



City of Gahanna

Meeting Minutes

Committee of the Whole

200 South Hamilton Road
Gahanna, Ohio 43230

Merisa K. Bowers, Chair
Karen J. Angelou
Nancy R. McGregor
Kaylee Padova
Stephen A. Renner
Michael Schnetzer
Trenton I. Weaver

Jeremy VanMeter, Clerk of Council

Monday, July 25, 2022

7:00 PM

City Hall, Council Chambers

A. CALL TO ORDER:

President of Council Stephen A. Renner, Acting Chair, called the meeting to order at 7:02 p.m. Vice President Bowers and Councilmember Padova were absent. All other members were present for the meeting. There were no additions or corrections to the agenda.

B. DISCUSSIONS:

1. Economic Development Training Series #1

[2022-0219](#)

Economic Development - Basics Course Materials

Nate Strum, Director of Economic Development, introduced the presentation agenda for "Back 2 Basics," which included an overview of economic development and tools in the toolbox, such as incentives, special entities, and miscellaneous items. Economic development involves programs, financials, and incentives to strengthen the City's tax base and create opportunities for residents to live, work, and invest in the community. By doing so, the community will have better infrastructure and schools. There were a couple economic development programs last year, specifically Mill Street and ADB Safegate. Regarding tax abatements, Strum reviewed that there were two types of tax abatement incentives: the Community Reinvestment Area (CRA) and the Enterprise Zone (exclusive to county). Historically, Enterprise Zones are in unincorporated areas. There are some in municipalities that have Enterprise Zones but are the result of being formerly unincorporated areas that were annexed into the municipality. The City of Gahanna only has CRAs. There are five CRAs in the City. Strum pointed out that a key distinction between the City's CRAs is "Pre-1994" and Post-1994." On July 1, 1994, the state legislature changed the Ohio Revised Code (ORC) so that if an incorporated CRA was made prior to July 1, 1994, the CRA would be identified as "Pre-1994" and subject to prior laws of ORC, meaning fully

entitled to incentives, and no negotiations with councils or school districts but rather a baseline entitlement. Everything after June 30, 1994, is a "Post-1994" CRA. This means everything is on the table from a negotiation standpoint. There have been some adjustments to Gahanna's CRAs over the years. The City, even in its Pre-94 CRA status, had the authority to adjust to meet the needs of the community. Strum reviewed the Ohio Department of Development (ODOD) table and noted in the Pre-94 CRA, it was all determined by what an authorizing resolution did. For example, in Gahanna's CRA 5, which is Pre-94, it lists what can and cannot be utilized in the original authorizing legislation, such as up to 10 years on residential remodels, up to 12 years on multi-unit, up to 15 years on residential new construction, up to 12 years on commercial/industrial remodels, and up to 15 on commercial/industrial new construction. This means that as a Pre-94, you can go up to those values, but those values were initially established by Council. The state government allowed cities and villages to police their own levels and choose what it wants to do in the Pre-94 status. In Post-94 status, these are all negotiated. The Council and school districts, typically the two big voting parties, oftentimes you will see whether there was a funding agreement whenever there was a CR application coming into the City for Post-94 CRAs. Members of Council and the schools would negotiate the agreement and bring those applications back to the Council and then act on it independently, hoping that both would coalesce some level of agreement through that process. Strum added that because of the current agreement with the schools, everything is approved pending [the Council's] approval. The schools waive their right to it, but then want fully compensated for it.

Strum reviewed CRA No. 1. This is a Post-94 CRA and dates to the early 80s. It has been amended multiple times. If public body amends or adjusts values three times, the CRA reverts to Post-94 status. If you want to adjust the values that are eligible within the CRA, you can do so but the minute you do it a third time, it becomes a Post-94 CRA. The values drop considerably. Also, in a Post-94 CRA, you start at 50 percent per Ohio Revised Code. The baseline for this is a 10-year, 50 percent abatement on improved values within the dwelling (two units), commercial/industrial remodel, and commercial/industrial new construction. Everything above that is a negotiation between schools, city, and developer/business owner. CRA No. 2 around the Donatos property (the headquarters and manufacturing and R&D facilities) at Taylor Station Road is Pre-94. This is only for industrial use. Although Council originally formed this CRA, allowing for dwelling remodel and commercial/industrial/housing remodels just like any other traditional CRA, in reality all that is there is commercial and industrial uses. Therefore, this is a 15-year, 100 percent abatement on improved values tied to those improvements near and around the corner of Taylor Station Road area. CRA No. 3 is Post-94. This is Central Park and the former brownfield site where there is a lot of industrial development. It has been reclaimed. It is now the golf depot and out parcels on Tech Center Drive and Science Blvd. Predominantly, the area is industrial/commercial, so there is more in the 15-year, 100 percent on improved values for new construction but some of the commercial/industrial remodels of up to 12-years and 100 percent on

