

**CODE Membership Meeting Minutes**  
**Wednesday, May 1, 2013**

1. Jeff Harman called the meeting to order at around 6:04 pm
2. Board Roll Call
  - Jeff Harmon, President
  - Steve Kallay, 1<sup>st</sup> Vice President
  - Roger Schuster, 2<sup>nd</sup> Vice President
  - Dave Kuntz, Treasurer
  - Don Steins, Trustee
  - Dianne Nelson, Trustee
3. No CODE Secretary report available (Secretary on maternity leave)
4. Officer Reports

**Housekeeping**

Litigation:

Kathy Harrell – Lawsuit trial date is June 6 and CODE President, Jeff Harmon, will be called as a witness. Questions? Diana Frey loaned Ms. Harrell \$12,000 of CODE funds. Therefore, CODE notified Ms. Harrell requesting that she return the CODE funds.

**Unfair Labor Practice – Currently have 3**

- Situation on February 4, 2013 – two filed on behalf of members then CODE filed one: City is supposed to give notice whenever an investigation is ongoing (24 hours' notice). They did not, which has been a practice so we want to get their attention of CODE's expectations to follow our Contract.

Pension Update: Niro, CODE Attorney, relayed there is nothing new to report on this lawsuit. The City submitted a motion to dismiss to the Judge, who will decide whether to throw the case out or go to trial. CODE is waiting on his decision; there is no time limit for the Judge to respond. Typically the defendant attempts to have the case dismissed before investing in it. If the Judge decides to hear the case, CODE will proceed.

5. Treasurer's Report

- CODE Net Income for the first four months: \$86,430.09
- Approximately \$61,700 of that amount was from member dues

- Another portion of that amount was income from the check from Frey's pension payout, which was \$40,635.42
- Expenses for the first four months: \$23,649.33 (\$500 Cincinnati Bell; \$1,800 rent for Longworth Hall; and \$26,251.20 to Minnillo & Jenkins)

## 6. Old Business: MSD Joint Utility Update

CODE has been discussing with HR and Ursula:

The City will submit a list of positions with job descriptions that are proposed to be in CODE and those that will be non-CODE. The City and CODE will review the job descriptions and associated tasks together then mediate recommendations to determine if recommendations are appropriate. CODE anticipates that some positions will be in CODE and some will not, depending on the job tasks that are submitted, etc. CODE and the City will carefully review the tasks within each job description and the Ohio Revised CODE that defines tasks that are to be considered "confidential" and thus non-represented. For example, typically employees who work in personnel offices and deal with information used by the employer for "collective bargaining" can be considered a confidential employee or those who participate in collective bargaining. Other examples would be employees who develop and implement policy, etc.

Question: Are we able to comment about why any particular classification might be removed from CODE?

Response: Under the contract and the Ohio Revised Code, there is a section dealing with Collective Bargaining and unions. The City can say that employees should exempt from CODE. CODE will disagree with any position HR related that is proposed to taken out of CODE by the City. Again, the final decision will be based on the job tasks – 14 positions under one roof CWW and MSD – take out of CODE -- we need to get the job descriptions from City HR.

Question: Is there concern that because there are currently no job descriptions, they will make up the descriptions to fit the confidential or non-represented status?

Response: Yes and this is why CODE is going through the appropriate process to accurately determine the final outcome.

Question: Is the threat of being taken out of CODE for MSD and Water Works only.

Response: Yes—at this time, but the broader concern for CODE is that more departments will follow if City HR is successful in taking personnel employees out of CODE in the Joint Utility.

Old Business:

**CODE Non-profit Affiliation:** After Diana Frey left office and the new Board was appointed, CODE had to talk to IRS to obtain the non-profit status. We recently received the official notice from IRS granting us non-profit status.

**Diana Frey:** The lawsuit to retrieve funds stolen is now in federal courts and is working through legal issues associated to properties owned by Diana and her husband. Ms. Frey's husband is fighting CODE's efforts to recoup money from these properties; the Florida property was inherited from her husband and was not technically owned by Diana. After the suit is completed, we will move forward with obtaining money left from properties. CODE received about \$17,000 from Diana Frey's Deferred Comp and \$42,000 from her pension.

Questions? None brought forward at this time.

**Nomination Committee** – The CODE President will be asking for volunteers soon.

**CODE Board Positions:** anyone who wants to run for the Board may do so in the upcoming elections. There are four seats opening up for two-year terms.

Questions? None brought forward at this time.

**American Life Insurance** – a few years back – CODE members received cards in the mail for accidental life and dismemberment for about \$2,000. The company who offered this benefit to CODE members would call you and try to sell a policy, which will lapse shortly so they want to renew it.

CODE asked for an unofficial vote from members who attended this meeting and members voted unanimously to allow this insurance to expire.

