

MINUTES OF SPECIAL MEETING
OF
BOARD OF TRUSTEES
OF
YOUNGSTOWN STATE UNIVERSITY

Tod Hall
Monday, July 24, 2013

Pursuant to notice duly given, a special meeting (the three hundred eighteenth) of the Board of Trustees of Youngstown State University convened at 5:40 p.m., on Monday, July 24, 2013 in the Board Room in Tod Hall.

Eight trustees were present at the meeting, to-wit: Dr. Sudershan K. Garg, chairperson of the board, who presided, Dr. John R. Jakubek, Mr. Harry Meshel, Mr. Leonard D. Schiavone, Mr. David C. Deibel, Mr. James B. Greene, Mr. James E. Roberts and Ms. Melissa M. Wasser. Mrs. Carole S. Weimer and Ms. Delores E. Crawford were absent.

Also present were: Dr. Randy J. Dunn, President of the university; Dr. Ikram Khawaja, Provost and Vice President for Academic Affairs; Mr. Eugene P. Grilli, Vice President for Finance and Administration; Mr. John Fahey, Vice President for Student Affairs; Mr. R. Scott Evans, Vice President for University Advancement; Ms. Holly A. Jacobs, University General Counsel and Mr. Franklin S. Bennett, Jr., Secretary to the Board of Trustees. Also present were approximately 5 persons, including deans, members of the faculty, students, administrators, and members of the news media.

ITEM I – PROOF OF NOTICE OF MEETING.

Evidence was available to establish that pursuant to Article II, Section 2, of the board's *Bylaws*; notice of the president's call for today's special meeting was timely provided to each of the trustees, the student trustee, and to the president.

ITEM II – DISPOSITION OF MINUTES FOR MEETING HELD JUNE 12, 2013.

The chairperson stated that disposition of the minutes of the board's regular meeting held June 12, 2013 (#317) would be deferred until the next regular meeting of the board.

ITEM III –REPORTS OF THE COMMITTEES OF THE BOARD.

The chairperson asked whether any trustee had an objection to the approval by unanimous consent of the resolution recommended for adoption by the Finance and Facilities committee of the board. There being no objection to the consideration of the recommended resolution by consent, the board considered the following committee report and recommendations:

1. Finance and Facilities Committee

The chairperson noted that the Finance and Facilities Committee was recommending one resolution for adoption by the board. There being no objection thereto, the chairperson declared the following resolution adopted by general consent:

Resolution to Approve
Leasing of University Property for Restaurant Development

YR 2014-01

WHEREAS, the State of Ohio owns, for the use and benefit of Youngstown State University, approximately 0.345 acres of real property which contains a 3,640 square foot restaurant building formerly known as Mighty Moe's, that is located at 315 Elm Street, Youngstown, Ohio 44503 ("Premises"), as identified on the map attached hereto as Exhibit A; and

WHEREAS, the Premises was originally constructed as a Burger King restaurant and was most recently operated as Mighty Moe's Sports Restaurant prior to the State of Ohio acquiring the Premises on December 28, 2010; and

WHEREAS, on or about May 10, 2012, Youngstown State University entered into a listing agreement with commercial realtor Edward J. Lewis, Inc. to market and procure a tenant for the Premises; and

WHEREAS, on or about March 14, 2013, Pamela VonBergen, owner and operator of the Subway restaurant located on the YSU campus at 210 W. Rayen Avenue, and the Subway restaurant located in downtown Youngstown at 20 Federal Place, submitted a proposal to Edward J. Lewis, Inc. to lease the Premises to operate a Hot Head Burrito restaurant franchise; and

WHEREAS, pursuant to Ohio Revised Code Section 123.01(A)(5), the Ohio Department of Administrative Services has the power to lease university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees; and

WHEREAS, Youngstown State University requested that the Ohio Department of Administrative Services negotiate a Letter of Intent with Pamela VonBergen with regards to her interest in leasing the Premises to operate a Hot Head Burrito restaurant; and