improved values. With this being a Post-94, when there are applications, such as with Edison Brewing and The Peak at Edison that came in a few years ago for their incentivization, there is a negotiation. They negotiated those values to create jobs in that office building as well as the brewery next door. CRA No. 4 is Pre-94 where the Crescent is (Officenter area, or lower part of Central Park). This is where the AEP corporate office is and where the Crescent project is on the western side of the CRA. Council can decide how things are adjusted in Pre-94s. In this instance, the Council did two things. First, Council created the CRA in the late 80s, was to amend it to expand to include portions of where Buckles Court and Tech Center Drive is currently located closer to the airport. Second, Council reduced the value. Originally, this CRA was set up to be a 15-year, 100 percent abatement and Council adjusted those values to what is currently the 10-year, 80 percent maximum value on it. That counts as an adjustment or revision. If one more amendment to the CRA occurs, it would become a Post-94 CRA. Strum said that in his professional capacity, given the level of development that is happening here, he would not recommend amending it. He said this could have a detrimental effect long-term to what is happening in this portion of the city. CRA No. 5 is Pre-94 and encompasses the west side of Gahanna - Library property going west through Creekside and Olde Gahanna and West Johnstown Road/Stygler Road/Agler Road areas. He referred to the values for dwelling and remodels, commercial/industrial/housing remodels and new construction activities. Ohio HD went through a Pre-94 application, which was approved for a 12-year, 100 percent abatement on the improved values. They invested over \$1 Million into their facility to modernize their building during COVID-19. They just applied it to the most recent round of property tax inclusions. This did not require Council action as a Pre-94. The Post-94s are what come before Council. Councilmember McGregor asked what building this was for the business. Mayor Jadwin said it was the former Wonder Bread building. Strum said this was a multi-tenant expansion and investment.

Director Strum reviewed the other principal program that the City has, Tax Increment Financing (TIF). He walked through the chart on the slide with the TIF Assessed Value (AV) Over Project Life. Anytime something goes through TIF, the base value is set at year one. Those taxes attributed to that year one value will be paid every year to those various taxing authorities for the next 30 years. Any improvement or incremental value change from that year one is then captured and diverted into the TIF Fund. With Council, Strum said it had been previously discussed what a "Non-School TIF" was. This sets the year one value for everything but school value. So, the schools continue to get paid as incremental value increases on property but the other non-school related values, the city, county, and other levies that are not school, are diverted in TIF Fund. This is captured and utilized to pay off eligible expenses related to the TIF Ordinance. Council sets the TIF Ordinance. The Council has exclusivity for what is and is not eligible for TIF inclusion. Gahanna's TIFs are predominantly infrastructure, but there are several TIFs that include language around Public Service facilities and Public Safety facilities and articulate intersection improvements. These can get very detailed or stay very broad, but ultimately City Council sets the authorizations as to what is and is not

eligible. Values are redirected for 30 years. At the end of the 30-year period, the TIF Fund for the project or property is dissolved and the new taxes on year 31 are disbursed as if they would normally have been the entire time. Strum said this was one of the most powerful tools the City had from a public financing standpoint because TIF funds everything. Infrastructure improvements, such as storm sewers, water lines, sanitary sewers, trails are the most eligible things the City has under TIF. Strum stated it is important to continue to evaluate where the City is growing and what the City's needs are. TIF is one of the best tools to not only plan but to implement current projects. Authorizing ordinances will have listings of eligible expenses related to facilities and TIF.

Strum stated that another tool available for economic development exclusively through Gahanna to manage and operate was through the Office & Industrial incentive (income tax). He noted there would be further discussion later, as he had an Ordinance for the body to review that pertained to an incentive. The City allows for some level of rebate for new business expansion. Under the City's guidelines, this program cannot be comingled with other incentive programs. For example, a CRA could not be mixed with an O&I incentive. Strum provided an example for someone who is going to give a \$10 Million anticipated payroll for 2.5% income tax. The City would give a 25 percent rebate over a five-year term. The overall value would be about \$1.25 Million. The city would receive \$937,500 and the company would receive \$312,000.

Strum also provided Council with an overview of special units of government that relate to economic development. First, Community Improvement Corporations (CIC) help aid in economic development activity within the City and defined by the authorizing legislation. For Gahanna, the City government gives the CIC leeway for economic development assistance and land disposal. Essentially, the CIC is serving as the City's landbank. The City could empower the CIC solely to take on economic development and dissolve the City's department. New Community Authority (NCA) is another special unit. This came up with the Crescent project. An NCA has independent bonding capacity that allows for NCA charges and community development charges. The public body, such as City Council, establishes parameters around which an NCA can be implemented. The NCA can implement various taxes, levies, and liens within the property it governs to govern higher levels of parks and infrastructure improvements. These would all be defined as part of the petition to create the NCA. The most common one in the region right now is Bridge Park. He referred to a slide showing a receipt with an NCA charge (0.50 percent charge) to pay for roads, garages, etc. defined in the parameters set. Tanger Outlets in Delaware is an NCA. This pays for road improvements and bridge improvements over interchanges. Councilmember Angelou asked if this charge was always 0.50 percent. Strum responded, no, this would all be defined in the petition creating the NCA and depends on what the level of infrastructure invested is. The NCA does not go away. Once created, it is there. Another example of an NCA is New Albany Beauty Park. For this, fees are taken out of the project, even with the abatements that may be on property, to fund infrastructure improvements and other activities. A Special

