

ORDINANCE 2018-03

AN ORDINANCE DECLARING IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY LOCATED WITHIN THE VILLAGE OF COMMERCIAL POINT TO BE A PUBLIC PURPOSE AND EXEMPT FROM REAL PROPERTY TAXATION; REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THOSE SERVICE PAYMENTS; SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE THAT DIRECTLY BENEFIT SUCH REAL PROPERTY; AUTHORIZING THE DISTRIBUTION OF THE APPLICABLE PORTION OF THOSE SERVICE PAYMENTS TO THE TEAYS VALLEY LOCAL SCHOOL DISTRICT AND EASTLAND-FAIRFIELD CAREER AND TECHNICAL SCHOOL DISTRICT; APPROVING AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT; AND DECLARING AN EMERGENCY

WHEREAS, Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the “TIF Statutes”) authorize this Council, by ordinance, to declare improvements to parcels of real property located within the corporate boundaries of the Village of Commercial Point, Ohio (the “Village”) to be a public purpose and exempt from taxation, require the owner of each such parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the Village, local or exempted village school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of those service payments, and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, such parcels; and

WHEREAS, the parcel or parcels of real property identified and depicted in Exhibit A attached hereto are located in the Village (with each of those parcels, as now or hereafter configured, referred to herein individually as “Parcel” and collectively as the “Parcels”), and this Council has determined to declare the Improvement (as defined in Section 1 of this Ordinance) to the Property to be a public purpose; and

WHEREAS, this council has determined that it is necessary and appropriate and in the best interest of the Village to exempt from taxation one hundred percent (100%) of the Improvement to the Parcels as permitted and provided in Section 5709.40(B) of the Ohio Revised Code for up to thirty (30) years (the “TIF Exemption”); and

WHEREAS, in accordance with the Tax Increment Financing Agreement authorized herein, this council has determined to direct and require the current and future owner(s) of Parcels (each such owner individually, an “Owner,” and collectively, the “Owners”) to make annual Service Payments (as defined in Section 3 of this Ordinance) with respect to the Parcels in lieu of the real property tax payments, and in the same amount as they would have made real property tax payments except

for the exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments is subject and subordinate to any exemptions applicable to the Improvement approved by the Village pursuant to Section 3735.65 through 3735.70 of the Ohio Revised Code (the “CRA Exemption”); and

WHEREAS, notice of this proposed ordinance has been delivered to the Board of Education of Teays Valley Local School District (the “School District”) and Eastland-Fairfield Career and Technical School District (the “JVSD”) in accordance with and within the time periods prescribed in Sections 5709.40, as applicable, and 5709.83 of the Ohio Revised Code; and

WHEREAS, the Council has determined that a portion of the Service Payments shall be directly paid to the School District and the JVSD in an amount equal to the real property taxes that would have been payable to the School District and the JVSD if the Improvements to the Parcels located in the School District and the JVSD had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, this Council has determined to provide for the construction of additional public infrastructure improvements described in Exhibit B attached hereto (the “Public Infrastructure Improvements”), as further provided in the Tax Increment Financing Agreement authorized herein, which Public Infrastructure Improvements, once made, will directly benefit the Parcels; and

WHEREAS, the Village anticipates that Pettit’s Markets, LLC (the “Developer”) will construct or cause to be constructed a commercial retail project upon the Parcels (collectively, the “Project”); and

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Commercial Point, County of Pickaway, Ohio, that:

SECTION 1. Authorization of Tax Exemption; Duration of Tax Exemption. Pursuant to and in accordance with the provisions of Section 5709.40(B) of the Ohio Revised Code, this Council finds and determines that one hundred percent (100%) of the increase in assessed value of each respective Parcel subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to as the “Improvement,” as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose and shall be exempt from taxation for a period commencing the first tax year that begins after the effective date of this ordinance (such commencement date hereinafter referred to as the “Commencement Date”), and ending for such parcel on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the Village can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

SECTION 2. Public Infrastructure Improvements. This Council designates the Public Infrastructure Improvements described in Exhibit B attached hereto, and any other public infrastructure improvements hereafter designated by

ordinance as public infrastructure improvements, as public infrastructure improvements made, to be made, or in the process of being made by the Village or the Developer that directly benefit, or that once made will directly benefit, the Parcels.

