

**BEACHWOOD CITY COUNCIL MINUTES OF THE
SPECIAL COUNCIL MEETING
TUESDAY, JUNE 7, 2022, 6:00 PM
at Beachwood City Hall, Council Chambers,
25325 Fairmount Boulevard, Beachwood, Ohio 44122**

-Pledge of Allegiance to the Flag of the United States of America-

The meeting was called to order at 6:02 P.M. by Council President Alec Isaacson.

ROLL CALL: Present: M. Burkons, A. Isaacson, B. B. Janovitz,
J. Mintz, D. Shoykhet, E. Synenberg, J. Taylor
Absent: None.
Also Present: C. Arrietta, W. Griswold, S. Hastings, L. Heiser,
J. Heller, T. Turick, Stewart Wangard, Michael Goller,
David Parrish, Ryan Sommers

MAYOR'S REPORTS

Mayor Berns had no remarks but asked Mr. Arrietta to discuss a Change Order for the Beachwood Boulevard Sewer Relief Project.

ECONOMIC DEVELOPMENT COMMITTEE

1. An Ordinance declaring improvements to a Certain Parcel of Real Property located within the City of Beachwood to be a public purpose and exempt from real property taxation; authorizing the Mayor to enter into a TIF Agreement with Eastgate LLC and Hepatica Hill Holdings, LTD or its designee; requiring the owner of the parcel to make service payments in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of those service payments; authorizing the payment to the Beachwood City School District; making related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43; and declaring this to be an urgent measure

Moved by J. Taylor, seconded by B. B. Janovitz, that Ordinance No. 2022-76 be placed on Final Reading.

ROLL CALL Yes: A. Isaacson, B. B. Janovitz,
J. Mintz, D. Shoykhet, J. Taylor
No: M. Burkons
Abstain: None.
Not Voting: None.
MOTION ADOPTED

Moved by A. Isaacson, seconded by B. B. Janovitz, that Ordinance No. 2022-76 be adopted.

Yes: A. Isaacson, B. B. Janovitz,
J. Mintz, D. Shoykhet, J. Taylor
No: M. Burkons
Abstain: None.
Not Voting: None.
MOTION ADOPTED

ANY OTHER MATTERS COMING BEFORE CITY COUNCIL

None.

ADJOURNMENT

Moved by A. Isaacson, seconded by J. Taylor, to adjourn the Regular Council Meeting at 8:13 A.M. to the next regularly scheduled Council Meeting.

ROLL CALL	Yes:	M. Burkons, A. Isaacson, B. B. Janovitz, J. Mintz, D. Shoykhet, E. Synenberg, J. Taylor
	No:	None.
	Abstain:	None.
	Not Voting:	None.

MOTION ADOPTED

Approved:

Whitney M. Crook

Clerk

Justin David

Mayor

Pursuant to Ordinance Number 2020-78 Council has determined that the Video Recording of the meetings shall stand as the official Minutes of its Body, its Committees, and those of the Planning and Zoning Commission. A written synopsis of all agenda items and votes shall also be promptly prepared and kept.

AN ORDINANCE DECLARING IMPROVEMENTS TO A CERTAIN PARCEL OF REAL PROPERTY LOCATED WITHIN THE CITY OF BEACHWOOD TO BE A PUBLIC PURPOSE AND EXEMPT FROM REAL PROPERTY TAXATION; AUTHORIZING THE MAYOR TO ENTER INTO A TIF AGREEMENT WITH EASTGATE LLC AND HEPATICA HILL HOLDINGS, LTD OR ITS DESIGNEE; REQUIRING THE OWNER OF THE PARCEL TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING AN URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THOSE SERVICE PAYMENTS; AUTHORIZING THE PAYMENT TO THE BEACHWOOD CITY SCHOOL DISTRICT; MAKING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.41, 5709.42 AND 5709.43; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, Sections 5709.41, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the “TIF Statutes”) authorize this Council, by ordinance, to declare improvement to parcels of real property located within the corporate boundaries of the City of Beachwood, Ohio (the “City”) 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 City, local or exempted 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 parcel; and

WHEREAS, Eastgate LLC and Hepatica Hill Holdings, Ltd. has contracted to acquire title to a certain parcel of real property identified and depicted in EXHIBIT A attached hereto are located in the City (now or hereafter configured, referred to herein as “Parcel” or “Property”), for the purpose of urban redevelopment of the Parcel pursuant to the master plan and based upon the recommendation of the Economic Development Committee, 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 City to exempt from taxation one hundred percent (100%) of the Improvement to the Parcel as permitted and provided in Section 5709.41(C)(1) of the Ohio Revised Code for up to thirty (30) years (the “TIF Exemption”) with make-whole payments to the Beachwood City School District in the amount of the real property taxes that would have been payable to the School District if the Improvements had not been exempted from taxation by the TIF Exemption; and

WHEREAS, this Council has determined to direct and require the current and future owner(s) of the Parcel (each such owner individually, an “Owner” and collectively, the “Owners”) to make annual Service Payments (as defined in Section 2 of this Ordinance) with respect to the Parcel 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; and

WHEREAS, notice of this proposed Ordinance has been provided and delivered to the Board of Education of the Beachwood City School District (the “School District”) in accordance with and within the time periods prescribed in Section 5709.40, if applicable, Section 5709.41(C) and 5709.83 of the Ohio Revised Code; and

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

WHEREAS, the Owner of the Parcel will apply for exemptions from taxation under Section 5709.911

of the Ohio Revised Code on behalf of themselves as the Owner of the Parcel.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio, that:

Section 1: Authorization of Tax Exemption; Duration of Tax Exemption.

