

County Council of Cuyahoga County, Ohio

Ordinance No. O2021-0003

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| Sponsored by: County Executive Budish/Department of Public Works/Department of Sustainability/Department of Development and Councilmembers Simon, Miller, Conwell and Sweeney | An Ordinance amending Section 202.04 of the Cuyahoga County Code to establish a Division of Public Utilities within the Department of Public Works; and declaring the necessity that this Ordinance become immediately effective. |
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WHEREAS, the people of Cuyahoga County, Ohio, as stated in the Cuyahoga County Charter, desire a reformed County Government to significantly improve the County's economic competitiveness, Cuyahoga County believes that energy security and resiliency, especially when powered by clean energy, is important for the economic and ecologic well-being of our region; and

WHEREAS, the nation and world are seeing stronger and more violent storms causing large scale power outages as well as more sophisticated cyber and physical threats to utility systems; and

WHEREAS, Cleveland State University's Energy Policy Center has researched and published reports indicating that laboratories, communications, health care and commercial, industrial and other economic sectors are increasingly reliant upon complex data that require a secure electricity delivery system that minimizes utility downtime; and

WHEREAS, Cuyahoga County, as indicated below, has the authority to create and operate a Public Utility that can establish microgrids and other systems and networks to develop a more resilient and cleaner electric grid; and

WHEREAS, Article X, Section 3, of the Ohio Constitution provides that a Charter adopted by a County pursuant to the Ohio Constitution, "may provide for the concurrent or exclusive exercise by the county, in all or in part of its area, of all or of any designated powers vested by the constitution or laws of Ohio in municipalities"; and

WHEREAS, Cuyahoga County adopted a Charter that provides in Article I, Section 1.01 that "the County may exercise all powers specifically conferred by... the Constitution and laws of Ohio... including the concurrent exercise by the County of all powers vested in municipalities by the Ohio Constitution or by general law; and

WHEREAS, Ohio Revised Code Chapter 743 allows the legislative authority of a municipality to operate a public utility; and

WHEREAS, this Council finds it is necessary that this Ordinance become immediately effective in order to establish a public utility for the benefit of the citizens of Cuyahoga County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Section 202.04 of the Cuyahoga County Code is hereby amended to read as follows (additions are bold and underlined):

- A. The Department of Public Works is hereby established under the supervision of the County Executive and the Director of Public Works who, pursuant to Article V of the Charter, shall be appointed by the County Executive, subject to confirmation by Council, and shall serve at the pleasure of the County Executive.
- B. The duties and functions of the former Department of Central Services shall be incorporated into the Department of Public Works unless otherwise provided for in the Code of Cuyahoga County. The Department of Public Works shall contain the following divisions and sections: (a) Finance and Planning Division, containing a Finance and a Planning Section, (b) Maintenance Division, (c) County Engineer Division, containing a Design Section and a Construction Section, ~~and~~ (d) Animal Shelter Division, **and (e) Public Utilities Division.**
- C. The person hired by the Department of Public Works to perform the duties declared by general law to be done by a County Engineer shall possess the credentials for a County Engineer that are required by the Ohio Revised Code, which are currently that the County Engineer be both a registered professional engineer and a registered surveyor, licensed to practice in the State of Ohio.
- D. The operations of the Cuyahoga County Airport, including, but not limited to, all functions, duties, responsibilities, employees and assets of the Airport are hereby transferred from the Department of Development to the Department of Public Works. The operations shall be allocated within the established divisions under the Department of Public Works as applicable. Notwithstanding the foregoing sentences of this Section (D), the economic development interests of the County with regard to the facilities, tenants, prospective tenants/businesses and parcels of the County Airport shall remain the responsibility of the Department of Development.
- E. With the consent of the County Executive, the Director of Public Works is authorized to employ persons in the service of the Department within established budgetary parameters and in compliance with the Human Resources policies and procedures of the County. Nothing in Section 202.04 of the Cuyahoga County Code is intended to limit the ability of the County Executive and the Director of Department of Public Works to abolish positions for the purpose of enhancing the efficiency of operations or for any other reason permitted by general law.

F. There is hereby established a Division of Public Utilities in the Department of Public Works subject to the provisions of the County Charter and ordinances of the County and to the supervision and direction of the Director of Public Works.

- 1. Before the Division of Public Utilities provides any public utilities or related services to the residents or entities of a municipality within Cuyahoga County, the Executive shall first receive consent from that municipality.**
- 2. County Council shall approve any agreements, including agreements with the municipality, necessary for the County to provide public utilities and related services within the municipality.**

SECTION 2. It is necessary that this Ordinance become immediately effective for the usual daily operation of the County; the preservation of public peace, health, or safety in the County; and any additional reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 3. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Jones, seconded by Ms. Simon, the foregoing Ordinance was duly enacted.

Yeas: Conwell, Brown, Stephens, Simon, Miller, Sweeney, Tuma, Gallagher,
and Jones

Nays: Baker and Schron