SECTION 3. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, this Council directs and requires the owner of each Parcel to make annual service payments in lieu of taxes with respect to the Improvement allocable thereto to the Pickaway County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121 and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments"), will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), will be allocated and distributed in accordance with Section 5 of this Ordinance.

SECTION 4. Tax Increment Equivalent Fund. This Council establishes, pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the Welch Road Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"), into which the County Treasurer will deposit the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels and not required to be distributed to the School District or the JVSD pursuant to Section 5 of this ordinance. The TIF Fund will be maintained in the custody of the Village. The Village may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Statutes and this Ordinance. The TIF Fund will exist so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining therein transferred to the Village's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

SECTION 5. Distribution of TIF Revenues. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

(i) to the School District and the JVSD, an amount equal to the amount the School District and the JVSD would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvements to the Parcels located within each such school district's boundaries if the Improvement had not been exempt from taxation pursuant to this Ordinance; and

(ii) to the Village, all remaining amounts for further deposit into TIF Fund for payment of costs of the Public Infrastructure Improvements, including debt service on any securities issued to finance those costs.

SECTION 6. Tax Increment Financing Agreement. The form of Tax Increment Financing Agreement (the "TIF Agreement") presently on file with the Fiscal Officer is hereby approved and authorized with changes and completions thereto that are not inconsistent with this Ordinance, not substantially adverse to the Village and approved by the Mayor and the Village Solicitor. The Mayor, for and in the name of the Village, is hereby authorized to execute and deliver the TIF Agreement in substantially that form along with any changes or completions thereto, provided that the approval of such changes and completions thereto by the Mayor, and the character of those changes and completions as not being substantially adverse to the Village, will be evidenced conclusively by the Mayor's execution thereof.

SECTION 7. Tax Exemption Priority. This Council finds and determines that the TIF Exemption and the obligation to make Service Payments are subject and subordinate to any tax exemption applicable to the Improvement pursuant to Sections 3735.65 through 3735.70, 4582.46, 5709.12 or 5709.61 through 5709.69 of the Ohio Revised Code, including the CRA Exemption.

SECTION 8. Further Authorizations. This Council authorizes and directs the Mayor, the Fiscal Officer, the Village Solicitor or other appropriate officers of the Village to make such arrangements as are necessary and proper for collection of the Service Payments from the owner of each Parcel, including the preparation and filing of any necessary exemption applications. This Council further authorizes and directs those officers or other appropriate officers of the Village to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance and the TIF Agreement.

SECTION 9. Non-Discriminatory Hiring Policy. In accordance with Section 5709.832 of the Ohio Revised Code, this Council hereby determines that no employer located upon any Parcel shall deny any individual employment based solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

SECTION 10. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

SECTION 11. Effective Date. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Village and its inhabitants for the reason that this Ordinance must be immediately effective so that the work can begin on the construction of the Public Infrastructure Improvements, wherefore, this Ordinance shall take effect and be in force from and immediately after its adoption.

Vote on Passage of the Ordinance and declaring it an emergency:

Motion by: Scott O'Neil 2nd Bruce Moore

Roll Call:

Yes Laura Wolfe

Yes Ben Townsend

Yes Scott O'Neil

Yes Jason Thompson

Yes Aaron Grassel

Yes Bruce Moore

CERTIFIED AS ADOPTED, this 20th day of AUGUST, 2018.



Greg Joiner, Mayor

ATTEST



Wendy Hastings, Fiscal Officer

APPROVED AS TO FORM



Mike Hess, Solicitor

EXHIBIT A

IDENTIFICATION AND MAP OF THE PARCELS

The outlined area on the following map specifically identifies and depicts the Parcels (tax year 2017 Pickaway County Parcel L28-0-005-00-061-00) and constitutes part of this Exhibit A.



EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under Section 5709.40(A)(7) of the Ohio Revised Code and that directly benefits or serves parcels in the Incentive District and specifically include, but are not limited to, the “Public Infrastructure Improvements” described in the TIF Agreement (as may be amended from time to time) and any of the following improvements that will benefit or serve parcels in the Incentive District and all related costs of those permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code):

- **Parks.** Construction or reconstruction of one or more public parks, including grading, trees and other park plantings, park accessories and related improvements, together with all appurtenances thereto;
- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto;
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above;
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto;
- **Stormwater.** Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare, including the following:
- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research; and
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.