

City of Cuyahoga Falls, Ohio

Notice of Special City Council Meeting

Notice is hereby given that a Special Meeting of City Council will be held on Monday, September 20, 2010, at 6:29 p.m. for the following purposes.

1. To introduce and assign to the Finance Committee and vote on the following ordinance.

Temp. Ord. A-115:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A SETTLEMENT AGREEMENT IN THE CASE OF MORAN FOODS, INC. V. STATE ROAD ASSOCIATES V. CITY OF CUYAHOGA FALLS, AND DECLARING AN EMERGENCY

2. To conduct an executive session with Council as a whole in order to confer with legal counsel pursuant to Revised Code §121.22(G)(3) regarding pending litigation, to wit: *Moran Foods, Inc. v. State Road Associates v. City of Cuyahoga Falls*, U.S. District Court Case No. 1:09-cv-01782PAG
3. To conduct any other business, including without limitation, rules suspensions and executive sessions necessary to accomplish the foregoing.

Dated at Cuyahoga Falls, Ohio this 17 day of September, 2010.



Don L. Robart
Mayor

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3 CITY OF CUYAHOGA FALLS, OHIO

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5 ORDINANCE NO. - 2010

6
7 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER
8 INTO A SETTLEMENT AGREEMENT IN THE CASE OF
9 MORAN FOODS, INC. V. STATE ROAD ASSOCIATES V. CITY
10 OF CUYAHOGA FALLS, AND DECLARING AN EMERGENCY

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12 WHEREAS, on July 31, 2009, Moran Foods, Inc. filed a lawsuit against State Road
13 Associates captioned *Moran Foods, Inc. v. State Road Associates v. City of Cuyahoga Falls*,
14 U.S. District Court Case No. 1:09-cv-01782PAG, and

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16 WHEREAS, on January 19, 2010 the City of Cuyahoga Falls was named a third party
17 defendant in the lawsuit, and

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19 WHEREAS, the parties have negotiated a proposed resolution of all of the issues involved
20 in the lawsuit, and

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22 WHEREAS, on June 14, 2010 this Council passed Ordinance 77-2010 authorizing the
23 settlement of the above captioned lawsuit upon terms materially different than those now
24 proposed, and

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26 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,
27 County of Summit, and State of Ohio:

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29 Section 1. That the Mayor is hereby authorized to execute a settlement agreement in
30 the above-captioned case, on the basis of the proposal negotiated and presented to City
31 Council on September 20, 2010.

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33 Section 2. That the Director of Finance is hereby authorized and directed to make
34 payment for same from the Capital Projects Fund.

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36 Section 3. That the Mayor and/or Director of Law, as indicated, are hereby authorized
37 to execute and file such pleadings and documents with the court or other agencies,
38 including, without limitation, the easements, the encroachment permit, a stipulated
39 judgment entry and any other pleadings or conveyances necessary to effectuate the intent of
40 the parties as set forth in the proposed settlement agreement.

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42 Section 4. That any ordinances or resolutions or portions of ordinances and resolutions
43 inconsistent herewith be and the same are hereby repealed, but any ordinances and
44 resolutions not inconsistent herewith and which have not previously been repealed are
45 hereby ratified and confirmed.

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47 Section 5. That it is found and determined that all formal actions of this Council
48 concerning and relating to the passage of this ordinance were taken in an open meeting of
49 this Council and that all deliberations of this Council and of any committees that resulted in
50 those formal actions were in meetings open to the public, in compliance with all legal
51 requirements including Chapter 107 of the Codified Ordinances.

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53 Section 6. That this ordinance is hereby declared to be an emergency measure
54 necessary for the preservation of the public peace, health, safety, convenience and welfare of
55 the City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the
56 affirmative vote of two-thirds of the members elected or appointed to Council, it shall take
57 effect and be in force immediately upon its passage and approval by the Mayor; otherwise it
58 shall take effect and be in force at the earliest period allowed by law.

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Passed: _____

President of Council

Clerk of Council

Approved _____

Mayor

9/20/10
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