

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2015-53

By Dale A. Lange Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

APPROVING, RATIFYING AND AFFIRMING THE 2014 ANNUAL REPORT, MINUTES AND ACTIONS OF THE TAX INCENTIVE REVIEW COMMITTEE FOR COMMUNITY REINVESTMENT AREA ABATEMENTS IN THE CITY OF BEREA.

WHEREAS, the Tax Incentive Review Committee for the City of Berea meets annually to review the prior year's activities of entities that have qualified for, and participate in, Community Reinvestment Area Agreements with the City; and

WHEREAS, the 2014 meeting of said Tax Incentive Review Committee has been held according to law and said committee has issued its Report for 2013 Reviews and Minutes of said meeting, the same being attached hereto as Exhibit "A" and incorporated herein.

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

SECTION 1. That the Council of the City of Berea hereby approves, ratifies and affirms the 2014 Annual Report of the Tax Incentive Review Committee for Community Reinvestment Area Agreements (for 2013 activities) and the Minutes of its meeting held on July 25, 2013, the same being attached hereto as Exhibit "A" and incorporated herein.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: June 15, 2015


President of Council

ATTEST: [Signature]
Clerk of Council

APPROVED: June 22, 2015

[Signature]
Mayor

APPROVED AS TO FORM:

[Signature]
Director of Law

TAX INCENTIVE REVIEW COUNCIL
August 19, 2014

The Tax Incentive Review Council met on August 19, 2014 and was called to order at 2:30 p.m. by Joseph Micciulla. Present: Janise Bayne, Cuyahoga County Department of Development; Joseph Farris, Cuyahoga County Department of Treasury; Marionette Richardson-Scott, Cuyahoga County Planning Commission; Daniel Smith, resident City of Berea; Ken Weber, resident City of Berea. Also present were Rick Gareau, 1230 West Bagley, LLC; James Kerr, Secretariat Berea, LLC; Pamela Hanover, Squire Patton and Boggs; Thomas Norton, City of Berea; and Matthew Madzy, City of Berea.

Moved by Bayne and seconded by Farris that the minutes from the 2013 Tax Incentive Review Council be approved. Vote on the motion was all ayes and no nays. The motion carried and the minutes were approved.

Mr. Micciulla reviewed the status of the City of Berea as a Post-1994 CRA community.

1230 West Bagley, LLC

Mr. Micciulla stated that in 2013 the TIRC recommended that Berea City Council amend the CRA Agreement with the City of Berea and 1230 West Bagley, LLC. In response, Mr. Madzy confirmed that Berea City Council had, in fact, approved legislation amending the CRA Agreement. Mr. Gareau agreed that this amendment was in the best interest of all parties.

Mr. Madzy explained that VitaMix had been operating out of space owned by 1230 West Bagley, LLC and that VitaMix moved those employees from that location in 2013. Further, Mr. Madzy explained that because these employees were making a high wage, the total payroll for this location had gone down. However, the VitaMix employees were replaced with employees earning a lower wage, so the total number of employees had increased. Mr. Gareau explained the nature of Midwest Transatlantic Lines, the primary business at 1230 West Bagley Road.

Motion was made and seconded that recommended that 1230 West Bagley, LLC is non-compliant with the terms of the CRA Agreement. Vote on the motion was all ayes and no nays. The motion carried.

Motion was made and seconded to recommend that the City of Berea and West Bagley, LLC continue the CRA Agreement. Vote on the motion was all ayes and no nays. The motion carried.

Secretariat Berea, LLC formerly WXZ Retail Group/Berea, LLC.

Mr. Madzy stated that the CRA Agreement between the City of Berea and Secretariat Berea, LLC requires that Secretariat create at least five new full time jobs and that Secretariat has created five full time equivalent jobs.

According to Mr. Kerr, the payroll for the store was slightly down, but the payroll was trending higher for 2014.

Motion was made and seconded that recommended that Secretariat Berea, LLC is compliant with the terms of the CRA Agreement. Vote on the motion was all ayes and no nays. The motion carried.

Motion was made and seconded to recommend that the City of Berea and Secretariat Berea, LLC continue the CRA Agreement. Vote on the motion was all ayes and no nays. The motion carried.

