

**Cuyahoga Falls City Council
Minutes of the Public Affairs Committee Meeting
October 19, 2009**

Members: Vince Rubino, Chair
Kathy Hummel
Ken Barnhart

Mr. Rubino called the meeting to order at 8:35 p.m. All committee members were present.

The minutes from the September 21, 2009 meeting were approved as submitted.

Legislation to be Discussed:

Temp. Ord. B-107

Discussion:

Temp. Res. B-107

A resolution withdrawing the City's objection to the renewal of liquor permit number 91164360005 of Two Taverns, Inc., and declaring an emergency.

Mrs. Ritzinger stated that before Council's August recess, there was an ordinance requesting an objection to a liquor permit of Two Taverns, Inc. dba Chestnut Beer Garden because of numerous problems. All of the parties involved have since met and have arrived at an agreement. Accordingly, based on that agreement, legislation is now before Council to withdraw its objection to the permit. Mr. Rubino opened the discussion up to the Committee and Council members. Mrs. Colavecchio asked how the agreement was arrived at. Hope Jones stated she met with Mrs. Ritzinger, Mrs. Pyke, Mr. Wetzel and some of the neighbors. She asked the neighbors what they would like to see this business do. Most of the items in this agreement are what the neighbors brought to the City. This is the final agreement of what Mr. Wetzel said he could live with. He has already hired a security guard and has shown more presence at the establishment. Mrs. Colavecchio commented that it is a very exhaustive agreement. She asked if the City had similar agreements with other tavern owners. Ms. Jones stated not with tavern owners. She started with an agreement from the Ranch Motel case and drafted from there. Mrs. Colavecchio asked Mrs. Pyke if there was a reason she was not a sponsor on this legislation since she sponsored the original. Mrs. Pyke indicated she was going to ask that her name be added.

Mrs. Hummel thanked Mrs. Pyke and Mrs. Ritzinger for the work they put into this matter in trying to rectify a neighborhood situation. However, she will not be supporting this ordinance. She did not want to start down the slope by making agreements with businesses to operate their business in a particular manner. She knows bars are conditional uses but they are governed by laws and have permits. If they are not operating lawfully, the City should take whatever actions needed to make them operate lawfully. Apparently, this establishment went too far from the law and matters should have been addressed sooner. It is troubling to her that local government is asserting itself into businesses. There are things in this agreement that should just be expected. She is disappointed that it takes an agreement for the owner to operate in a professional manner. She appreciates everyone's efforts and said there may be residents who might be upset with her. She just does not find this agreement appropriate.

Mr. Walters questioned Stipulation 21 regarding the City enforcing the agreement should a breach occur. He asked if that should fall under the Liquor Control Board. Mr. Arrington stated it would be the City as long as there is an agreement. The hearing with Liquor Control on the objection to the permit is being rescheduled. If the hearing is held and the City prevails, the permit will not be issued. If the hearing is held and the City does not prevail, Mr. Wetzel continues as he has been. An agreement is better than either side

taking a risk of losing. We needed an enforcement action in the agreement so problems can be addressed instead of waiting until next October to again object to the liquor permit. Mr. Walters stated he visited the bar when the first ordinance had come out. He heard it has been cleaned up since then. It was not very pleasant back then. Mrs. Pyke stated she believed the neighbors wanted to work with Mr. Wetzel all along. But he was not there to see these things happen so, as things escalated, the people just wanted it gone. By Mr. Wetzel signing this, the hearing goes away. She asked Mr. Wetzel if he thought things were better.

Mr. Wetzel stated the only significant incident was the Sunday before the July Council meeting. Since then, the only thing has been someone yelling. He's pulled the police reports and it has been quiet. He has installed a camera in the parking lot. Ms. Jones stated she also pulled the police reports. There was a disturbance on October 7 when a neighbor's shirt was ripped and she believed he had a warrant so he was taken away. She also stated there was a disorderly conduct complaint this week but that has not yet been written up. Mrs. Pyke stated this is the City's opportunity to address the problems here. Mr. Wetzel has agreed to do this. If Council does not agree, it will go to a hearing. She stated Mr. Wetzel can always come back later to get things released and it will be up to the committee. Mr. Ihasz asked what would happen if Council passes this and four to six months later, things go back to where they were. Mr. Arrington stated that the City would invoke the committee to review and impose sanctions up to closing him down for a period of time. If it is really bad, they could file nuisance sanctions as they did with the Boot Scoot. Likewise, if things improve, Mr. Wetzel can request a relaxation of some items.