WHEREAS, on July 1, 2013, the Department of Administrative Services, Youngstown State University and Pamela VonBergen entered into a Letter of Intent expressing the interest of all parties to enter into a lease for the Premises that would be consistent with the terms and conditions contained in the Letter of Intent, which is attached hereto as Exhibit B; and

WHEREAS, the Department of Administrative Services, Youngstown State University and Pamela VonBergen are in the process of finalizing a lease for the Premises that incorporates the terms and conditions contained in the Letter of Intent; and

WHEREAS, the lease being utilized for the Premises is a State of Ohio lease that shall be approved by the Ohio Attorney General, and executed on behalf of the State of Ohio by Governor John Kasich, the Director of the Department of Administrative Services or designee, and Youngstown State University.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University, pursuant to Ohio Revised Code Section 123.01(A)(5), hereby approves the Department of Administrative Services, on behalf of Youngstown State University, leasing the Premises to Pamela VonBergen and/or VB Companies, LLC for the operation of a Hot Head Burrito restaurant; and

BE IT FURTHER RESOLVED, that the lease for the Premises be consistent with the terms and conditions contained in the Letter of Intent attached hereto as Exhibit B.

ITEM IV – COMMUNICATIONS AND MEMORIALS

The board considered no communications or memorials.

ITEM V – UNFINISHED BUSINESS

The board considered no unfinished business.

ITEM VI – NEW BUSINESS

The board considered no new business.

ITEM VII – CHAIRPERSON’S REMARKS

The chairperson offered no remarks

ITEM VIII – TIME AND PLACE OF UPCOMING REGULAR MEETINGS

Upon motion duly made and seconded, which received the affirmative vote of all trustees present, the trustees resolved to set the following dates and times for the next regular meetings of the board to be held in the Board Room in Tod Hall:

3:00 p.m., Wednesday, September 25, 2013

3:00 p.m., Wednesday, December 18, 2013

3:00 p.m. Wednesday, March 12, 2014

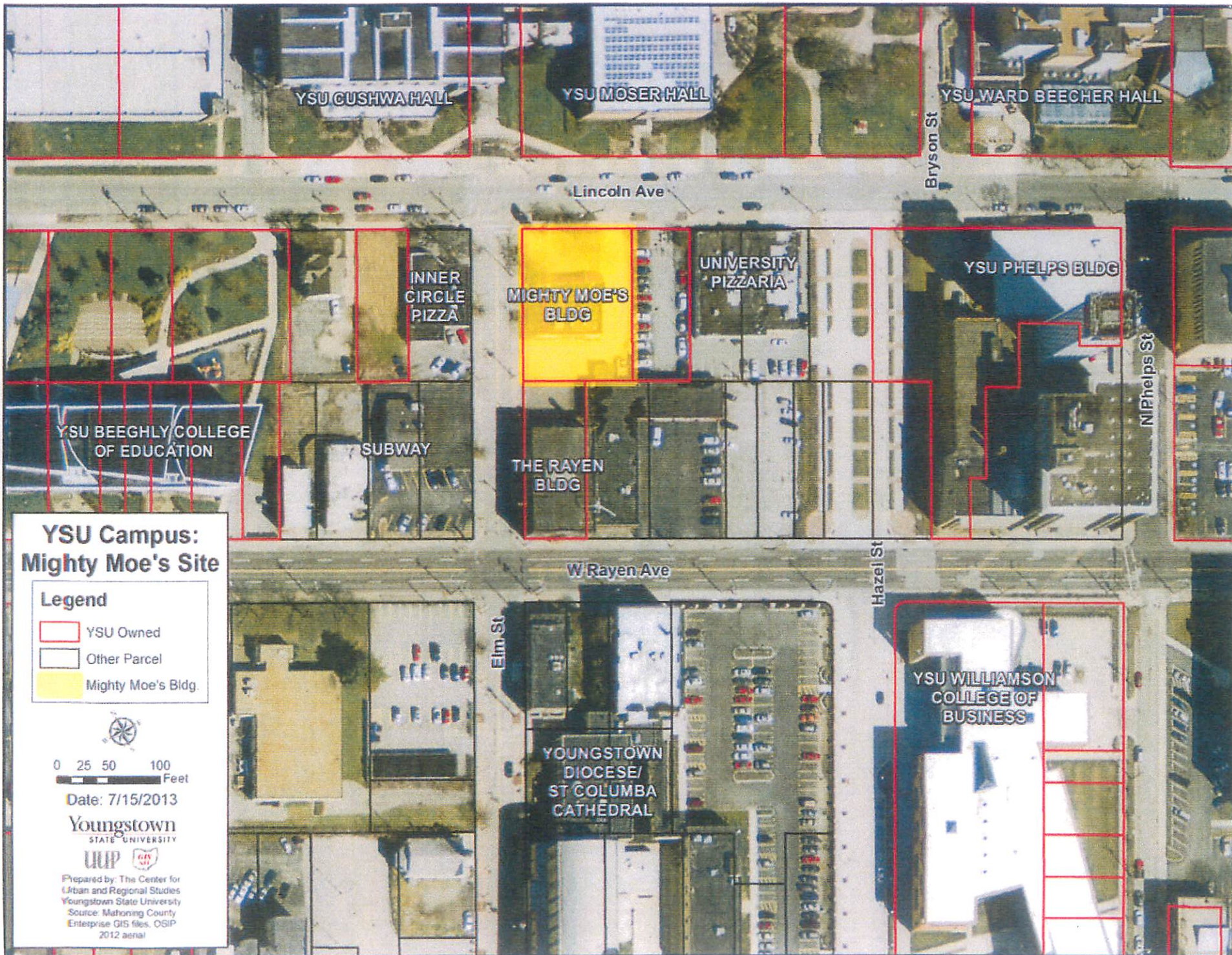
ITEM IX – ADJOURNMENT

There being no further business to before the board of trustees, and upon motion duly made and seconded, the meeting was duly adjourned by unanimous vote of the trustees at 5:45 p.m.

Chairperson

ATTEST:

Secretary to the Board of Trustees



YSU Campus: Mighty Moe's Site

Legend

- YSU Owned
- Other Parcel
- Mighty Moe's Bldg.



0 25 50 100
Feet

Date: 7/15/2013

Youngstown
STATE UNIVERSITY



Prepared by: The Center for
Urban and Regional Studies
Youngstown State University
Source: Mahoning County
Enterprise GIS files, OSIP
2012 aerial

June 21, 2013

Edward J. Lewis, Inc.
27 South Hazel Street
Youngstown, Ohio 44503

Attention: James Grantz, Broker Associate

Re: Letter of Intent
Parcels 53-003-0-162-000
315 Elm Street
Youngstown, Ohio 44503
File No. YSU

Dear Mr. Grantz:

The purpose of this letter is to express the intent of the state of Ohio, acting by and through the Director of Administrative Services, on behalf of Youngstown State University (collectively "Landlord"), to enter into a Lease with Pamela Von Bergen, an Ohio Individual, as franchisee for Hot Head Burrito ("Tenant"), for approximately 0.345 acres, containing a 3,640 square foot building located at 315 Elm Street, Youngstown, Ohio 44503 ("Premises").

The lease of real estate identified herein is contingent upon the Tenant agreeing to the following terms and conditions:

1. **PREMISES:** 315 Elm Street
Youngstown, Ohio 44503
Parcel No. 530030162000
2. **USE:** Tenant must operate and conduct business as a Hot Head Burritos restaurant throughout the initial term and any additional renewal options, unless mutually agreed otherwise by Landlord. Tenant shall be permitted to sell frozen yogurt as part of the Hot Head Burrito restaurant.
3. **TERM:** Tenant will lease the Premises for an initial term of ten (10) years and will have the option to renew for three (3) additional five (5) year terms, for a total term of twenty-five (25) years.
4. **RENT:** During the initial term of the Lease, Tenant will pay Landlord an annual rental rate of Thirty Thousand and 00/100 Dollars (\$30,000.00) or (\$8.24 per square foot) for use of the Premises which sum shall be payable in equal monthly installments of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) on or before the 1st day of each month.