Improvement District (SID) is another special unit of government. This has an expiration, as a SID cannot exceed ten years. However, it can be renewed. It must include 60 percent of the frontage of all real estate upon a public right-of-way within a defined area or 75 percent of all property located within that District. This means that 60 percent of people who front roads or 75 percent of everyone must be involved in this once completed. They can assume similar fees to an NCA. They can do taxing fees, charge fees to customers on commercial real estate activities, and attach SID fees on the conveyance of property. Over The Rhine in Cincinnati is a SID example for charges that go to public parks, public art, and historic renovations in the defined neighborhood. There is a board that is created and represented by city officials and local neighborhood officials. The board governs and administers the dollars for programs. Locally, the most common SID is Nationwide Arena. The planters and special security details are paid for by the SID. The Energy Special Improvement District (ESID) is a special designation under Ohio Revised Code. Strum noted the City is already part of this. Property owners who wish to have energy efficient improvements done on their property can petition to be added to the ESID. Gahanna did this in 2020 to be added to Franklin County Financing Authority ESID program. Strum is the representative for the City on this ESID. This is a mechanism to support Property Assessed Clean Energy (PACE). In short, PACE is a financing tool that allows for entities to take advantage of energy efficient improvements on their property at a low interest rate. Instead of having to pay back as a loan, it is paid back on an assessment. In other words, it is added to the tax bill and conveys with ownership. Strum said this is not widely used in Ohio. Churches do a lot of ESID improvements with HVAC, windows, and roofs. Historic structures also like to do this. Strum said in other states, this is more commonly used around residential solar panels.

Councilmember Weaver thanked Strum for the presentation and pre-reading materials. He asked whether Strum could talk about pilot payments and how/when they are used and the advantage to the municipality. Strum said this is a topic that would be discussed in Session 3 on residential developments and how they have been used with school compensation. These pilot payments are payments in lieu of taxes. The City's process involves a pre-negotiated structure with the Gahanna-Jefferson Public Schools. Pilot payments are made annually. There is a determination on loss of tax income would be to the schools based upon economic development projects that have happened in the City for the past 12 months. Then, the City makes pilot arrangements typically through some TIF monies. Strum said that most TIFs are overperforming so they can be leveraged for these types of programs. Strum reiterated that he would have an entire session on pilots, how they work, and why it matters. Weaver asked in terms of CRAs and new company coming to add jobs, are penalties automatic for failing to meet goals or discretionary. Strum said these are discretionary. The Tax Incentive Review Commission (TIRC) administered by the Franklin County Auditor's Office, with City appointees provides oversight. The program is administered locally, and minutes are brought to Council. With the City's TIRC, the recommendation to the County Auditor was that everything complied per the

original agreements. Once the stenographer finalizes the minutes from the County Auditor's office, that same recommendation will be made to Council, of which the body can accept, reject, or amend findings. The same level of reports and conversations will be afforded to Council as afforded in the TIRC. Strum noted that in his years of experience, he has had to revoke two. Oftentimes, a lot of the agreements will say "good faith effort." Strum said what the City is seeing now is lesser job numbers but higher payroll numbers. Based upon what their projections were five to seven years ago, they thought they would need 30 jobs to get to the goal, but they needed 15. Strum's recommendation from a governance standpoint, is that we should not mind the number of jobs being lower if they are meeting the estimations and goals with payroll. This is what the City is really incentivizing through a CRA, but this is also Council's call. This is an annual meeting. Strum noted that on Thursday at 4:30 p.m. the Community Reinvestment Area Housing Council (CRAHC) board meeting would be held in-person at City Hall. This board will meet for the same thing the TIRC does, but on the housing side.

President Renner thanked Strum for crafting this learning series. Strum said he anticipated a representative from One Columbus coming for the next session to talk about the JobsOhio network and the role of regionalism in economic development and how Gahanna fits into this. The third session and subsequent sessions will focus on pilot arrangements, relationship with the schools, workforce development and housing. The last session will review economic development and pulling everything together. Strum said the goal is to provide Council with all this information and then show how a deal matters, how a CRA tax abatement impacts rent rolls, small business creating jobs, and how the whole cycle works.

C. ITEMS FROM THE DEPARTMENT OF ECONOMIC DEVELOPMENT:

[ORD-0045-2022](#) AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH ODOT FOR PURSUIT OF STATE INFRASTRUCTURE BANK (SIB) LOAN, WAIVING SECOND READING AND DECLARING AN EMERGENCY - Tech Center Drive Extension

Director Strum reviewed various dollars having been pursued for ADB Safegate through the Ohio Department of Development (ODOD) and Ohio Department of Transportation (ODOT). He urged Council to go out to Science Blvd to see the progress being made. He noted on his slide that the extension highlighted in blue is the extension to Tech Center Drive to serve the property and potentially what it could look like if extended to Taylor Station. When the original bid for the project occurred in September 2021, the initial values attributed to ODOD and ODOT were about \$560,000 for the road extension. The road extension has now gone up to \$1.2 Million. A lot of this increase could be attributed to public infrastructure improvements that were originally captured under the ODOD and ODOT programming, specifically water and sewer lines. With increased cost, the City needs to find another financing tool to get the project moving on Tech Center Drive. This is where the State Infrastructure Bank (SIB) administered through ODOT comes in. This is

about lowest rate loan out there. Strum said the Department is pursuing authorization to get these funds. He said he would then come back to Council with a reimbursement agreement that would partner with the developer. The Council can then review. He said the City will support the program with ODOT and ODOD grants, TIF funds previously appropriated under prior legislation, as well as some water funds to support the increased cost of water lines. The Department does not yet have the values of those costs yet. They are working through the engineering process. The goal would be to get the SIB loan underway because there is a little bit of lag time from submission to authority to enter into agreement.

