it's a good agreement for both the family of the little girl did tragically die. It's a good financial settlement for the City. And I recommend that you approve this.

President Gudenas – Any other comments? I see none.

Councilman Delaney moved to close debate; seconded by Councilwoman Miller. Yeas: Unanimous.

Councilwoman Holzheimer Gail moved to suspend the rules; seconded by Councilman Gruber. Yeas: Unanimous.

Roll Call: Yeas: Delaney, Gruber, Holzheimer Gail, Langman, Lisy, Miller, Sustarsic, Gudenas
Passed.

President Gudenas – It's good to settle this issue. I see no other business.

ADJOURNMENT

Councilman Lisy moved to adjourn; seconded by Councilman Gruber. Yeas: Unanimous.

Attest:

Clerk of Council

President of Council