	<u>Annual Rent</u>
Years 1-10	\$30,000.00
Years 11-15	\$33,000.00
Years 16-20	\$36,300.00
Years 21-25	\$39,930.00

5. **RENT COMMENCEMENT DATE:** Rent will commence the earlier of (a) the opening to the public of Tenant's business on the Premises or (b) 120 days after full execution of the Lease.

6. **EXISTING DUE DILIGENCE:** Landlord agrees to provide Tenant with copies of any existing title, surveys, environmental reports, soils reports, inspection reports, etc. that Landlord has in its possession related to Premises.
7. **DUE DILIGENCE:** Tenant shall have ninety (90) days after full execution of the Lease to review title and survey, conduct environmental and geotechnical soil testing, inspect the Premises and to perform such other inspections and investigations as Tenant deems appropriate. Copies of all such reports will be provided to Landlord. Tenant shall have ninety (90) days after full execution of the Lease to submit and receive all permits required to construct and operate its restaurant, in a form consistent with existing restaurant sites currently operating in Ohio, at a financially feasible cost, determine the location of all utilities, and to receive from Landlord a Memorandum of Lease, Subordination, Non-Disturbance and Attornment Agreement, and any other third party consents, agreements, or certifications as reasonably required.
8. **UTILITIES:** Tenant, at its sole cost and expense, shall be responsible for all utilities serving the Premises. If the existing utilities do not meet Tenant specifications, Tenant may, with Landlord's prior written approval, modify and/or relocate said utilities to the Premises at Tenant's sole cost and expense. In the event the existing utilities are required to be relocated, such relocation shall not adversely affect the surrounding properties.
9. **INDEMNIFICATION:** The State of Ohio will not indemnify the Tenant.
10. **FRANCHISEE:** Tenant may assign this Lease to the Hot Head Burrito Franchisor or the Hot Head Burrito Franchise Area Developer with prior written notice to the Landlord.
11. **MAINTENANCE, REPAIR AND REPLACEMENT:** Tenant, at its sole cost and expense, shall maintain and repair the Premises over the term of the Lease.
12. **INSURANCE:** Tenant, at its sole cost and expense, shall maintain building casualty and general liability insurance in amounts acceptable to Landlord over the term of the Lease.
13. **REAL ESTATE TAXES:** Tenant, at its sole cost and expense, shall be responsible for any federal, state and/or local taxes and assessments levied against Landlord resulting from this Lease of the Premises.
14. **BROKER:** The Ohio Department of Administrative Services shall not pay nor be liable for any broker's commissions or fees that may be due in connection with the Lease of the Premises referenced herein.
15. **RIGHT OF FIRST REFUSAL:** The Lease will not contain a Right of First Refusal to purchase the Premises.
16. **SIGNAGE:** All signage other than the standard Hot Head Burrito signage shall be approved by Landlord and must be in conformity with local building and property codes/ordinances.
17. **LEASE DOCUMENT:** The State's current lease form will be used to document all final negotiations, terms and conditions, required of Tenant to occupy the Premises.

This Letter of Intent shall expire at 5:00 p.m. (EST) on June 30, 2013. This Letter of Intent is not a contract of legal obligation of the Landlord, but merely an expression of general interest in pursuing a lease of the Premises and shall not be construed as a binding agreement between the Landlord and the Tenant. Since, under the Law, the only contract the Department of Administrative Services, on behalf of Youngstown State University, can enter into would be a lease executed by the Director of the Ohio Department of Administrative Services, concurred with by Youngstown State University, approval of the lease, as to form, by the Attorney General of Ohio, and the availability of the premises for actual occupancy by the Tenant.

Sincerely,



Nathaniel O'Neal
Commercial Real Estate Specialist

The terms of the within Letter of Intent are accepted and agreed to by Youngstown State University.