### **New Items?**

The CODE President asked members for other new items to bring to the Board other than contract and layoffs

Member Comment/Question: Annual Evaluations—is there a way to get a count of the number of employees who are six months past due for an evaluation where they were entitled to a step up?

Response: We can submit a request to City HR. HR has in the last several months begun to monitor this and pressuring supervisors to complete all late evaluations. CODE spoke with Georgetta Kelly about this when she initially joined City HR so this may be partly a result of this communication from CODE. However, in order to move forward in a formalized manner to obtain some end result, CODE needs employees who are willing to speak up and allow us to take this to grievance proceedings. Once your review date has come and gone, if you haven't received

your Annual Evaluation, based on your most recent review, the step up would be based on that evaluation.

CODE will submit the do a public records request for this matter.

### ***Annual Evaluations***

Question: Is there a way to calculate the amount of money that would be lost to all members associated to late evaluations and step-ups?

Response: That would be dependent of the member, once they come forward. That would be one of the things CODE would ask the City. CODE would ask for payment from back to when they should have received the step-up.

Question: if it is a class action issue, where there is all this money that has been lost due to this unspoken practice of not doing evaluations in a timely manner, two and three years in arrears – hope that they calculate the average for retirement.

Response: Again, CODE would need people to come forward to grieve – we cannot do it on CODE's behalf or expect a final outcome without filing a grievance. We can talk and send memos etc., but in order to demand a specific outcome, a grievance would need to be filed on behalf of those experiencing adverse impacts due to the lack of responsiveness by supervisors (i.e. by not receiving the pay when they expect it or by all rights should have received it, believe they are being harmed by not getting the evaluations on time).

Question/Comment - Where I work, we have not had one employee receive an evaluation on time and they are more concerned with the associate pay increase.

Comment: Some departments distribute reports every other week but evaluations continue to be late, very late in some instances: two years.

Comment/Suggestion – Can CODE send a memo to the City Manager with the report asking him to address the issue?

CODE VP responded: we are trying to change the contract to require evaluations to be done on time.

CODE Attorney Comment – we can get a report and pursue it with Ursula but we are finding that we unfortunately do not get a response from the City and City HR by asking or sending e-mail messages that don't require an action by some law or contract provision. We can ask for the report and a meeting with Ursula. We talked about MSD with City HR in the past. As previously stated, the CODE President did have a conversation when she initially began her position with City HR. Now the City Manager is getting regular reports and he is letting Department Director's that this is a priority and will be held accountable.

Question: How many of those who are supposed to do the evaluations are CODE members?

Response: Very few.

CODE: We will ask for the report and CODE will submit a written follow up to the City Manager as discussed if City HR doesn't take action. Again, Georgetta Kelly came to MSD and stated that this is one priority that she was going to work on and the Directors will be held accountable. We do run a report and they go out in a timely manner and it still hasn't changed.

Comment: Some Superintendents haven't received an evaluation from the Department Director for years. CODE can obtain the report City-wide for those more than six months overdue and go as a group grievance. CODE will look at it and think of a way but all these rights arise under the contract, which is very specific about how this can be done. We can file an unfair labor practice and move forward if employees are willing to come forward. When we request the information we will ask anyone who has not had an evaluation in the past six months. We will also continue to communicate on behalf of CODE members through other channels of communication as necessary but filing a grievance legally requires some end result, a response at the least, etc.

CODE – We need a sub-committee to review and come up a process to get as many people to pursue – this further. CODE will send out an e-mail to form a Performance Review sub-Committee.

Comment: The City did a survey and April Norman called for results to City HR – the person's 352-2436. April asked CODE to call to obtain those results.

CODE: Evaluations were also discussed the LMC regarding how evaluations are being done.

Question: What is LMC?

Response: A team composed of equal number of CODE members and management. We cannot review contract items in the LMC but this is also a forum where management and CODE sit down to discuss or work through issues to prevent them from escalating. Since negotiations began, we have not had a LMC meeting but they will resume when negotiations are complete.

## Major News

Layoffs: CODE doesn't have specifics now – City sent layoff list to the court when they filed their brief for the parking suit, published in the Enquirer. The list consisted of seven CODE positions, two vacant so five filled CODE positions. HR has stated that this could change. We have talked among the board and attorneys and if those numbers change drastically, CODE will take the necessary action to obtain public attention as may be applicable to the parking deal.

Parking – layoffs due to parking are still up in the air. Judge could still rule for the parking to go through or it may go to the voters.

Question – Of the positions in CODE, were they determined by the amount of time you have in CODE?

Response: No – it is based on time and evaluations. Positions being laid off are based on funding. The General Fund, 050, is the only fund where employees will be laid off.

