

Cuyahoga Falls City Council
Minutes of the Finance Committee Meeting
June 18, 2012

Members: Diana Colavecchio, Chair
Don Walters
Jeff Iula

Mrs. Colavecchio called the meeting to order at 6:38 p.m. All members were present.

The minutes from the June 4, 2012 meetings were approved as submitted.

Legislation Discussed:

Temp. Ord. A-62

Discussion

Temp. Ord. A-62

An ordinance authorizing the Mayor and the Director of Community Development to enter into a modification of Contract No. 6779 with Portage Crossing LLC, and declaring an emergency.

Mrs. Colavecchio stated that discussion on this ordinance began two weeks ago. Council recently received a new spreadsheet. Mrs. Truby explained they addressed the merits of the contract at the previous committee meeting. The only additional language to the contract was in Section 1 under "Conditions of Closing". She emailed that change to Council members on June 7. Mrs. Colavecchio stated the newest spreadsheet showed the net investment as \$14,036,264, the property acquisition price of \$10.2 million, and the expenses at \$2,857,213. She asked if that was all of the expenses. Mrs. Truby stated she took the total and removed the income and added debt-related expenses to come up with \$1,935,818. Mrs. Colavecchio stated that the spreadsheet included interest on debt issuance and asked if that was related to the City's notes. Mr. Brodzinski indicated it was. Mrs. Colavecchio stated that contractual obligations are public improvements at \$1.8 million, parking at \$3.8 million, and landscaping at 5,659,000, for a total of \$17,829,764. The net is \$14,036,264, which the City will break even on in 16 years. Mr. Brodzinski agreed. With regard to the developer's investment, there is \$10 million by Giant Eagle and \$24 million by Menards. She asked whether those represent the purchase of land plus construction of buildings plus the value of leases over the long term. Mrs. Truby stated that Giant Eagle is the total cost to build that project. She is not aware of anything private between the developer and Giant Eagle. These figures are not what the developer's costs are. In the \$10 million for Giant Eagle, there may be costs borne by Stark Enterprises for landscaping, etc., but she did not have those costs. Mrs. Colavecchio assumed it was proprietary information for the developer to decide how he will finance the project, secure investors, or come up with funds for deals he strikes. Mrs. Truby stated the City is only obligated to check the condition of financing. Mrs. Colavecchio stated she read the original contract that showed the red-lined changes. The City is building on 25.29 acres of land but it was projected to be almost 28 acres originally. She asked how much of that comprised the BP station. Mrs. Truby stated that BP is mapping a little over an acre and there may be easements in there, as well. Mrs. Colavecchio stated with regard to Section 9(a) on the red-lined document that the City had a feel that the estimated cost of public improvements was \$3,025,597. The new figure is \$2.5 million. On the schedule, the public improvement cost is the full cost of \$3.8 million. Mrs. Truby responded that that figure was defined when the project was in phases. Since then, the public improvements have been more readily defined. Mrs. Colavecchio asked if the old figure was just for Phase I and the figure in the new contract is for both phases. Mrs. Truby stated she would have to check. Mr. Brodzinski stated at one point the City was looking at \$3.5 million to secure \$1 million grant, which left a net construction cost of \$2.5 million. It is

\$1,866,333 plus \$1,133,667, which ties back to \$3 million for both phases. Mrs. Colavecchio stated that in Section 21 of the new contract, there is language that this contract completely replaces the old contract. However, in some places in the new contract, such as in Section 1(a), it relates back to Section 1 of the original contract. She asked why the old contract would be referred to if it is being replaced. Mrs. Truby stated she would verify that with Pam Hanover.

Mrs. Colavecchio stated she was aware that Pam Hanover represents the City but she felt the language seemed slanted to the developer, specifically regarding performance and the releasing of money held by the City for improvements. She asked if Mrs. Truby was comfortable with this language and with when and how the City distributes the money and how it is being released. Mrs. Truby indicated she is very comfortable with it and added that Mr. Brodzinski also seemed to be comfortable with it.

Mrs. Colavecchio stated she sent an email to Mr. Janis regarding the TIF ordinance with the schools that provides for a 22% portion of the taxes to be paid to the school district. Pam Hanover had stated she did not feel there was a need to revisit the School Board and Mr. Janis concurs with that statement. Mrs. Colavecchio asked to hear it discussed in a public forum because this is a new agreement and the terms have changed. Mrs. Truby stated she spoke with Dr. Nichols who asked for a copy of the new agreement. The 22% the School District receives is whether the project gets larger or smaller. Mr. Janis stated the TIF ordinance does not refer to a specific amount of money nor does the agreement with the School Board refer to parcels or what will take place. The agreement assigns a certain percentage that will be met.