Committee recommended bring out Temp. Ord. B-107

Other Business

Mrs. Hummel commented on the Question and Answer sheet Mrs. Carr put together regarding the power cost factor on the utility bills. She asked when the under-billing charge was discussed and what the financial impact was. She understands that the City must recover the amount that was under-billed but she asked if there was a requirement by AMP-Ohio that the City maintain specific revenue levels. Mr. Brodzinski stated that AMP-Ohio does not require a specific level. The approach the City takes in looking at the electric fund is it is the City's biggest utility based on volume, and they try to stay within a 15% to 20% reserve compared to revenues. But he said AMP-Ohio would not let the City come in as a 50% partner if it had low fund balances. Mrs. Hummel asked what the fund balance was. Mr. Brodzinski stated it was \$5+ million through savings and is on target for the 2009 budget. It is currently around 20.7%. Mrs. Hummel stated she has had a lot of conversations with rate payers. She is concerned whether the City needs to recover the uncollected revenues. If so, does it really need to be recovered in such a short period of time. She asked if it has been considered to extend the recovery period to three years. Mrs. Carr stated they definitely need to recover these funds. In light of the economy, they are working with customers who may need assistance in paying their bill. They feel that because of the expected revenue shortfall, they felt they should recoup sooner rather than later. They could look at extending the time but she would want to see how that impacts revenue before committing to that. Mr. Brodzinski added that they are in the process of instituting a rate study. The billing is already set up in a method that takes the spikes out of a billing. Mrs. Hummel felt it would be more useful to have something set up where everyone was dealt with the same way whether they asked for help or not where it could be split out so everyone was paying over a longer period of time.

Mrs. Hummel's second question was how the Power Cost Factor (PCF) was calculated. She was told there was a program written through Mr. Konich's department that was to act as a double check but that was done away with. Mrs. Carr stated there is a spreadsheet. The PCF was set up by ordinance. That is not the issue. The issue is that a piece was not put into that formula. Mr. McHugh stated with the cost of power, charges are filled into the spread sheet. One of the charges was a credit but the invoice that would have offset that credit was missed. It was not discovered for 18 months. Mrs. Hummel asked if there was a program in IT

that was to double check and reconcile what was going on. Mr. Brodzinski stated he was not aware of one but he would check on it. Mrs. Hummel stated she checked her personal utility bills and wanted to know if they were where everyone else's was. She took the total usage by month and the total charged for electric. For three months (May, April and July), her PCF was 6% of the total electric. In September, the PCF was 10%, and in October, it was 22%. Mrs. Carr stated that may be the case but she would have to look at it. Mrs. Hummel stated that on her personal bill, it amounted to \$8.77 and she could live with that. However, on her business bill, it was \$102. That is approaching 25% of her bill and that is disturbing to her. In her business, if she incorrectly charges someone for a sandwich and they come back in the next day, she cannot charge them for the order plus the amount of her previous day's error. She said Mrs. Carr has talked about running the City like a business. You can't have it both ways. The residents do not deserve to be penalized for what happened. She pointed out in Mrs. Hummel's analogy that she may not have charged the person that next day, but six months down the road, she may raise the price of cheese to cover the error. Mrs. Hummel stated she would like to see this charge spread out over a longer time. She also would have liked to have been told about this sooner. She believes if people's PCF went from 6% to 10% to 21% or 22%, that is significant. Mr. James agreed with Mrs. Hummel. He did not think it was fair for residents to pay for a mistake the City made. However it was made, the fact is that the taxpayers did not make it. The City did. The burden should be on the City. If the City has a reserve of \$5+ million and this mistake was \$3 million, we should eat it. Mrs. Carr stated they could maybe spread this out. Mrs. Hummel followed up on Mrs. Carr's comment about businesses raising their prices to cover an error. That certainly does happen. However, they are a free market. The City is a monopoly. Residents cannot get their electric elsewhere. Mrs. Carr agreed but pointed out that even with this increase, City rates are still lower. Mrs. Pyke about calculating her PCF. Mrs. Carr stated it depended on what the PCF was, which is 2.3. It would be usage times the current .023. In September, it was .009218. And, while she cannot make guarantees that it will stay around the .023, preliminary power cost estimates show it will be close to that in the next billing cycle. Mrs. Pyke asked if she could get the PCF for the last 12 months.

Meeting adjourned at 9:18 p.m.