By: 
Eugene Grilli
Vice President for Finance and Administration

Date: 7-1-13

The terms of the within Letter of Intent are accepted and agreed to by Pamela Von Bergen.

By: 
Pamela Von Bergen
Franchisee, Hot Head Burrito

Date: 6-28-13

cc: Master File
Youngstown State University, Greg Morgione



QSR

Limited-Service, Unlimited Possibilities
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.com

**"THE NEXT BIG
CHAIN!"** AOL

- **The Hot Head Story**
- **HOT HEAD BURRITOS®** was founded by Cynthia and Raymond Wiley. Ray, a franchisee of a major restaurant chain for over 19 years, and his wife Cynthia, a paralegal, have been managing their own multi-unit restaurant company for many years. The couple had a desire for more. A desire to create a concept with the franchisee in mind.
-
- In October of 2006, the husband and wife team set out to design an efficient, modern competitive concept. The concept needed to be sharp, have great food, great decor and efficient operations. Overall it needed to be a great competitor in the Quick Serve Mexican category. The concept had to appeal to customers because of its "Awesome" food and "Cool" inviting atmosphere. The concept had to appeal to franchisees with careful, thought out operations and a clear, detailed Operations Manual with a focus on financial efficiencies.
- After months on the drawing board for Ray and months in the kitchen for Cynde, the concept came to life in March of 2007, welcoming lines of happy repeat customers. Ray says, "I knew I had something when for hours the lines of people reached the door."
-
- **HOT HEAD BURRITOS®** quickly became a contender in the Quick Serve Mexican food segment. As of April of 2013, there will be 52 **HOT HEAD BURRITOS®** open and many more in development. Ray says as he looks into the hundreds of emails received from the overwhelming response from potential franchisees, "there's no telling how big this thing will become."

2012 Fast Casual
TOP 100
MOVERS & SHAKERS



Company Summary

- Hot Head Burrito concept fits a niche between fast food and fine dining – offering the customer the best benefits of both segments. Hot Head Burrito provides the convenience of fast food with rapid response times, affordability, as well as carry out and catering. Hot Head offers a fresher and tastier alternative to typical fried fast food products such as hamburgers and fries. Hot Head Burrito Area Developers recently opened restaurants in Austintown and Boardman with the previously opened one in Hermitage, PA. There are plans to expand to Niles and of course this location on the YSU Campus. This location will be a catalyst in getting the brand name of Hot Head Burrito out to our surrounding areas due to the students coming from all areas of Ohio.



Executive Summary

The franchisor, Hot Head Burrito is one of the fastest growing quick service Mexican food restaurants with locations in Hermitage, Austintown and Boardman opening recently in our area. There are 52 locations currently open with more opening this year. The chain is positioned somewhere between a traditional fast food restaurant and a sit down restaurant. The segment of the market is attuned to the popularity of other quick service Mexican food restaurants such as Chipotle.

My goal is to serve excellent food focusing on the students and faculty of YSU, downtown Youngstown businesses, local hospitals, police departments, schools and surrounding residential areas.

I am committed to increasing the brand awareness of the "New Burrito in Town" with aggressive marketing strategies.



MISSION

- Our mission is to bring to market the tastiest fast food for YSU, downtown businesses (2 blocks from location) as well as our residential customers at a competitive cost premium with other fast food restaurants. Our high standards of quality and cleanliness will establish our reputation as the cleanest and fastest quick service restaurant in the area. The following guiding principles will contribute to our success:
 - Provide a great work environment and treat employees with dignity and respect
 - Apply the highest standards of excellence to the food preparation and service to our customers
 - Build lasting relationships with guests
 - Contribute positively to the communities
 - Recognize that profitability is essential to our future success
 - A management team with extensive restaurant experience with proven success