Mrs. Klinger felt that the City is giving the illusion that the developer is paying \$3,793,500 for 25 acres of land when in fact he is paying nothing. The original agreement said the City will give the developer back 75% of the purchase price to use for "private improvements," which means the City is giving \$2,845,125 back to the developer, leaving the developer to pay \$948,375 for the land. Tonight's agreement commits the City to give the full \$3,793,500 back to the developer. On April 23, 2012, Council voted to extend the contract with the developer and during those public meetings the Administration never mentioned the terms of the contract were changing. Two weeks ago, Mrs. Truby stated they had been working on the new terms for six months. During this same six-month period, Council received a letter dated December 16, 2011 from Mrs. Carr justifying a water rate increase and indicating "[o]ne of the most important reasons to consider raising rates is to safeguard our necessary capital program." She then listed capital waterline replacements for the next three years. The \$110,000 cost of the Portage Trail waterline for the Portage Crossing project was missing from that list. Since then, the Administration has indicated the City could not repair the lines in the Chestnut Blvd area, which was rumored to have as many as a dozen breaks in the lines, this year because it didn't have the funds, but yet it can cover a \$110,000 project that was not part of list presented during the water rate increase discussion. With that thought in mind, she stated that Bob Stark is one of the principals of Rosemont Commons in Fairlawn. On June 8, 2012, the *Akron Beacon Journal* quoted Herb Newman, who is Bob Stark's partner at Rosemont Commons, as saying "[w]hen we built on West Market Street we widened the street from four lanes to seven, not just in front of our centers, but from Smith Road to Cleveland Massillon Road." She added that the developer paid for that cost. When Council approves this new agreement, the City is committing to bearing much of the costs of the surrounding infrastructure and Council is agreeing that it approves the plans to slow the traffic flow on Portage Trail. For these reasons, and others she has raised, she cannot support this legislation.

In response to Mrs. Klinger's comments, Mrs. Truby stated she could pull contracts from all over Summit County. Large projects are not negotiated over night. With regard to the Goodyear project, Akron committed to sales tax dollars, private money, and many other things. If there is a shortfall in any or all of those, the City of Akron is on the line for that. They are trying to save 2,900 jobs. She stated that Mrs. Klinger has never gone into any of the discussions on this project. She continues to allude it could have

been a better project, and she continues to attack the Administration. The City is making an investment of \$14 million but it will recoup that over time. What has been accomplished is to transform a dilapidated piece of property into a state of the art retail center that will bring jobs and money. There is nothing more to say.

Mr. Brodzinski stated that the list Mrs. Carr gave to Council were projects related to the water fund. This project is associated with projects in the capital projects fund. Certain money can only be spent on certain things. This was never intended to be paid out of the water fund. In looking for state funding, it is valued on point system. Any project associated with the Goodyear project was given 40 bonus points. Cuyahoga Falls would have gotten an additional \$1.8 million for the State Road widening because of the regional value they saw.

Pauline Larson, 431 Thomas Court, felt Mrs. Klinger will be proven correct. She knows someone chose this developer. There were four bidders on this project. Two of them submitted projects that were rejected because they were not what the City wanted. The City should have made it clear what it wanted. She also wondered if moving the pump station was added. The City had to buy BP because the developer could not afford to buy it. This is \$20 million coming out of the taxpayers' pockets. She stated that Mrs. Truby indicated it is not costing the City anything because it is going to get the money back but Mrs. Larson wanted to know how Mrs. Truby can say the City is not paying anything out of taxpayers' pockets if taxes are paying for the project. Taxes for the next 15, 20 or 30 years are going to pay off the loans the City took out to build the project. If there were no loans, there would be no money for the City to pay back, and the taxes collected on this project would go to the City and schools.

Mrs. Carr stated that Substation 4 was built in the 1950s and was in poor shape. It has been planned to rebuild it for years. There were a lot of considerations taken into account, including the additional need to supply residents to the north so its current location was not working. It was relocated to land that the City already owned and electric funds were used. It did not come out of taxpayer dollars. It came out of rate payers' dollars. Mrs. Truby added that anytime the City does a project, it creates a Request for Proposal or Request for Qualifications. The City sent out 15 to 20 RFPs to various developers in and out of Ohio. Four bids were received. Developers can put together any kind of response they want. They also gave presentations which allowed them to expand their proposals. At the end of the process, the selection committee selected a developer it felt was the best.

Mrs. Colavecchio asked Mrs. Truby to explain what would happen if this ordinance were to fail and the City had to go back to the drawing board. Mrs. Truby stated that would be ludicrous. The City has so much time and money invested in this. There are a lot of developers out there. Stark Enterprises will rank in the top three or five in the state. It is already known what he can accomplish. To start the process over, they City would not have a developer, and approval would not come back to Council for two or three years.

Mrs. Pyke stated she was concerned about Mrs. Klinger's comments regarding the water lines. Mrs. Carr stated the City is not turning its back on Chestnut. It will be on the capital list for next year. Mr. Brodzinski stated that with the Portage Crossings project, these lines are associated and capitalized with total of infrastructure. It comes out of the capital projects fund. Unlike Graham Road where the water line is an existing one and needs to be done out of the water fund. This project comes out of capital projects fund. By voting on this, it has zero impact on the water fund. You cannot comingle funds.

Mrs. Colavecchio assured everyone present that Council takes the task of spending tax dollars seriously. They may not agree with how it is spent but they do weigh it. This project has been a long time in the making. Some on Council do not believe in it and that is their absolute right. Some have been supporters since its inception, including herself. She feels much more comfortable supporting this amount vs. the

original contract because the original contract called for a build-out in two phases. The City is now securing it in one phase. This is less risk and more money in a shorter time. She is very comfortable supporting this. It is Council's job to ask why the City is being asked to give more. If you look at what is being sold to the developer and what the City is getting back, it is a wash. However, this is not just a project to sell land. The City is selling a place and creating a space that did not exist before. The project is necessary. She hopes she is doing the right thing and that she can sit here in 16 years and say she made the right call.

Mr. Walters moved to bring A-62 out with a favorable recommendation, second by Mr. Iula. Motion passed (3-0).

The meeting adjourned at 7:17 p.m.