

**Cuyahoga Falls City Council**  
**Minutes of the Committee of the Whole Meeting**  
**August 12, 2013**

**Members:** Don Walters, Chair  
Mr. Rubino  
Mr. James  
Mrs. Snyder  
Mr. Colavecchio  
Ms. Nichols-Rhodes  
Mrs. Klinger  
Mrs. Pyke  
Mr. Iula  
Mr. Pallotta

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

**Legislation Discussed**

Temp. Res. B-56

**Discussion**

**Temp. Res. B-56**

A resolution granting Council's consent to an extension of time for the sale of certain real property to Portage Crossing, LLC, and declaring an emergency.

Mr. Walters stated he will act as Chair for the Committee of ten. It will handle like regular committee meeting with a recommendation to bring the resolution out of committee for a vote if that motion carries.

Mrs. Truby thanked Council for agreeing to the special meeting and apologized for having to call it during Council's August recess. The developer filed his documentation with the bank by July 30, except for one third-party document. She had forwarded Council the confirmation email from Huntington Bank stating all conditions of closing had been met, the loan documents had been executed, and funds placed in escrow while awaiting that third party document. On August 6, they attained signature of the third party and had it notarized. The City then received a second letter from Huntington stating they everything was ready to close. The purpose of this meeting is to move the contract date from July to August. The ordinance states September 16 because at the time the legislation was written, the Administration was not sure whether they would be able to convene a Council meeting in August due to Council's recess. Also, due to vacations, if the resolution did not receive at least six votes, it would not be effective for 30 days. The Law Director wanted to make sure the time period would cover the 30 days if it was needed. The project has not changed since the May 6 presentation. The developer started working on site last Friday and is ready to start moving dirt tomorrow. They are ready to close tomorrow based on Council's vote this evening.

Mrs. Klinger asked about the status of Menards and whether it will be located on the Giant Eagle property. Mrs. Truby indicated that Menards remains interested in the site. There was a period of time at the beginning of this year when Menards was not looking to open any new locations. However, since that time, they have expressed an interest in opening another location in Ohio and, in particular, Cuyahoga Falls. There has been contact via letters but Menards has not yet committed. Mrs. Klinger asked when the last correspondence was received from them. Mr. Truby stated she believed it was in May. There have been conversations in the last 30 days but nothing in writing. Mrs. Klinger asked what position was held by the individual at Menards with whom the City was corresponding. Mrs. Truby stated it was Mr. Menard, she believed the III, but she'd have

to verify which one. Mrs. Klinger wanted to go on the record to state that this is an extension of a contract she felt was a bad contract and it hasn't changed anything for her so she will still not be supporting this.

Mrs. Snyder stated neither she nor Mrs. Klinger supported the contract when it was previously before Council in May. Her issue was specifically about \$1.8 million. At that time, she was not comfortable with the additional giveaways and she indicated she is still not comfortable with them and, because of that, she is also not in support of this extension. That does not mean she is not in support of this project. As a taxpayer and a resident, she wants this to be just as successful as anyone else wants in this town. However, she is not able to vote to extend a contract she does not agree with.

Mrs. Pyke asked what would happen if this legislation should fail. Mr. Janis stated if it does not pass, the parties do not have the authority to close the transaction. They always have the option to contract again but Council, at some point, would need to approve whatever else is negotiated. Mr. Colavecchio stated the legislation specified a September 16 date and asked if there was any reason why that date couldn't be changed to August 16. Mr. Janis stated that when the legislation was drafted, they did not know whether they would have a quorum or how many members would be available for an August meeting so they set the date so that if the resolution passed by simple majority, it would be effective with enough time to close the transaction. If the resolution passes by a vote of two-thirds or more, then it could be effective immediately. Mr. Colavecchio asked if a motion could be made this evening to move that date from September 16 to August 16. Mr. Janis stated Council has the discretion to amend legislation as it chooses. Mrs. Pyke indicated that if Mr. Colavecchio were to make that amendment, she would support it.

Mr. Walters asked Mrs. Truby to explain the delays, specifically things that may not have been in the press and, therefore, not known to Council or the public. Mrs. Truby stated the third party signature was required and they had been waiting on that. Everything is now signed and they are ready to close tomorrow. Mr. Walters stated that in looking back when the first extension was given, they thought they could close prior to that date without the contract expiring and now we're back again with another extension. He wondered what the stumbling block was to result in numerous extensions? Mrs. Truby stated in the retail world, if the plan is to sign something by X date, but, when X date rolls around, extenuating circumstances occurred that caused a delay. We are now at the end of this long road and there are no more delays. Mr. Walters asked whether there were additional leases signed and tenants committed since the developer has had extra time? Mrs. Truby indicated Mr. Rubin told her today they have a letter of intent from five additional businesses. Once they are able to close, that will bring a little excitement and she expects that more will sign in the next few weeks. Mr. Walters stated that the contract states a certain percentage had to be signed in order to make the project economically feasible for the developer. He assumed that the percentage threshold has been reached and asked what the percentage was. Mrs. Truby did not know that information.

