

ORDINANCE NO. 90-2005

Offered by Allo Council

AN ORDINANCE DECLARING IMPROVEMENTS TO CERTAIN PROPERTY IN THE VILLAGE TO BE A PUBLIC PURPOSE, DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENT TO BENEFIT THE PROPERTY, EXEMPTING SUCH IMPROVEMENTS TO THE PROPERTY FROM REAL PROPERTY TAXATION, AUTHORIZING THE EXECUTION OF SUCH OTHER DOCUMENTS AS MAY BE NECESSARY, AND ESTABLISHING A TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS AND RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40, 5709.42 AND 5709.43 AND DECLARING AN EMERGENCY

WHEREAS, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 provide that this Council may declare certain improvements to property within the Village to be a public purpose, thereby authorizing the exemption of those improvements from real property taxation for a period of time and provide for the making of service payments in lieu of taxes by the owner of such parcels for the purpose of paying for public infrastructure improvements which directly benefit the property for which the improvement was declared to be a public purpose and establish a municipal public improvement tax increment equivalent fund into which such service payments shall be deposited; and

WHEREAS, this Council desires to make the public infrastructure improvements in the Village described in Exhibit "A" hereto (the "Public Infrastructure Improvements") that once made would benefit or serve the property known as Permanent Parcel No. 50-02690 (described in Exhibit "B" hereto), the improvements to which are declared to be a public purpose, hereinafter referred to as the "Property"; and

WHEREAS, the Village has determined that it is necessary and appropriate and in the best interests of the Village to provide for service payments in lieu of taxes with respect to the Property (the "Service Payments") pursuant to Section 5709.42 of the Ohio Revised Code; and

WHEREAS, the Village has entered into an agreement with MPEC Richfield LLC, the owner of the Property, to pay Service Payments and to petition for special assessments to be levied against the Property to pay costs for the Public Infrastructure Improvements with the payment of special assessments subject to offset by the amount of Service Payments received by the Village; and

WHEREAS, the Property is located in the Revere Local School District and the Board of Education of the Revere Local School District has been provided notice in accordance with Section 5709.83 of the Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, Ohio that:

- SECTION 1. The Council hereby creates and confirms that the improvements to Property known as Permanent Parcel No. 50-02690 currently owned by MPEC Richfield LLC, as described in Exhibit B, are determined to be Public Improvements.
- SECTION 2. The Public Infrastructure Improvements described in Exhibit "A" are hereby designated as those Public Infrastructure Improvements that benefit or serve directly the Property and are necessary for the public health, safety and welfare.
- SECTION 3. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40, this Council hereby finds and determines that 75% of the increase in the assessed value of the Property that would first appear on the tax list and duplicate of real and public utility property after the effective date of this Ordinance (which increase in assessed value is herein referred to as the "Improvement" or "Improvements" as defined in Section 5709.40) is a public purpose, and 75% of said Improvements is hereby declared to be a public purpose for a period of 10 years and exempt from taxation commencing with the tax year in which the Improvements first appear on the tax list and duplicate of real and public utility property after the effective date of this Ordinance and ending on the earlier of (1) the date the Improvements have been exempted from taxation for a period of 10 years or (2) the date on which the Village has collected into the Fund established in Section 5 hereof a total amount of Service Payments available for and sufficient (i) to pay costs of the Public Infrastructure Improvements, (ii) to pay the principal, interest and premium, if any, on financing for such costs of the Public Improvements, or (iii) to reimburse the Village for other Village funds used by the Village to pay such costs or such principal, interest or premium, prior to receipt of Service Payments, all as further provided in Section 5 hereof. The revenues that would have been paid to the Revere School District and the Cuyahoga Valley Joint Vocational School District associated with the 75% of the increase in assessed value shall be paid to those districts from the annual service payments made by the owners of improvement as stated herein.
- SECTION 4. As provided in Section 5709.42 of the Revised Code, "and as more specifically provided in the Contract, the owner or owners 'of the Improvement are hereby required to, and shall make, annual Service Payments to the County Treasurer on or before the final dates for payment of real property taxes, which Service Payments shall be deposited in the Municipal Public Improvement Tax Increment Equivalent Fund established in Section 5 hereof. This Council hereby authorizes the Village Manager, Finance Director and Village Solicitor, and other appropriate officers of the Village, to provide such information and certifications, and execute and deliver or accept delivery of such instruments, as are necessary and incidental to collect those Service Payments, and to make such arrangements as are necessary and proper for payment of said Service Payments.