Helwig Whistle Stop, LLC

At the 2013 TIRC meeting, it was recommended that the CRA Agreement between the City of Berea and Helwig Whistle Stop, LLC be amended. Mr. Madzy confirmed that Berea City Council approved legislation amending the CRA Agreement.

After reviewing the CRA Report, Mr. Micciulla questioned the number of full time job equivalents that had been created at this facility. In response, Mr. Madzy explained that some of the companies at the facility were not reporting payroll properly to RITA. The owners and the City have been working with RITA and the businesses to get these issues corrected. Mr. Micciulla stated that disclosure of payroll tax information should be a requirement of the lease.

In response to Mr. Micciulla, Mr. Smith stated that he believes the property owner is making progress towards compliance with the terms of the CRA Agreement. Mr. Micciulla questioned the minimum payroll to be created under the terms of the CRA Agreement.

Motion was made and seconded that recommended that Helwig Whistle Stop, LLC is non-compliant with the terms of the CRA Agreement. Vote on the motion was all ayes and no nays. The motion carried.

Motion was made and seconded to recommend that the City of Berea and Helwig Whistle Stop, LLC continue the CRA Agreement. Vote on the motion was three ayes and two nays. The motion carried.

AFR Properties, LLC

Following a brief review of the project and terms of the CRA Agreement, Mr. Madzy stated that the developer has exceeded both the required number of jobs and payroll. There was brief discussion about the terms of the CRA Agreement and the investment level achieved.

Motion was made and seconded that recommended that AFR Properties, LLC is compliant with the terms of the CRA Agreement. Vote on the motion was all ayes and no nays. The motion carried.

Motion was made and seconded to recommend that the City of Berea and AFR Properties, LLC continue the CRA Agreement. Vote on the motion was all ayes and no nays. The motion carried.

First Avenue Improvement District

Mr. Micciulla opened the discussion about the First Avenue Improvement District ("FAID") by reviewing the recent meetings between the City and Mr. Micciulla. Ms. Hanover outlined the origins of the FAID, Urban Renewal Bonds in general and the accelerated rent payments made by the occupant during the first half of this particular agreement. Discussion ensued regarding the most recent borrowings in the improvement district and the schedule for repayment of this debt.

Mr. Micciulla inquired as to whether a balance sheet or an escrow account has been created for the FAID. There was conversation about the amount of real property taxes that have been foregone and the amount of money invested in the FAID.

Mr. Smith inquired about the amount of foregone taxes and the use of these funds. In response, Ms. Hanover stated that, historically, a large portion of the payments in lieu of taxes has been used to pay off debt. There was general discussion about creating a document that tracks the payments and use of funds over the lifetime of the FAID. Discussion then centered upon what exactly such a document should contain. Ms. Richardson-Scott inquired as to whether there is any specific form required by the Ohio Revised Code. Mr. Micciulla explained that there is not a statutory form, but a detailed income and expense report would provide further guidance as to the use of funds in the FAID.

After discussion about the reporting of the payments in lieu of taxes, Ms. Hanover stated that this funding mechanism is unique and distinct from a TIF because funds are not paid to the County and then distributed to the City. Instead, funds are paid directly to the City and used to pay debt service. Mr. Smith asked about the amount of the funds that are paid in lieu of taxes

and Ms. Hanover replied that she believed the figure to be \$500,000. Additionally, Ms. Hanover stated that the City is working with a finance professional to ensure that this figure is adequate.

In response to Mr. Micciulla, Mr. Smith said that he would like to see a report that indicates the estimated amount of the real estate taxes, the amount paid by the City over time and where the debt was dispersed. There was then general dialog about how far such a report should go back in time. Additional discussion related to how soon such a report should be submitted to the TIRC.

Mr. Micciulla inquired as to whether the meeting should be tabled to allow the City to prepare an income and expense report for the FAID.

Motion was made and seconded that all requested information on the FAID be made available to the TIRC no later than 45 days from now, for further review. Vote on the motion was all ayes and no nays. The motion carried.

Having no further business before the Tax Incentive Review Council, adjournment was moved and seconded. Vote on the motion was all ayes and no nays. The motion carried.