President Renner noted the request for waiver and emergency on the legislation. Strum said this was required to be able to file the application as soon as possible.

Recommendation: Introduction/First Reading/Waiver & Emergency Adoption on Consent Agenda on 8/1/2022.

[ORD-0046-2022](#)

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN OFFICE & INDUSTRIAL INCENTIVE AGREEMENT WITH COLUMBUS AESTHETIC & PLASTIC SURGERY FOR A PERIOD OF 10 YEARS

Director Strum noted the Columbus Aesthetics & Plastic Surgery (“CAPS”) office is looking to expand into the east side marketplace. They reached out to Strum on the former Penzone facility location on Cherry Way near Morse Road in Gahanna. In reviewing the opportunity with CAPS, the City identified that the Office & Industrial (O&I) incentive is really the only thing to support this type of an opportunity from an incentivization standpoint. Strum said the City is competing with multiple municipalities that are offering better incentives. The intake form was also provided with the application. This consists of 52 jobs at about \$150,000 per year, high-end medical positions. When looking through the lens of what the City thought would be appropriate from the Incentive Advisory Committee, Strum said it hoped to do a total investment of 50 percent for 10 years. This gets to a value of just over one half million dollars, but the City would get about \$1.75 Million. Strum said this garners a 233 percent return on investment (ROI). In sum, if the City contributes one half million dollars of its tax base through reimbursable, performance-based incentive, it will receive \$1.75 Million and grows exponentially thereafter when the incentive rolls off. As a performance-based incentive, this means that if CAPS does not meet their job performance goals, the value of the incentive is lesser. If they exceed their job performance goals, that number grows. If they do exceed, this is a good thing, as the City would realize more income tax. The key is to get to the valuation to be competitive with neighboring communities offering similar incentives and opportunities was to waive the five-year period. Under the City’s guidelines, the Council has the ability to waive any and all those guidelines to meet in a competitive opportunity. The guidelines suggest a five-year term maximum. Strum is seeking a waiver of that five-years to grant a ten-year period. He said this adds high-level value to the City long term. In year 2023, they will be contributing \$75,000 of net income to the City. During the Incentive Advisory

Committee meeting, he noted there was a question as to the Issue 12 dollars about the one percent versus the non-Issue 12 dollars. Through the program, by year five, if CAPS reached over \$100,000 of net income into the City, that number continues to grow exponentially over the years. The City is only incentivizing the non-Issue 12 related funds, so this is a 50 percent credit on the 1.5 percent non-Issue 12 income tax. The entire 1 percent on the Issue 12 dollars is collected. Strum said this was a net income credit of 30 percent.

President Renner clarified the 52 jobs versus 65 jobs on the spreadsheet.

Councilmember Weaver said that looking at ROI document, it mentions 15 years. Strum said this is correct, as he wanted to show a calculation on 15 years just for illustration. The proposal is for 10 years.

Recommendation: Introduction/First Reading on Regular Agenda on 8/1/2022 and Second Reading/Adoption on Consent Agenda 8/15/2022.

D. ITEMS FROM THE CITY ATTORNEY'S OFFICE:

[RES-0022-2022](#)

A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT WITH THE BOARD OF EDUCATION OF GAHANNA-JEFFERSON PUBLIC SCHOOLS TEMPORARILY SUSPENDING CITY ORDINANCES IN CHAPTERS 1108 AND 1197 REGARDING DUTIES OF THE PLANNING COMMISSION FOR THE NEW HIGH SCHOOL PROJECT

Attorney Mularski introduced Sean McCarter, the City's outside counsel, who would be speaking. Mularski reviewed how the City got here with the proposal in front of Council. Two weeks ago, the Mayor contacted Mularski about a major legal issue that had come up in a meeting with the schools. They discussed the issue on a Monday. Mularski and McCarter met and reviewed the issue with attorneys for the school on the Wednesday and worked all the way through it. That Friday, the attorneys had a good idea of what to do to present to its clients to resolve the problem. On Monday, just a week ago, they ended up deciding that this is how it would be pursued. In this past week, the school with its two attorneys, engineer, developer, and school officials along with the City's two attorneys, Mayor Jadwin, Interim Engineer Ridge, Director Crawford, and Director Blackford there were 12 different views trying to put into writing to get what everyone wanted and what everyone thought would work. On Friday at about 4:00 p.m. all of this came together. This is why it took so long [getting the agenda out]. Mularski proceeded to explain what the legislation was about. The "whereas" clauses set forth reasons why this needs to be done. Mularski read the "whereas" clauses in the preamble of the Resolution. He noted that the goal of the Resolution is trying to help the school save millions of dollars, so our residents save millions of dollars. Mularski added the problem the City has is the school has an abbreviated timeline for fulfilling the terms of their bonds. They must put shovel to dirt in August. To do this, the parties had to find a way to accomplish that. The reason why is due to the *Brownfield* Supreme Court decision. Mularski noted the Clerk had sent an article to Council on the decision that explained what

