



Memorandum

To: Members of City Council
From: Laura Englehart, Director of Economic Development
cc: David E. Weiss, Mayor
Jeri E. Chaikin, Chief Administrative Officer
John Potts, Director of Finance
Date: July 21, 2021
Re: Recommendation of the Tax Incentive Review Council (TIRC)

The City of Shaker Heights Tax Incentive Review Council (TIRC) held its state-required, annual meeting on June 4, 2021. The TIRC is charged with reviewing current tax incentive agreements on an annual basis and ensuring transparency and accountability on the part of the City and developer in the management of each of the agreements. The meeting and activities of this state-mandated body are controlled by the Ohio Revised Code per §5709.85, and City Ordinance. The meeting was attended by the personnel listed in the attached draft minutes.

By statute, the TIRC must meet and review annually certain legislatively authorized, active agreements that grant tax exemptions. During 2020, the City had (and still has) three categories of active exemptions: Urban Renewal per Ohio Revised Code §725; Tax Incremental Financing per §5709; and Community Reinvestment Areas per §3735.66. At the TIRC meeting, each of these three categories was reviewed for 2020, including compliance with active agreements, financial reports, and general project information as required per state law.

The TIRC deemed all incentives compliant for 2020 and recommended continuation of all active exemption agreements. Staff recommends and requests Council approval of these TIRC recommendations. We request that this item be approved on first reading and as an emergency to meet the timing requirements of state law.

Urban Renewal, Ohio Revised Code §725

Chapter 725 projects involve the payment by the property owner of the full amount of the taxes owed for the property, which are then collected by the County as payments in lieu of taxes (also referred to as PILOTs); this is why such projects are categorized as “tax exempt” or “tax incentive” programs. Each project has a controlling Development Agreement, between the developer and the City, that spells out various terms and conditions, including the collection of PILOTs.

There is one §725 project in the City that was created for developments in the Shaker Towne Center area, for which bonds were issued, and the PILOTs derived from the property taxes paid by owners of the various developments included in the 725 program are used to pay the bond indebtedness. The development agreements where PILOTs are being collected are: Sussex Court, Avalon Station (Phase I); CVS, Library Court and Compass Storage.

The primary obligation of each developer and/or current owner of the property is to ensure that they pay their full property taxes, which are deemed as PILOT payments, which are then distributed to the City to assist in the payment of debt service on the bonds that funded the public improvements in the district.

The agreements for Library Court, CVS, and Compass Storage also contain similar provisions that the developers/owners agree to pay their taxes as PILOTs which are also distributed to the City to fund the annual debt service requirement, as these projects continue to benefit from the public improvements made in the district.

PILOTS collected for 1st half 2020 were \$584,545, and the 2nd half collection was \$421,945, for a total of \$1,006,490. The debt service obligation was \$1,244,669, which left a deficit of \$238,179, which was subsidized by the City.

Tax Incremental Financing (TIF), §5709.40-41

The City has two TIF agreements with RMS and the School District relating to various portions of the Van Aken District that include provisions for disbursement of PILOTs between the developer and the school district. The Shaker Plaza TIF, per §5709.40, generated \$186,027, with 24% being distributed to the developer and 76% going to the schools, per the agreement. The second TIF, known as the Van Aken TIF, per §5709.41, generated \$1,427,855, with 82% being distributed to the developer and 18% going to the schools, per the agreement.

Community Reinvestment Areas (CRAs)

There are a total of three areas in the City that have been designated by City Council as Community Reinvestment Areas (CRAs), meaning that the area contains housing facilities or structures of historical significance, and new housing construction and repair of existing structures are discouraged. These areas are the Warrensville-Farnsleigh CRA, Transit Village CRA, and Southern Moreland CRA.

The Warrensville-Farnsleigh CRA contains 2 projects involving commercial CRA agreements between the developer and the City: Le Chaperon Rouge and Shaker Rocks. The Nest Schools purchased Le Chaperon Rouge in March 2021. The new property owner is SCF RC Funding IV LLC. The CRA Agreement was transferred and amended to reduce the exemption period to 10 years. The TIRC reviews the terms of each agreement (specifically: new construction, number of jobs created, payroll) for compliance.

