

Cuyahoga Falls City Council
Minutes of the Public Affairs Committee Meeting
January 19, 2010

Members: Mark Ihasz, Chair
Kathy Hummel
Jeff Iula

Mr. Ihasz called the meeting to order at 8:40 p.m. All members were present.

Legislation to be Discussed:

None

Discussion

Mr. Ihasz stated that a resident wished to speak to Council and Administration on an issue he has been experiencing with the City.

Dante D’Avello, 2878 Silver Lake Blvd., is the owner of Totally Cooked located at 2730 Front Street. His business is a catering firm and he employs 20 full-time individuals and 40-50 part-time employees during heavy times. He has a dispute with the City regarding the construction of the property. When he purchased the property, they had some challenges. The parties agreed on a purchase price. His first issue is a settlement on the repair and construction work they had to do. There was some soffit that was loose but was not repaired or replaced before he purchased the property. A windstorm in May tore the roof off the building. He is trying to do the right thing. He purchased the property in “as is condition. Once they were in, they discovered the sewer line was capped from the roof to Hudson Drive. They had a videotape done but cannot get an answer as to who did it or who approved it. The next piece involved the asphalt. He selected Perrin Asphalt to do the parking lot. Through numerous correspondence between his attorney and the City, they tried to resolve the matter. He is trying to handle things in good faith. All repairs have been made out-of-pocket.

Ms. Jones stated she recalled that Mrs. Carr was going to allow City crews to go in to put a top coat on the parking area. Since Mr. D’Avello hired his own contractor, the City put a value on what it would have cost the City to do it and offered Mr. D’Avello that amount, which was \$2,700. With the issue about the capped sewer line, it was her legal opinion that they were unable to determine if the City’s contractor did it. The City was under no obligation or legal liability to take care of it. Regarding the soffit, Mr. D’Avello purchased the property “as is” so that was of the table. She sent a letter to Mr. D’Avello’s attorney offering the \$2,700. After that, they did not hear from. With that much time going by with him not responding to the offer, she told him that the City was not liable for these issues.

Mr. D’Avello stated the City is responsible with regard to the contract. This went through a long period of time. He does not know what his options are and he needs to find out what he can do. Mr. Walters stated he had not met with Mr. D’Avello in the past but there was a time when the City was considering getting rid of the moral claims process so he advised him to come to Council. No one is going to claim responsibility for who did what. The road was torn up and the previous owner said everything was fine with regard to the sewer line. He stated he would like to hear from Mr. D’Avello about what he is seeking and asked if anyone on Council was interested in sponsoring legislation to pay Mr. D’Avello an amount. Mr. D’Avello stated he was seeking \$13,500 for the value of the asphalt, \$9,500 for plumbing work, and \$14,500 for the roof. Ms. Jones stated for that amount of money, she would suggest that he sue the City or file a moral claim. This is highly irregular and she has not been given a copy of what he has shown to Council. Mr. Walters stated if it goes to Moral Claims and is voted on, it would come to

Council. If it is denied by Moral Claims, can he still come to Council. Ms. Jones stated he could not. He would have to then hire an attorney to see if his claims were worth suing the City for. Mr. Mader stated this is putting the cart before the horse. Council should not be involved in the process. It should be at Moral Claims, then Council will deal with it. He is not open to backing any legislation at this point. He appreciates where Mr. D’Avello is coming from. Mrs. Klinger stated if it makes it through Moral Claims and Council is not satisfied, this body has the ability to change it. If the committee does not support it, there is nothing stopping anyone from sponsoring legislation to pay for it.

Mrs. Colavecchio asked Mr. D’Avello if he was currently represented by counsel. He stated he was not. He cannot afford to hire an attorney. He’s tried to handle it quietly. Mrs. Colavecchio asked him if he turned his claims into his insurance company to cover any of the damages. He stated he had not. She suggested he try that route. She asked if he had been cited for any zoning violations. He stated he had not. She questioned the need for a permit to cap a sewer line. Mr. Demasi stated there were no permits pulled. He added the City’s contractor had all the necessary permits. Mrs. Colavecchio stated it would be her gut reaction that Mr. D’Avello’s next step would be to file a suit against the City. She said she could provide him with access to pro bono attorneys. She agreed that this was not the correct forum to address this issue.

Mr. Barnhart asked why Mr. D’Avello or his attorney did not reply to the offer by the City. Mr. D’Avello stated they were offended by the offer on the table. The real cost of replacement was not a \$2,700 check to say “bye.” Also, his attorney had to withdraw due to a conflict of interest. Mr. Barnhart stated he still should have responded.

Mr. Ihasz stated Mr. D’Avello’s next step would be Moral Claims and see how that goes. If not, he can take the advice of Mrs. Colavecchio and hire an attorney and proceed.

Meeting adjourned at 9:15 p.m.