the case is about. What it says is that [the City] is a political subdivision and the school is a political subdivision. Each get funded by public funds. Neither can tell the other what to do with their public money. However, there are times where the two areas will collide, such as with building construction and zoning. What the City needs the school to do might be different from what they need to do. *Brownfield* says we must work it out. If we do not work this out, this goes to court. If it goes to court, there is a weighing process, and the court decides what is the greater good to the most people. The court then decides who wins. Mularski stated that in every case he has read, from *Brownfield* and its progenies, the court has said "work it out." This is what the parties are trying to do here. Mularski noted further that there are differences between the Resolution and the Memorandum of Agreement (MOA). The MOA is between the City and schools. The Resolution is what Council is being asked to do to make this happen. Council has the power to suspend ordinances. This is what is being sought temporarily. Council cannot suspend the Charter. However, *Brownfield* would trump the Charter. Therefore, in the Resolution there is language to put off some of the requirements under Section 1108.06 to a later time to allow the school to start digging so that they can fulfill the requirements of bonds and not lose millions of dollars. Mularski said this Resolution can only apply for a school or another political subdivision. This is not something a developer could use. It is only between entities that have the eminent domain ability. This is why the item is coming from the City Attorney's office and not a developer. This big of a deal normally would take eight to 18 months before shovel to dirt. A final development plan, design review, and any variance application, erosion control, and engineering approval before they can move dirt. The proposal is saying to the school that they do not have to do all these. The City is saying the school will need to do erosion control and the engineering approvals. The other things can be worked on and need to get done but do not have to be done before starting to move dirt. This allows the school to maintain their tax-exempt status for their bonds. Due to the school's condensed time frame, we had to find a compromise that would allow the school to begin moving this and save money they could be losing. The City is still requiring approvals of engineer and for erosion control but allowing demolition and digging to proceed on stadium. Mularski added that under *Brownfield*, there is only certain things the City can do, for example, in the areas of health and safety. When it comes to sewers, traffic impact studies, and building code, these are all things the City would win under *Brownfield* because of safety measures. Other things, such as design of the school, placement of the stadium, the height of the fence, etc. are things typically handled by Planning Commission but are things we would most likely not prevail in under *Brownfield*. Mularski noted paragraph "C" dealing with site work is what we are saying they can do. This allows the school to get started without having all the final plans and approvals, but with the agreement that we will do all the final plans and approvals in the future. The school has agreed they will be liable for any overruns that this costs. The reason why the City has all the final planning done first before anyone can move dirt is for them to not have to go back and change things later. If they do have to go back and change things, it will be on them. Mularski said McCarter had put this together and could answer questions. Mularski concluded by

asking what happens if we do not do this. The school would be put in a position to file suit and a temporary restraining order, everyone then spend tens of thousands of dollars in attorney fees, and the court will likely say, "work it out." They would then present this agreement, which Mularski believes to be reasonable, and the judge would likely say this was reasonable and what should be done. To compromise and work out and save the school and the City residents millions of dollars, his office is proposing this Resolution to accept the MOA.

Mr. McCarter said that he, along with attorneys for the schools, Attorney Mularski, and engineering officials were on a conference call a week ago from Friday. The schools were stressing to have this be brought forward and that this was in a follow-up to a request that they had sent an MOA that does not look anything like this one. It was much more of a blank check. During the conversation, one of the things the City said was the school does not get to connect to sewers and overwhelm them. They agreed with that. Their response was they are already connecting and using from the site, so they ought to be able to use that. McCarter said ok, but the school might only be limited to that until the sewer problem is ultimately fixed. The City knows the school wants more capacity than the site currently has but until capacity is established, they would not get that. The school can live with this, and their occupancy limited to what they have now. This is one of the acknowledgements. The sewer problem is going to take some time to work out. They do not have time to resolve this to move dirt. This was a big issue. The traffic issue is another one. The school needs to do the studies. McCarter said the MOA provides this must be approved by the City in accordance with controlling law. One of the big issues was a timing standpoint for the onsite work. The Planning Commission was set up as a gatekeeper for many things to make sure that before a project gets the "OK" that everything is in place. The school's position was they will deal with these things as they go but at this time but right now, they need the "OK" to move dirt. On the conference call, the City's team landed on getting 95 percent of way there by requiring the compliance with permits and engineering approvals etc. What is not there is "good idea, bad idea" use of this site feedback by Planning Commission. This is the political subdivision distinction [from *Brownfield*]. They are charged with providing schools and how they develop their site. They get to make the decision. McCarter said that a later case involving the City of Mentor stressed meeting the "work out" provision. If this provision is not met, there is the balancing test by the court. One thing the court noted in this case was "in light of the applicability of *Brownfield* to further conclusions inexorably follow. First, we hold that the proceeding before the Mentor Planning and Zoning Commission was superfluous. Because the determination whether Laketrans is immune from the Mentor zoning resolution will be dispositive of whether it can build the proposed park-and-ride facility, the commission's denial of the request for a conditional use permit is meaningless. Simply stated, the hearings before the commission should have never been held." McCarter said the point was you either work it out or go to court. Courts have held they are not required to follow permitting, zoning, variance, etc. types of processes and that this is part of the "work out." Trying

to take the position of working it out and deal with the timing issues and developing a process that kept all health and safety approval processes in place, this is what they came up with. In seeking a role for Planning Commission, to make sure everything is in place, but not say “good idea/bad idea” and continue to serve as a gatekeeper, [this is what the parties had come up with in the MOA].