Pursuant to and in accordance with the provision of Section 5709.41 of the Ohio Revised Code, this Council finds and determines that one hundred percent (100%) of the increase in assessed value of the 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 5709.41(A) of the Ohio Revised Code) is hereby to be 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 City can no longer require Service Payments, all in accordance with the requirements of the TIF Statutes. The Mayor is hereby authorized and directed to enter into a Development Agreement between the City of Beachwood and Eastgate LLC and Hepatica Hill Holdings, Ltd. in a form substantially similar to that attached hereto and incorporated herein as Exhibit "B".

Section 2: Service Payments.

Pursuant to Section 5709.42 of the Ohio Revised Code, this Council directs and requires the Owner of the Parcel to make service payments in lieu of taxes with respect to the Improvements allocable thereto to the Cuyahoga County Treasurer (the "County Treasurer") on or before the final dates for payment of real estate taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Section 323.121 and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments"), will be charged and collected in the same manner and 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 will be allocated and distributed in accordance with Section 4 of this Ordinance. This Council hereby authorizes the Mayor, Clerk, and City Law Director, and other appropriate officers of the City, to provide such information and certifications and to execute and deliver or accept delivery of such instruments as are necessary and incidental to collection of those Service Payments, and to make such arrangements as are necessary and proper for payment of those Service Payments.

Section 3: Tax Increment Equivalent Fund.

The Council hereby establishes, pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the 23215 Commerce Park Urban Redevelopment Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"), into which the County Treasurer will deposit the Service Payments collected with respect to the Parcel and not required to be distributed to the School District pursuant to Section 4 of this Ordinance. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Statutes, the TIF Agreement and this Ordinance. The TIF Fund will exist so long as such Service 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 City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

Section 4: Distribution of Service Payments.

Pursuant to the TIF Statutes, the County Treasurer is required to distribute the Service Payments as follows:

- (i) To the School District, an amount equal to the amount the School District would otherwise have received as real property tax payments derived from the Improvements to the Parcel located within the School District's boundaries as if the Improvement had not been exempted from taxation pursuant to this Ordinance; and
- (ii) To the City, all remaining amounts for further deposit in the TIF Fund for use in accordance with the TIF Statutes, the TIF Agreement and this Ordinance.

Section 5: Delivery to Director of the Development Services Agency.

Pursuant to Section 5709.41(E) of the Ohio Revised Code, the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of the Development Services Agency of the State of Ohio within fifteen (15) days after its passage. On or before March 31st of each year that the TIF Exemption set forth in Section 1 hereof remains in effect, the Mayor or other authorized office of the City shall prepare and submit to the Director of the Development Services Agency of the State of Ohio the status report required under Section 5709.40(I) of the Ohio Revised Code, with respect to the development activities on the Parcel, the exemption from taxation established herein and the receipts of Service Payments in connection with that exemption.

Section 6: TIF Agreement.

The Mayor is hereby authorized and directed to enter into a TIF Agreement with Eastgate LLC and Hepatica Hill Holdings, Ltd. or its designee (the "TIF Agreement"), with such changes thereto as the Mayor determines are not materially adverse to the City, such determination being evidenced by his signature thereon. The Mayor, Clerk and Law Director, or other officials of the City, as appropriate, are each authorized and directed to prepare, execute and deliver any certificates and other documents, agreement, representations and instruments and to take such actions as are necessary or appropriate in connection with this Ordinance.

Section 7: Further Authorizations.

This Council authorizes the Mayor, the Finance Director, the Law Director or other appropriate officers of the City to make arrangements as are necessary and proper for the collection of Service Payments from the Owner of the 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 City 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 8: Non-Discriminatory Hiring Policy.

In accordance with Section 5709.832 of the Ohio Revised Code, this Council hereby determines that no employer located on the Parcel shall deny any individual employment based solely on their race, religion, sex, disability, color, national origin or ancestry.

Section 9: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 of the Codified Ordinances of the City.

Section 10: This Ordinance is declared to be an urgent measure which is immediately necessary for the public peace, health or safety or the efficient operation of the City, and for the further reason that it is necessary in order to provide jobs and employment opportunities in the City and overall improve the economic welfare of the residents of the City by generating new income tax and payments in lieu of tax revenues all in the interest of economic development and urban redevelopment in the City and to do so at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall take effect and be in force from and after the earliest date permitted by law.

Attest: I hereby certify this legislation was duly adopted on the 7th day of June, 2022, and presented to the Mayor for approval or rejection in accordance with Article Section 8 of the Charter on the 8th day of June, 2022.


Clerk

Approval: I have approved this legislation this 8th day of June, 2022 and filed it with the Clerk.


Mayor

EXHIBIT A

THE PARCEL

Legal Description of the Development Property

Situated in the City of Beachwood, County of Cuyahoga and State of Ohio and known as being part of Original Parcel No.1 of the Commerce Park Development as recorded in Volume 185, Pages 73, 74 and 75 of Cuyahoga County Records, further known as part of Original Warrensville Township Lot No. 58, bounded and described as follows:

Beginning at the Northwesterly corner of said Parcel No. 1 which point is in the Easterly side line of Green Road, 80 feet; thence North $89^{\circ} 58' 52''$ East along a Northerly line of said Parcel No. 1, 496.00 feet to a point; thence South $0^{\circ} 14' 28''$ East 311.08 feet to a point; thence South $89^{\circ} 45' 32''$ West 496.00 feet to the aforementioned Easterly side line of Green Road, 80 feet wide; thence North $0^{\circ} 14' 28''$ West along said Easterly side line of Green Road, 313 feet to the place of beginning.