Council has until May 31 to have the budget completed thus to determine how many people and from what bargaining units will be laid off. CODE doesn't have a provision to obtain the actual names 30 days in advance. Just 30 day's notice of layoffs.

Question: What is CODE's position on it?

CODE: We will try to come with alternatives to place in Water Works and MSD. There is a hiring freeze City-wide so potential layoffs can fill other positions. CODE proposes staff supplementation and consultants go first then CODE can fill those positions.

Question: Have they given us notice?

Response: Yes. They did this officially in January.

Question – AFSCME has changed seniority to time in grade. Is there any chance CODE will do the same? Will CODE change to time in grade? Public Services had an employee with eight years in management and a guy with fewer years in management could stay and another go.

Response: CODE hasn't heard this in the past. CODE will look into this in terms of how AFSCME's contract reads for bumping rights and report back to Mr. Kellard.

Question: Is there a possibility of furloughs?

Response: It would be voted on in the membership to ask if this would be something we would be willing to do.

Member Comment: Diana Frey had only 050 people vote – it was only a concern to them. Is it legal to allow only a portion of the membership to vote? CODE will look into this. Roger – option that someone on the Board came up with – in lieu of furlough days allow people to buy a second week of vacation in lieu of one.

### **Contract Negotiations:**

Moving very slow – started in January – with contract clean-up spelling, grammar, definitions, etc. City came in with high demands and we went in with reasonable demands. So far, only three articles have been agreed upon. We aren't agreeing to anything until we work out COLA, health care, etc.

The Articles agreed upon to date are Article 1 – CODE first formed and how SERB would be notified—no longer applied so out. Article 3 is CODE communications – agree where we can communicate membership meetings election notices through mass City e-mails. Once the contract is signed, we can start this process. Article 6 – Committees – Georgetta came on – we want LMC committee to be formed. Four or five listed out in current contract – only have the LMC that includes other sub-committee that doesn't have to be agreed upon by both sides. To help communication and cooperation between both sides. It is about good will and trying to get along (i.e. or what we and the City can agree too).

Comment: Can we get sub-committees that have teeth – we talk and talk and talk?

Response: We have three unfair labor practices. We are now trying to make a concerted effort to push harder and we are trying to demand that they adhere to the contract time lines. Unfortunately, the current City Administration hasn't been responsive to e-mails or returning e-mails, etc. Therefore, CODE must go through the formalities of filing grievances or unfair labor practices when applicable and when people are willing to step up and come forward to require them to respond or act.

Comment: So we extended the contract back in March to May 30. We aren't going to have a contract by the time that expires so what happens then? We are bringing in a mediator on May 7. Problem, the mediator recommends and neither side has to listen. Then to fact finding. We have narrowed it down to particular items and there isn't any movement at this point. We brought it up that the Council aids are getting bonuses, City Manager; HR received big promotions and increases. Trying to hold onto what we have now and make some gains without giving up everything.

Job descriptions – request a job City and have someone come sit with you to see what you do.

Member Comment: Clarify the residency – it is a done deal – if it goes two ways

CODE: The Supreme Court refused to take it so our position stands.

The only way it gets reversed if the Ohio legislature poses differently or another City submits a case and it goes to the Supreme Court. We should be able to grandfather anyone who already lives outside of Ohio. CODE has posted it on face book, etc.

In negotiations, this would come out in the contract either way. Job postings no longer have the requirement to have a valid Ohio driver's license or live in Hamilton County.

Member Comment: Channel 5 Article, attached an Excel spreadsheet with salaries and names – posted our I.D. nos. We all know the format for CODE's e-mail and there is a real concern about this information being provided to the public.

CODE: We don't agree – but we will look into this. The City started using I.D. numbers to avoid using social security numbers. They will probably say that the City I.D. numbers are not like social security numbers but we will still look at the legalities involved in disclosing this information to the public.

Member Comment: The CODE meeting minutes – have not been posted since July 24 and January 30 and I personally asked how long it would take to post the notes. No minutes—no money. We don't want to auto tape the meetings but we need an alternative.

Member Comment: The chart about which your representative is needs to be updated. Your department representatives. There should be a time line – we have three days to get the minutes out after the meeting.

Response: The general rule is to have the notes typed up and posted before the next meeting. We will make sure to have these posted by next week.

Member Question: Does the Board has a timeline to respond to e-mail messages or posted on the CODE web site?

CODE: We need to address this. We will take off the contact page and ask to send an e-mail. We will post another link to the site in absence of the Secretary. On contact list it says to e-mail CODE, etc. We will CHANGE THIS MESSAGE.

Member Comment: Is there a standard process when the President is out, someone automatically takes on the responsibilities of those absent. We are all at fault and we will improve this.

The CODE President presented a Motion to adjourn the meeting at 7:36 pm. The Motion was seconded and approved.