The Transit Village CRA is a residential CRA – meaning, newly constructed single family units may be eligible for 100% property tax exemption for up to a 10-year period. Twelve units have been built. Five tax abatement applications were certified in 2020.

Southern Moreland CRA is also a residential CRA with similar exemption terms for new single family construction. During 2020 there was one tax abatement application certified for a new home constructed on Ludgate.

TIRC Conclusion

The City sent the TIRC a detailed agenda and presentation ahead of the meeting. At the beginning of the meeting, Ms. Rocco made a motion that all incentives not expiring were deemed compliant for the 2020 year and shall be continued due to the mandates put in place by the State of Ohio as a result of the pandemic. Mr. Huth seconded the motion and all voting members unanimously approved.

A letter was issued by the TIRC on June 15, 2021 stating official notification of the results for the 2021 Tax Incentive Review Council Meeting. Due to the COVID-19 pandemic and state mandates established by the Governor of Ohio, all agreements not expiring were voted compliant and allowed to continue by a blanket motion made by the TIRC Chairperson, Lisa Rocco, and by unanimous vote of all voting members of the TIRC. A full performance review of all agreements will resume for calendar year 2021 at the 2022 Tax Incentive Review Council Meeting.

Council Action

This item was presented and approved by the Finance Committee on July 19, 2021. Per state law, City Council must act on the TIRC recommendations within 60 days of its recommendation being transmitted to the Clerk of Council. Therefore, it is requested that City Council vote to approve the TIRC's recommendations regarding the aforementioned exemption agreements. We request that this item be approved on first reading and as an emergency in order to meet the timing requirements of state law.

**CITY OF SHAKER HEIGHTS
TAX INCENTIVE REVIEW COUNCIL
MINUTES – JUNE 4, 2021
Review of 2020 Exemption Agreements**

TIRC Members Present:

Lisa Rocco, Chair, County Fiscal Office
Gregory Huth, Law Director, Cuyahoga County
Susan Infeld, Manager, Special Initiatives, Cuyahoga County Planning Commission
Prentis Jackson, Jr., County Department of Development
Earl Williams, Jr., City of Shaker Heights Council Member
Neil Dick, Citizen Member
Bryan Christman, School Board Treasurer

Staff (Non-Voting Participants):

John Potts, Director of Finance, City of Shaker Heights
Laura Englehart, Director of Economic Development, City of Shaker Heights
Cheryl Arslanian, Assistant Finance Director, City of Shaker Heights

The Shaker Heights Tax Incentive Review Council (TIRC) met with members and representatives from the City of Shaker Heights on the above date at 10:30 AM. City staff distributed packets electronically before the meeting.

Ms. Rocco opened the Zoom meeting at 10:30 AM. The 2020 minutes were presented and approved unanimously.

Ms. Rocco made a motion that all incentives not expiring are deemed complaint for the 2020 year and shall be continued due to the mandates put in place by the State of Ohio as a result of the pandemic. Mr. Huth seconded the motion and all voting members unanimously approved.

Ms. Rocco motioned to adjourn the meeting at 10:37 AM, seconded by Mr. Dick and unanimously approved.

Minutes prepared by John Potts, Director of Finance.

ORDINANCE NO.

BY:

Accepting the recommendations of the City's Tax Incentive Review Council ("TIRC") to continue the existing development and community reinvestment area agreements for tax exemption and payments in lieu of taxes ("PILOTs"), pursuant to Ohio Revised Code Section 5709.85, and declaring an emergency.

WHEREAS, the City has entered into several development and use agreements and/or service payment agreements with private developers and property owners pursuant to Ohio Revised Code ("ORC") Chapter 725, authorizing tax exemption and payments in lieu of taxes ("PILOTs"), which are used to pay for the debt service on urban renewal bonds issued to fund the City's infrastructure improvements and other development in the areas covered by the agreements, and those agreements are as follows:

- a. Shakergate Investments LLC entered into an Amended and Restated Development Agreement with the City dated December 17, 2001, as authorized by Ordinance No. 01-131, enacted on November 26, 2001, which agreement provided for the redevelopment of property in accordance with the Sussex Area Revitalization Plan, which involved the construction of a housing development known as Sussex Courts Condominiums on Chagrin Boulevard at Lomond Boulevard; and
- b. Heartpoint Devco LLC entered into a Development Agreement with the City on July 3, 2002, as authorized by Ordinance No. 02-66, enacted May 28, 2002, which agreement provided for the redevelopment of property in accordance with the Shaker Towne Centre Community Development Plan, which involved the construction of a residential building known as The Lofts at Avalon Station, located at 16800 Van Aken Boulevard; and the parties entered into an Amended Development Agreement on November 22, 2005, as authorized by Ordinance No. 05-64, enacted June 27, 2005, and a First Amendment to the Amended Development Agreement on August 30, 2011, as authorized by Ordinance No. 11-87, enacted on August 22, 2011, and said First Amendment resulted in, inter alia, a change of ownership to The Residences at Avalon Station LLC; and
- c. Blue Water Capital Partners, LLC entered into a Service Payment Agreement with the City on December 3, 2009, as authorized by Ordinance No. 09-111, enacted November 23, 2009, as part of the development of a CVS pharmacy at 17120 Chagrin Boulevard, in accordance with the Shaker Town Centre Community Development Plan Area, which was adopted in May, 1988, and was amended in November 2001 and May 2002, as part of the City's long-term revitalization efforts; and
- d. Library Court Senior Housing LP entered into a Development Agreement with the City on March 29, 2010, as authorized by Ordinance No. 10-23, enacted March 22, 2010, in accordance with the Shaker Town Centre Community Development Plan Area for the construction of Library Court Apartments, providing senior housing at 16301 Chagrin Boulevard; and
- e. Amsdell Storage Ventures XVIII, LLC, DBA Compass Self Storage, LLC entered into a Service Payment Agreement with the City on February 4, 2015, as authorized by Ordinance No. 15-46, enacted May 26, 2015, in accordance with the Shaker Town Centre Community Development Plan Area

regarding the development of a Compass Self Storage business at 16500 Chagrin Boulevard; and

WHEREAS, on September 2, 2015, the City entered into an interim development and use agreement for the Shaker Plaza shopping center with Shaker Plaza Development LLC, pursuant to ORC Chapter 5709.40, which authorized tax exemption resulting from the declaration of public purpose improvements, as authorized by Ordinance No. 15-51, enacted on July 27, 2015, which Agreement was subject to a compensation agreement with the Shaker Heights School District dated August 3, 2015, and the interim development and use agreement was terminated and the tax exemption incorporated into a development and use agreement with Van Aken Shopping Center LTD. dated August 12, 2016, as authorized by Ordinance No. 16-02, for the Van Aken District Development, and the compensation agreement with the Shaker Heights School District for Shaker Plaza was amended and restated in an agreement dated April 14, 2016, as authorized by Ordinance 16-19, enacted on February 22, 2016; and

WHEREAS, on August 12, 2016, the City entered into a development and use agreement for the Van Aken District Development, including the Van Aken shopping center, with Van Aken Shopping Center LTD., as authorized by Ordinance No. 16-02, and in Ordinance 17-21, enacted on February 27, 2017, this Council authorized tax exemption resulting from its declaration that certain improvements were for a public purpose and made provision for the collection of service payments in lieu of taxes, pursuant to ORC Section 5709.41 for the Van Aken Shopping Center Project, and the development and use agreement was amended twice, the first amendment being authorized by Ordinance No. 16-137, and the second authorized by Ordinance No. 17-03, and the City and the Shaker Heights School District also entered into a compensation agreement for the Van Aken Center on April 14, 2016, as authorized by Ordinance 16-19, enacted on February 22, 2016, which compensation agreement was amended on July 24, 2018; and

WHEREAS, in Ordinance 14-52, enacted on September 22, 2014, this Council created the "Warrensville-Farnsleigh Community Reinvestment Area ("CRA")", pursuant to ORC Chapter 3735, and effective December 5, 2014, the Director of the Ohio Development Services Agency determined that the CRA contained the characteristics set forth in ORC Section 3735.66 and confirmed the designated area as a CRA pursuant to ORC Chapter 3735; and