Councilmember Angelou said she wanted to be responsive to what is going on. She asked how this got to this point and not done many months ago, as obviously this was known. If it was not known, why was it not known because right now the school would be getting the shovels out? Angelou said the school is part of our community, the City wants this to be great. She again asked why this has happened. McCarter responded, only in part, as the City is not the developing entity. We did not control the timing and process or starting the bonding process and setting a payout schedule, and all those types of things creating some of the issues here. McCarter said it is his understanding that early warnings were given. The offsites were always at issue, two huge hurdles that were presented as impediments to having the ability to tee this up to go to Planning Commission. They were not going to have their offsites done in time in any kind of timeline that would make this workable. This was a significant issue presented to the City. Second, McCarter said splitting the dirt moving versus the other activities, he did not think the City is doing anything differently than anyone else. As school got into process, this is where they have found themselves. McCarter said he did not think the City dragged its feet. He said maybe there was an “Aha” moment. Several issues had been on the table for the while. Mayor Jadwin was at the meeting. McCarter said it seemed the school was hitting the crisis button and asking for help. Mayor Jadwin said this had evolved within the last two to three weeks. She said it is important to take notice that the City and schools are separate, distinct legal entities. People think the City and the schools are all part of one entity. The City is funded and managed differently from how the school is funded and managed. Jadwin added the school has had their timeline for this project. She said it had been announced back in January and had a timeline they were working under. The City also has parameters. The City first met as a team February 28 and walked through potentially what a calendar could look like, understanding a project of this magnitude would take eight to 18 months to go through all the planning process, review between the development of the Final Development Plan, Design Review, and Variance applications, stormwater and erosion control, and EPA requirements that must be followed. This is a situation where the City is trying to balance the processes and parameters and code provisions in place with the leniency school districts have with the *Brownfield* case as established by the Ohio Supreme Court. Jadwin said we want to try to reach a compromise of that but also make sure the City is protected and there is some mechanism for overall interests of the community and greater good. She said the City recognizes this is a substantial project for the community and for the schools. It is sitting on the busiest intersection through the mid-Ohio region. The impact to the community is significant. Jadwin stressed finding a way to help the schools move forward within confines of the *Brownfield* case and understanding what

the City needs to have. The timeline is not ideal. She added she was sure if everyone could do over again, the school would get an earlier start, and everyone would be better off for that. Jadwin said that at the end of day, we are where we are, and the school needs to get shovels in the ground. The City needs to help make that happen or else it is the taxpayers that are going to pay for it. It is the City and school in this together. Jadwin said she thought the City needed to do what it needed to do to help make this move forward. Councilmember Angelou said if you knew this was happening, was there something where you could not come to where we should be. She said she had attended the school's workshop with Planning Commission. She said she was surprised then that the questions all came from the Planning Commission. Angelou wanted to understand how this could happen. She said it has been a long time since the City has had a lot of building and it would be wonderful to have a new high school. She said she thought it was right to do things to help the students, teachers, and administrators. She still wanted to understand why it has come to this. Angelou said it is not the City's fault. McCarter said that is why he said the school district was working through a process here and maybe had different expectations. Coming into the meeting two weeks ago, McCarter said it was expressed there was a severe problem here. On the Monday conference call with building and engineering people and the parties started to work through the problem and get around what the issues were. McCarter said the "whys" have more to do with the school than the City.

Councilmember Schnetzer said Mularski provided a succinct way of boiling down a complex legal issue. Schnetzer said it sounds like certain steps along the way and the approval process are not necessarily being ignored, but the order is changing. Mularski said he thought that was a very good way to put it. Schnetzer added that those items pertaining to health, safety and welfare are not being changed. Mularski said this was correct. Schnetzer added that he was not trying to place blame on anybody. We have one political entity which is the school board, the decision-making entity for the school district. The Council is the decision-making entity for the City. One political entity is asking another, "due to extenuating circumstances, here is what we need to move this forward for the benefit of the residents." Based on what he is seeing, Schnetzer said it seems like a relatively reasonable request and given that nothing is being ignored but rather the order is changing, this was not too heavy of a lift for him and should move forward.

Councilmember Weaver thanked McCarter for the additional commentary. He said the Mayor had said it well with a project this size, as the body looks to have discussion about its own projects, there are time constraints, and the City will be feeling pressures as well. Weaver said Councilmember Schnetzer had made a good point the oversight is still there and just the order of things being adjusted slightly. Weaver added the *Brownfield* decision makes it clear. If you read the *Brownfield* decision, the decision does not provide immunity for health and safety requirement as noted. He thought this is a reasonable request. With the health and safety measures being addressed and still being there, this comes down to protecting the taxpayers.

Weaver said this would be the fiscally prudent decision.

Mayor Jadwin noted that Attorney Mularski worked on this project last week, along with Mr. McCarter, and Director Blackford, Ken Fultz, and Ms. Ridge. She appreciated everybody's tireless hours for getting this together. Angelou thanked the administration for doing this. She hoped that when something like this might happen to the City, the schools might help the City.