Marketing Strategies

- Grand Opening Event
- Press releases with all local newspapers including Jambar – YSU paper
- Ribbon cutting ceremony with Chamber of Commerce
- Participate in Pete's Points – Campus meal card
- Sponsorship of "Welcome Week" – access to 14,000 students
- Sponsorship of YSU Athletics including advertising in program books
 - Football, Basketball (men's and women's), Volleyball, Track & Field, upcoming Baseball, Pink Ribbon Cheer Classic
- Advertise in Youngstown Phantoms program book
- Advertise in the Campus Map brochure handed out to all students
- Mail drop to all Downtown Businesses
- On foot canvassing with free samples
- Catering to nearby factories and businesses
- Participate in "Fundraising" opportunities
- Provide excellent customer service for "word of mouth" advertising
- Marketing fund from this "Area" to participate in radio, newsprint and TV ads
- Hand out flyers to all dorms on campus with a Grand Opening Special

Management Summary

Owner, Pamela VonBergen has extensive Management experience. Pamela was a Divisional Director of Operations, (DDO) for Advance America for 15 years prior to taking over operations of the Subway on the YSU Campus. Pamela managed up to 24 locations and was honored with DDO of the year 4 times. Pamela opened 12 new stores and had multiple employees promoted within the company.

Pamela has operated the Subway since September 2008 and has grown it to #1 store in Mahoning/Trumbull county.

Larry VonBergen has been with Subway for 4 years, starting off as a Manager who now oversees both locations. Larry has taken extensive University of Subway training classes in addition to some management classes. Larry will be the General Manager of the Hot Head Burrito.

Jerry Green has been with Subway for 3 years and is currently the Manager of the downtown location. Jerry will be transferred to Hot Head and he will attend the 2 week training classes with Larry.

There are team members at Subway that will be promoted to take the positions left behind by Larry and Jerry.



Personnel Plan

Most of our employees will come from Youngstown State University and surrounding metro areas. They will be primarily college students and/or high school students.

We plan to hire a AM Shift leader and a PM Shift leader. They will be trained by Larry VonBergen.

All employees will receive ongoing training and development so they will have the tools needed to be the best.

We will select an “Employee of the Month” to show recognition for excellence in the workplace. Employee recognition is key to having motivated employees.



Accomplishments

Currently own Subway on YSU Campus which shows the results of a well ran, successful restaurant which is very similar in operations to a Hot Head Burrito. I share this to prove that Hot Head Burrito will be a success under my ownership.

- I took over operations from previous Subway partner in September 2008. Annual sales for restaurant was \$343,547 and sales at the end of 2012 were \$704,962, **that is a sales increase of 105%** in 4 years.
- Participate in the Campus Pete's Points meal plan which we began in 2010. We are averaging a **\$50,000 increase in annual sales** by accepting this method of payment.
- Built a rapport with the YSU Athletic Department which accounted for increased sales. In addition we sponsor Football, Basketball, Volleyball and Track & Field. YSU Athletics send me contact information of visiting teams coming in so I can provide "To go" for these teams. In addition we supply lunches for the basketball and football camps provided for area kids.
- Receive annual "Health Inspections" and have passed all with flying colors
- Have recruited and trained an excellent team, without this you will never be successful
- Phantoms Hockey team sponsorship and they get subs for away games catered

YSU/Subway Relationship

- Sponsorship of Football, Basketball and Track & Field. Working with Rick Love and track and field coach Brian Gorby. Provide discounts on sub orders. In addition we provide subs for coaches at no cost during 2 games as part of our sponsorship. Last year we advertised on the scoreboard and will continue this again this season.
- Participate in numerous fundraising events proposed by YSU student groups
- Participation in Pink Ribbon Cheer Classic
- Accept Pete's Points Meal card
- Provide platters for Williamson Business College Accounting class for 4 years during tax season
- Donate platters or subs when asked by various events
- Provided box lunches for football summer camps
- In prior years have had Subway Dude at Volleyball games, having a sub eating contest and giving away \$50.00 gift card

We strive to do whatever we can to enhance the relationship between our restaurant and YSU.

We will commit to having the same relationship with Hot Head Burritos !