WHEREAS, in Ordinance 16-34, enacted on March 18, 2016, this Council approved a CRA agreement for Stella of Shaker Heights, LLC, DBA Le Chaperon Rouge, at 3350 Warrensville Center Road, as a part of the Warrensville-Farnsleigh CRA, and said owner entered into a CRA Agreement on April 13, 2016, with a tax abatement of 50% of the increased value of the property for 15 years, beginning tax year 2018; and on March 9, 2021 and March 10, 2021, respectively, the City entered into agreements with Stella of Shaker Heights, LLC, SCF RC Funding IV LLC, and The Nest Schools, Inc., approving the transfer of title to the property to SCF, and assignment of the CRA Agreement to The Nest Schools, with a reduction in the exemption period to 10 years, ending on December 31, 2026; and

WHEREAS, in Ordinance 16-126, enacted on November 28, 2016, and Ordinance 17-100, enacted on October 23, 2017, this Council approved a CRA agreement for Maximar Properties, LLC, for the operation of Shaker Rocks, at 3377 Warrensville Center Road, as a part of the Warrensville-Farnsleigh CRA,

and said owner entered into a CRA Agreement on November 30, 2017, with a tax abatement of 50% of the increased value of the property for 15 years, beginning tax year 2019; and

WHEREAS, in Ordinance 14-97, enacted on February 23, 2015, this Council enacted Ordinance 173.05 of the City's Codified Ordinances, creating the Transit Village CRA, and the CRA was approved by the State of Ohio on April 21, 2015, and this CRA provides the owner of newly constructed, for-sale, single family homes and condominiums, built with a minimum investment of \$125,000, with the ability to apply for a property tax exemption of 100% of the increase in the assessed valuation of the property resulting from new construction, as defined in R.C. Section 3735.67, for a period of 10 years; and

WHEREAS, in Ordinance 16-33, enacted on March 28, 2016, this Council enacted Ordinance 173.06 of the City's Codified Ordinances, creating the Southern Moreland CRA, and the CRA was approved by the State of Ohio on April 22, 2016, and this CRA provides the owner of newly constructed, for-sale, single family homes and condominiums, built with a minimum investment of \$125,000, with the ability to apply for a property tax exemption of 100% of the increase in the assessed valuation of the property resulting from new construction, as defined in R.C. Section 3735.67, for a period of 10 years; and

WHEREAS, the City's Tax Incentive Review Council ("TIRC"), established pursuant to ORC Section 5709.85, is required to annually review all agreements granting exemptions from property taxation, to determine with regard to each such agreement whether the owner of the exempted property has complied with the agreement, and to submit to City Council written recommendations for continuation, modification or cancellation of the agreement; and

WHEREAS, at its meeting on July 9, 2020, the City's TIRC voted unanimously to recommend that this Council should vote to continue the City's existing CRA and development agreements for tax exemption and PILOTs with each of the entities listed above, and such recommendation has been reported in writing to the Clerk of Council in the Minutes of the aforesaid TIRC Meeting, dated September 17, 2020; and

WHEREAS, this Council has determined that it is in the best interests of the City and its citizens to continue the existing CRAs and development agreements for tax exemption and PILOTs as described above.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. This Council hereby accepts the recommendations of the City's Tax Incentive Review Council ("TIRC") to continue the City's existing Community Reinvestment Areas (CRAs) and development agreements for tax exemption and payments in lieu of taxes ("PILOTs") as set forth in this Ordinance.

Section 2. This Council hereby authorizes and directs the Mayor, Director of Law, and Director of Finance to take such additional steps, execute such documents, and provide such information and certifications as

are necessary and appropriate to carry out and implement the recommendations of the City's TIRC.

Section 3. 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 taken in meetings open to the public in accordance with the law.

Section 4. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the reason that it is necessary in the current operation of the City and, further, that it is necessary in order for the City to meet the deadline for this Council to hold a meeting and vote to accept, reject, or modify all or any portion of the recommendations of the City's TIRC and submit such action of Council to the State Director of Development, pursuant to the requirements of ORC Section 5709.85 and, therefore, this ordinance shall take effect immediately upon its enactment and approval by the Mayor.

Enacted

Approved this ____ day of _____, 2021.

DAVID E. WEISS, Mayor

Attest:

JERI E. CHAIKIN
Clerk of Council