Councilmember McGregor said this is difficult for her because when planning, the school came back in February to the meeting. That was five months ago. She asked why we were waiting two weeks before and suddenly it is an emergency. She said she felt like the Council was being dragged into a pool inhabited by sharks because the planning of the school board was not done. This is not the school's first project. They just did Lincoln Elementary. The school knows what timelines are and knows how to draw funds for a bond. McGregor said she felt like Council is having to make up for the problem that was someone's fault from the school or their attorneys. She said it seems like we are having to make it work because of the poor planning that has gone on. McGregor said she was not saying the Council should not do this and that maybe it should. She would have to think about it. In thinking about suspending codes, McGregor said she thought Councilmember Schnetzer's point was right that if health and safety is still going to be done, but if something goes wrong because the City reverses the order, McGregor said [the school] is going to drag the City in because it waived the codes and the order. She said she sees potential for [the City] being blamed when it was not something that is the City's fault. McGregor asked McCarter if the City does nothing, can the school still go ahead. Does the Council have to waive the codes for them to start? McCarter said if the Council does nothing, it would not be accommodating the request to work it out. They will, in his opinion, have satisfied the requirement to have sought to work it out, which gives them the right to go to court. McCarter's expectation is that given the amount of money, they would go to court and would get a temporary restraining order and say to the judge, "the process they are putting us through, we (the school district) are not required to follow and file the permitting, and Planning and Zoning does not have the right to tell us good idea/bad idea. We got to go. We are going to lose a bunch of money." He thought that given his experience in temporary restraining order hearings, the judge will tell the Council to work it out and not to come back and say it cannot be worked out. McCarter said if it does not get worked out, it will go to an immediate consolidated hearing on preliminary and final injunction, a trial on merits, and it will happen fast due to the school's assertions of extreme financial. There will be a court decision. He thinks the school will have cleared a hurdle for trying to work it out at this point. The first reaction of the court would be telling the parties to work out. Mularski added that when push comes to shove, you should always blame the attorneys.

President Renner said publicly we heard a narrative from Attorney Mularski and by Council a little bit that there has been ongoing dialogue and meeting and talking about these things. Renner said he really quivers and takes point

with the use of the word fault and sharks. That kind of stuff is erroneous. He added to not forget, the State of Ohio in 1980 with *Brownfield* had already established a path. With this in the backdrop of what the schools and the City have been talking about, Council needs to temporarily turn off the final development plan and design review part while the schools are doing stuff. Renner said in his experience of managing multiple development projects, timelines and project management 101 can be nightmare. He said he applauded the City, the Mayor and her staff for taking interest. Renner said he understands the schools are under the gun. They have very complicated funding mechanisms to do the high school and complicated structure they are trying to develop. So, Council is being asked to do this temporary thing. Renner (acknowledging the three Planning Commission members in attendance) said in his understanding of the process in talking with Attorney Mularski that Planning Commission understands what is going to change and what their mechanisms are. Mularski said he met with members prior to this meeting and went through this whole thing and hopes they understand. If not, he said he is happy to meet with them again. Renner said this is unique and odd for Council, as it had not come up before during his time on Council.

Councilmember Angelou asked whether there would be a timeframe given to the Planning Commission so that this does not go on for a long time and so that things that need to be going through them are not forgotten. Renner said it sounded like Planning Commission is involved. Angelou asked if there would be a timeframe from the schools or whether they would be getting together. Mr. McCarter said [the schools] get to in some part control their destiny. They have told us that their immediate need is the site work. The school can only work to extent they have permits, which is clearly in [the MOA]. To the extent they can get their permits, they can work. The two offsites are not going to necessarily preclude them from going forward on their onsite work but they face the need to resolve the traffic and sewer before the City approves occupancy and with knowing the potential limitations coming out of that. McCarter said this was designed to give them more control of their destiny to get their stuff done but cut [the City's] system to be done piecemeal instead of whole. Mayor Jadwin added the entire construction team (for the high school project and the City's internal team) have been having biweekly meetings regularly since the end of February when the first meeting occurred. Between these two weeks of meetings, there are multiple conversations between our engineers and their engineers. These meetings have been scheduled into the future on an ongoing basis. Jadwin reiterated she thought it was to everyone's best interest to ensure the outstanding issues get resolved as quickly as possible. This is a three-year phase project. As costs continue to escalate, it makes sense that everybody gets locked in as soon as they can. As those meetings continue to happen and timeframes become more identifiable and narrower, Planning Commission will be kept in loop. Director Blackford, as part of his updates during Planning Commission, will keep them in the loop throughout the process.

Recommendation: Introduction/First Reading/Adoption on Regular Agenda on 8/1/2022.

E. ITEMS FROM THE DEPARTMENT OF PARKS & RECREATION:

[RES-0024-2022](#) A RESOLUTION ADOPTING THE DEPARTMENT OF PARKS & RECREATION 2022 PRICING POLICY AS RECOMMENDED BY THE PARKS AND RECREATION BOARD

Stephania Ferrell, Director of Parks & Recreation, noted that the Resolution is to adopt the Pricing Policy as recommended by the Parks & Recreation Board. The policy is reviewed annually. It sets the charges and fees for any type of membership and programs for the Department. Changes made were to better define the operation. Ferrell noted that none of the policy was ultimately changed.