SECTION 5. This Council hereby establishes pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the Downtown Public Improvement Tax Increment Equivalent Fund (the "Fund"), into which shall be deposited all of the Service Payments distributed to the Village with respect to the Improvements on the Property, by or on behalf of the County Treasurer as provided in Section 5709.42 of the Ohio Revised Code, and hereby provides that all of the moneys deposited in the Fund shall be used for any or all of the following purposes:

(i) to pay any and all acquisition, construction, installation, financing costs, and any and all other direct and indirect costs of the Public Improvements, including those costs set forth in Ohio Revised Code Section 133.15(B), other than those costs paid from special assessments collected by the Village as provided in the Contract;

(ii) to pay the interest on, principal of, and any premium on bonds or notes or other obligations, including refunding bonds or notes or other obligations, issued by the Village to finance costs of the Public Improvements until such notes or bonds or other obligations are paid in full, other than those costs paid from special assessments collected by the Village as provided in the Contract; and

(iii) to reimburse the Village for any funds used by the Village to pay costs of the Public Improvements, or to pay interest, principal, or premium, on any of the aforesaid notes, bonds, loans or other obligations, other than those costs or financing to be paid from special assessments collected by the Village as provided in the Contract, prior to receipt of Service Payments.

No money in the fund will be used for the purpose of housing renovation and The Fund shall remain in existence so long as Service Payments are collected and used for the aforesaid purposes, after which said Fund shall be dissolved in accordance with said Section 5709.43.

SECTION 6. Pursuant to Section 5709.40 of the Ohio Revised Code, the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 hereof remains in effect, the Mayor of the Village or other authorized officer of this Village, shall prepare and submit to the Director of the Department of Development of the State of Ohio the status report required under Section 5709.40 of the Ohio Revised Code.

SECTION 7. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 8. This Ordinance is declared to be an emergency measure necessity for the immediate preservation of the public peace, health and safety of this Village, and for the further reason that this Ordinance is required to be immediately effective to allow for the Village's undertaking of the Improvements, which are necessary to revitalize the Village in an environmentally safe and sound manner; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected or appointed thereto; otherwise it shall be in full force and effect after the earliest period allowed by law.

PASSED: November 21, 2005


President of Council


Mayor

Dated: 11/22/05

ATTEST:



Clerk of Council

EXHIBIT A

1. Traffic control and road improvements and major repairs and resurfacing, recently completed and to be done upon or in the vicinity of Brecksville Road, Congress Parkway, Wheatley Road, Broadview Road and/or Highlander Parkway.
2. Communications infrastructure, including but not limited to fiber optic lines and wireless internet communications systems, for new and existing facilities in the vicinity of Highlander Parkway, Broadview Road, Brecksville Road, Wheatley Road, and the areas served by those roads.
3. Public sanitary sewer and/or water line improvements and major repairs for those facilities that serve users in the vicinity of Highlander Parkway, Congress Parkway, Brecksville Road, Wheatley Road and Broadview Road.
4. Village of Richfield building and capital equipment projects and purchases to facilitate the services of the Village roads, grounds, sewer, water, and general service departments for the purposes of ongoing road maintenance, right of way maintenance, sewer and water facilities maintenance, snow plowing and other services generally provided by the Village of Richfield.
5. Village of Richfield facilities buildings and capital equipment purchases to facilitate the provision of police, fire, emergency medical services and general administrative services provided by the Village of Richfield.
6. The acquisition of real property for the purposes stated above, for buffering between economic development areas and residential areas and for purposes of economic development within the Village of Richfield.