Dennis Brinton, 2951 8<sup>th</sup> St., stated he is getting tired of all the delays and extensions. He originally questioned this project and still questions it. He is trying to figure out why the City didn't pull the plug on this project early on. It has been dragging on for a long time. He was doing some research and discovered that Stark had given the Mayor more than \$5,000 in campaign contributions during the negotiation period. He does not think that is ethical and in line with campaign finance laws. He feels the resources that have been used for this project, should have been used somewhere else in the community. He also heard rumors that there may have been some school development or campus planned in discussions among the Mayor, the superintendent and school board. Based on the track record of this project, he hoped that didn't come to pass. Schools are important and things will just drag on. He would like to see something happen here but doesn't think that what is planned is the best.

Jim Henes, 1818 Joan of Arc Cir., could remember when the State Road Shopping Center was thriving. The growth of this community is going to be up towards Northampton where there is land. There is no land anywhere else. People who live on the east side have Chapel Hill and big shopping centers in Stow. Those aren't available on the west side. He feels that with the land and type of community we have here, things

need to happen in a substantial and expedited way. He is hoping this legislation goes through. This shopping center should go in. There is a great future here. He is proud of Cuyahoga Falls.

Mayor Robart stated Mr. Brinton indicated the City should just shelve this plan because it might be able to come up with a better, more peaceful plan. The City has spent six years developing this plan. Three of the five members of the committee that selected Stark Enterprises were Council members: Debbie Ritzinger, Diana Colavecchio and Ken Barnhart. It had nothing to do with campaign contributions. The Mayor stated he was happy with their selection because he had seen the work of Bob Stark and could see there was no one who would be better connected to retail entities than Bob Stark. He felt it was absurd to think about finding someone else and starting all over again. He felt the best person was selected. He shared where the City has been over the past six years. He has been asked why the City didn't go back to the original owner and have him make improvements. The Mayor stated he met with Stuart Graines several times and all he ever received from him was lip service. If the City hadn't been proactive, nothing would have ever happened with that shopping center. It would still be sitting there and, instead of being 30% occupied as it was at the time the City took action, it would probably be completely empty and have graffiti on it, and the constituents would be asking why isn't the City doing something. The moment the Mayor knew nothing would ever be done with the shopping center occurred at his last meeting with Mr. Graines. They were standing in front of LeFevre's after lunch and Mr. Graines asked the Mayor how to get to the State Road Shopping Center from there. At that point, the Mayor stated it became paramount in his mind that something had to be done. He immediately went back to City Hall and talked to Virgil Arrington. That is when they found out the Ohio General Assembly was changing the law effective October 10, 2007. The City filed eminent domain action on October 9. Had they not done that, the shopping center would still be there because there would be no way to force the owner to do anything with it and it would have ended up being very similar to Mr. Graines' shopping center out in Stow that continues to go downhill. The Administration put together an agreement and took it to City Council in early 2008. It passed unanimously for the City to buy the shopping center. Council did that with the intention that the property would be redeveloped. No one knew who it would be. There have been things that have popped up over the past couple of years that could not have been anticipated and were out of the City's control. One was that Menards was originally supposed to be part of Portage Crossing. At the time, Stuart Graines had an agreement with Bob Stark to sell the Pizza Hut property for \$275,000. It would have been bulldozed for Menards to go into that space. However, when Stuart Graines found out that Menards was coming, his price went from \$275,000 to \$3.5 million. The City could not anticipate that. All they can do is be persistent and keep working, which they did. It cost them a year but they kept going. They also did not know that the EPA, without any notification, changed the rules regarding the detention ponds so the whole complex had to be redesigned to facilitate detention ponds. That could not be anticipated either. Finally, when the City purchased the BP property from EZ Energy, EZ Energy had a grandfather clause that stated any business could be built on the site as long as it didn't sell coffee or soft drinks. That eliminated a restaurant so the City had to go back to BP, which caused a delay. The point he was trying to make was that there were things that came up constantly but the City was persistent and determined and kept moving the project forward. It's been a struggle and the economy hasn't helped, but the City has worked hard and, despite what Mr. Brinton says, this is going to get done. If this resolution passes this evening, the financing will close tomorrow and infrastructure will begin this week. After going through the neighborhood the past month, one thing that was on the minds of the voters in this community was they want to get this thing started. He did not think anyone in the room had ever put together a project of this magnitude but the City did, and it will last for decades upon decades. This needs to get voted on tonight, we need to get it closed tomorrow, and we need to get construction begun this week.

Lidia Wszebowski, 1917 Schiller Ave., stated this has been a very long 3-1/2 years. The homeowners need time to purchase other homes and yet they are being requested to move by September 1. She just wants the project to move forward to offer closure to the homeowners on Schiller.

Mrs. Klinger wanted to make a clarification on the Mayor's comments regarding the Pizza Hut property. Mrs. Hummel pointed out to her that she had asked Mrs. Truby at the time the City purchased the property if

it was going to be a problem if the City did not have the out boxes and she was told it would not. Mrs. Klinger wanted everyone to remember the history that it was reported it would not be an issue and it has been more than an issue.

Mr. James moved to bring out Temp. Res. B-56 with a favorable recommendation, second by Mrs. Pyke. Motion passed (9-1).

The meeting adjourned at 7:20 p.m.