Recommendation: Introduction/First Reading/Adoption on Consent Agenda on 8/1/2022.

F. ITEMS FROM THE DEPARTMENT OF FINANCE:

[ORD-0041-2022](#) AN ORDINANCE AUTHORIZING THE CREATION OF THE ONEOHIO FUND NO. 2440

Joann Bury, Director of Finance, requested the establishment of a fund for the OneOhio opioid settlement which the City is participating in. Over an 18-year period, the City will receive an annual distribution from the settlement, which is broken into two parts. Bury reviewed breakdowns based on state and local government distribution percentages as noted in her report. The first settlement was received July 18 as an EFT. This is to establish the fund to place the settlement funds in as they are received.

Councilmember Weaver confirmed there were restrictions on what the funds can be used for. Bury said this was correct and all defined in the settlement. As the City identifies what those purposes are, it will determine an appropriate program or way to use the funds. No appropriations are being sought at this time.

Recommendation: Introduction/First Reading on Regular Agenda on 8/1/2022 and Second Reading/Adoption on Consent Agenda 8/15/2022.

G. ITEMS FROM THE DEPARTMENT OF PUBLIC SERVICE & ENGINEERING:

[MT-0017-2022](#) A MOTION AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE & ENGINEERING TO ENTER INTO CONTRACT AND WAIVE COMPETITIVE BIDDING PURSUANT TO CODE SECTION 135.05(e)(3) FOR EMERGENCY REPLACEMENT OF TRAFFIC SIGNAL CABINET AT US-62 AND OLDE RIDENOUR ROAD

Grant Crawford, Director of Public Service & Engineering, stated a traffic signal cabinet was recently hit by a vehicle just this morning. It had been struck previously in late May during a vehicle accident that knocked it off a few feet away from its foundation. This has now happened twice. Crawford said it has temporarily been reconnected again. It is currently operational, but some of the equipment, such as vehicle detection cameras, has been destroyed

and is not able to be repaired in-kind. The City had obtained a copy of the police report from when it was first hit. The first driver had insurance. As with all damage to City property, we will be pursuing reimbursement from the driver and insurance company. Code allows for exemption from formal bidding for emergency purchase. This will allow immediate action by hiring a contractor to replace the cabinet components, fiber lateral, and will preserve the community's health, safety, and welfare. The first action had occurred two months ago, and it has taken this long to receive at least one quote back due to supply chain issues and material shortages. Crawford said the City needs to move on this as expeditiously as possible.

Councilmember Angelou and whether there was a reason to move it since it has now been hit twice in two months. Crawford said this is the first he is aware of it being hit. The first hit was due to a driver trying to gain a yellow light and hit another car turning. He was not sure of today's circumstances. He did not have reason to believe it is in an inopportune location subject to damage.

Councilmember Schnetzer said an important factor is that monies are likely to be reimbursed by insurance. The City would pay the money up front for the repair and recoup the cost. He said he thinks the request was reasonable.

Councilmember McGregor asked whether a stolen car had been involved. Director Crawford stated he did not know. McGregor said this repair had to be made.

Recommendation: Adoption on Consent Agenda on 8/1/2022.

[ORD-0042-2022](#) AN ORDINANCE AUTHORIZING SUPPLEMENTAL APPROPRIATIONS AND WAIVER OF SECOND READING - Traffic Signal Cabinet at US-62 and Olde Ridenour Road

Director Crawford noted that the City do not typically budget this much for repair. Smaller amounts for maintenance and repair are budgeted. This is sought due to moving forward with the repair items. As Councilmember Schnetzer mentioned, the City will seek recoupment of costs through the driver and insurance company.

Recommendation: Introduction/First Reading/Waiver & Adoption on Consent Agenda 8/1/2022.

[ORD-0043-2022](#) AN ORDINANCE AUTHORIZING SUPPLEMENTAL APPROPRIATIONS - Damage to City Property

Crawford said this and ORD-0044-2022 are the standard quarterly supplementals. He is requesting supplemental appropriations to move funds that were used to make repairs back to expense accounts. Likewise, he is requesting a supplemental for water meter fees from water meter purchases for developers. The request is to move funds back to their expense accounts.

Recommendation: Introduction/First Reading on Regular Agenda on 8/1/2022 and Second Reading/Adoption on Consent Agenda 8/15/2022.

[ORD-0044-2022](#) AN ORDINANCE AUTHORIZING SUPPLEMENTAL APPROPRIATIONS
- Water Meter Fees

Recommendation: Introduction/First Reading on Regular Agenda on 8/1/2022
and Second Reading/Adoption on Consent Agenda 8/15/2022.

H. ITEMS FROM THE COUNCIL OFFICE:

[RES-0023-2022](#) A RESOLUTION DESIGNATING AUGUST 2022 AS SAFE DRIVING
AND SHARE THE ROAD AWARENESS MONTH IN THE CITY OF
GAHANNA

Recommendation: Introduction/First Reading/Adoption on Consent Agenda
8/1/2022.

I. ADJOURNMENT:

*With no further business before the Committee of the Whole, the Chair
adjourned the meeting at 8:38 p.m.*

Jeremy A. VanMeter
Clerk of Council

*APPROVED by the Committee of the Whole, this
day of 2022.*

Stephen A. Renner