EXHIBIT B

Legal Description

Consolidation Parcel – 4.3584 Acres

Situated in the Village of Richfield, County of Summit, State of Ohio and known as being part of Lot 2 and part of Lot 7, Tract 3 of former Richfield Township, also known as being part of Parcel 2 and part of Parcel 4 of Stonegate Corporate Park as recorded in Reception #54472112 of the Summit County records, also known as being part of the lands now or formerly owned by Seabreeze North Corp. as recorded in Reception #50524884 of the Summit County records and part of the lands now or formerly owned by M & P Richfield LLC as recorded in Reception #54673960 of the Summit County records and more fully described as follows:

Beginning at a 5/8" capped rebar (GBC Design, Inc.) found at a southeasterly corner of said Parcel 4;

Thence S 89° 39' 11" W, along the northerly line of lands now or formerly owned by Seabreeze North Corp. as recorded in Official Record 1494, Page 222 of the Summit County records, a distance of 250.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found, said point being the True Place of Beginning for the parcel of land herein described;

Thence continuing S 89° 39' 11" W, along the northerly line of said Seabreeze North Corp. lands recorded in Official Record 1494, Page 222 of the Summit County records, a distance of 171.18 feet to a capped rebar (Kukis #5078) found;

Thence N 37° 23' 21" W, along a line of new division, a distance of 496.40 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;


Thence N 52° 36' 39" E, along the southerly line extended and southerly line of Highland Parkway (60 feet wide) as recorded in the plat of Stonegate Corporate Park Phase Two as recorded in Reception #55088363 of the Summit County records, passing over a 5/8" capped rebar (GBC Design, Inc.) found at 18.78 feet, a distance of 380.25 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

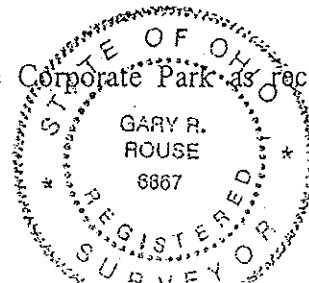
Thence S 37° 23' 21" E, along the westerly line of lands now or formerly owned by M & P Richfield LLC as recorded in Reception #55086942 of the Summit County records, passing over a 5/8" capped rebar (GBC Design, Inc.) found at 384.84 feet, a distance of 460.05 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence S 89° 41' 31" W, along the northerly line of lands now or formerly owned by Emil Pawuk & Associates as recorded in Reception # _____ of the Summit County records, a distance of 109.10 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence S 00° 03' 00" E, along the westerly line of said Emil Pawuk & Associates lands, a distance of 258.15 feet to the True Place of Beginning and containing 4.3584 Acres of land, more or less, as surveyed in April, 2005 by Gary R. Rouse, Registered Surveyor No. 6867, with GBC Design, Inc., but subject to all legal highways and any restrictions, reservations or easements or record.

**Basis of Bearing for this survey is the plat of Stonegate Corporate Park as recorded in Reception #54472112 of the Summit County records.


Gary R. Rouse – Reg. No. 6867



Village of Richfield

4410 W. STREETSBORO ROAD
P.O. BOX 387
RICHFIELD, OHIO 44286-0387
330-659-9201
FAX 330-659-4906

COPY

MICHAEL K. LYONS, Mayor
BARBARA LANFORD, Council President

ELEANOR LUKOVICS, Finance Director
MELANIE TIBBS, Service Director

December 9, 2005

Bill Slocum, Tax Incentive Specialist
Ohio Department of Development
Economic Development Division
Office of Tax Incentives
77 South High Street
P.O. Box 1001
Columbus, Ohio 43216-1001

Re: Ordinance No. 90-2005

Dear Mr. Slocum:

Enclosed is a certified copy of Ordinance No. 90-2005 adopted by the Village of Richfield Council establishing a tax equivalent incentive fund as described in the ordinance. It is my understanding the Village is to send a certified copy of this legislation to your office.

Please contact me at 330-659-9201 extension 222 with any questions or comments.

Very truly yours,



Michael K. Lyons, Mayor
VILLAGE OF RICHFIELD

Enclosure

Cc: Charles T. Riehl, Law Director (w/o encl.)
Carolyn E. Sullivan, Clerk of Council (w/o encl.)