City of Dublin

Office of the City Manager
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Memo

To: Members of Dublin City Council

From: Dana L. McDaniel, City Manager

Date: March 16, 2015

Initiated By: Terry D. Foegler, Director of Strategic Initiatives
Angel L. Mumma, Director of Finance

Re: Ordinance No. 25-15 – Finding that the Creation of the Bridge Park New Community Authority will be conducive to the Public Health, Safety, Convenience and Welfare and is Intended to Result in the Development of a New Community Authority to be Organized and a Body Politic and Corporate, Defining the Boundary of the New Community District, Appointing Four Members to the Bridge Park New Community Authority Board of Trustees, Fixing the Surety for the Trustees' Bonds, and Declaring an Emergency.

Summary

As Council is aware, Crawford Hoying Development Partners, Ltd. (the Developer) filed a Petition for establishment of the Bridge Park New Community Authority as a New Community Authority (NCA) under Ohio Revised Code Chapter 349. The filing of this Petition triggered a series of statutory procedural steps, which must be undertaken by Dublin City Council, the first of which was consideration of the Sufficiency Ordinance. At the February 17, 2015 Special Council meeting, City Council approved Ordinance No. 14-15, which rendered the petition as sufficient; authorized the City Manager to execute the Petition as the "proximate city"; and set the date and time for the public hearing of Thursday, March 19, 2015 at 6:30 pm.

After the public hearing on March 19th, Council will consider the information presented and determine whether or not the NCA will be conducive to the public health, safety, convenience or welfare and will result in the intended development. If Council finds that the authority accomplishes these objectives, the finding is affirmed by passage of Ordinance 25-15, the subject of this staff report. This Ordinance will further:

1. Declare the Bridge Park NCA to be organized with the corporate name designated in the Petition
2. Define the boundary of the Bridge Park NCA
3. Provide the method of selecting the Board of Trustees of the Bridge Park NCA
4. Fix the surety for the trustees' bonds in accordance with ORC 349.04 for at least $10,000

Given that the Board of Trustees for the NCA must be designated within ten days after approval of the Ordinance establishing the NCA, staff recommends that Council appoint their four members concurrently with this legislation. As such, Ordinance No. 25-15 has incorporated language that would appoint two members to a one-year team and two members to a two-year term.

There will be a number of additional pieces of legislation that will come before City Council for consideration related to the Bridge Park development before the project can move forward. The most important piece is the Development Agreement, which will memorialize the terms and mutual understandings as to the responsibilities of both parties with respect to the development. It is important to note that the steps related to the creation of the NCA, including Ordinance 14-15 approved by Council on February 17, 2015 and Ordinance 25-15 being considered on March 19, 2015, do not limit Council's decisions and discretion regarding these other pieces of legislation, including those related to the development review and approval process and the development agreement. To that point, Section 10 of Ordinance 25-15 states that, "This Council reserves the right in its sole discretion to dissolve the Authority until such time as that right is expressly waived by this Council." Staff would recommend that once the development agreement and other planning related steps are approved by Council, that language be included in one of those final pieces of legislation, which would waive Council's right to dissolve the authority.

Attached to this document is the staff report dated February 13, 2015 which provided detailed information about NCAs, including its powers, how a Community Development Charge is applied, and the process for its creation.

Recommendation

Staff recommends Council dispense with the second reading/public hearing and adopt Ordinance 25-15 as an emergency at the March 19, 2015 Special City Council meeting.

RECORD OF ORDINANCES

Dayton Legal Blank, Inc. Form No. 30043

Ordinance No. 25-15 Passed _____, 20____

AN ORDINANCE FINDING THAT THE CREATION OF THE BRIDGE PARK NEW COMMUNITY AUTHORITY WILL BE CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE AND WELFARE AND IS INTENDED TO RESULT IN THE DEVELOPMENT OF A NEW COMMUNITY, DECLARING THE BRIDGE PARK NEW COMMUNITY AUTHORITY TO BE ORGANIZED AND A BODY POLITIC AND CORPORATE, DEFINING THE BOUNDARY OF THE NEW COMMUNITY DISTRICT, APPOINTING FOUR MEMBERS TO THE BRIDGE PARK NEW COMMUNITY AUTHORITY BOARD OF TRUSTEES, FIXING THE SURETY FOR THE TRUSTEES' BONDS, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Chapter 349 of the Ohio Revised Code, a petition (the "Petition") providing for the establishment of the Bridge Park New Community Authority (the "Authority") to govern a proposed new community district (the "District") was filed by the developer of the District (the "Developer") with the Clerk of Council and in the office of the Clerk of the Franklin County Board of County Commissioners on February 17, 2015 as required by Chapter 349.03(A) of the Ohio Revised Code; and

WHEREAS, the "organizational board of commissioners" (as that term is defined in Section 349.01(F) of the Ohio Revised Code) for the proposed Authority is comprised solely of this Council; and

WHEREAS, this Council passed Ordinance No. 14-15 on February 17, 2015, which Ordinance directed the City Manager to execute and sign the Petition on behalf of the City of Dublin, Ohio as the sole proximate city for the Authority (the "City"); and

WHEREAS, this Council passed Ordinance No. 14-15 on February 17, 2015, which Ordinance determined that the Petition complies with the requirements of Chapter 349.03(A) of the Ohio Revised Code and fixed the time and place for a public hearing on the establishment of the Authority; and

WHEREAS, within 10 days after establishment of the Authority, this Council is to appoint three (3) citizen members to represent the interests of present and future residents of the District and one (1) member to serve as a representative of local government.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, State of Ohio, _____ of the elected members concurring, that:

Section 1. This Council finds and determines that the District will be conducive to the public health, safety, convenience and welfare, and is intended to result in the development of a new community as defined in Section 349.01(A) of the Ohio Revised Code.

Section 2. The Petition is hereby accepted and shall be recorded, along with this Ordinance, in the journal of this Council as the organizational board of commissioners, and in the journal of the Board of County Commissioners of Franklin County, Ohio.

Section 3. This Council hereby declares the Authority to be organized and a body politic and corporate.

Section 4. The corporate name of the Authority shall be the "Bridge Park New Community Authority."

Section 5. The District shall be defined to have the boundary set forth in the Petition.

RECORD OF ORDINANCES

Section 6. The Board of Trustees of the Authority shall be composed of seven (7) members selected as provided in the Petition.

Section 7. The City hereby appoints the following four (4) members to the Board of Trustees of the Authority, each in the position and for the term indicated beside such member's respective name:

_____	Citizen Member	one-year term
_____	Citizen Member	one-year term
_____	Citizen Member	two-year term
_____	Local Government	two-year term

Section 8. The Developer shall appoint the remaining three (3) members to serve on the Board of Trustees of the Authority as representatives of the Developer and shall designate one (1) of those members to serve an initial two-year term. Those appointments and designations shall be in writing filed with the Clerk of Council within ten (10) days after the passage of this Ordinance.

Section 9. Pursuant to Section 349.04 of the Ohio Revised Code, there shall be posted for each member of the Board of Trustees of the Authority a bond in the amount of $10,000 for the faithful performance of his or her duties. The bond shall be with a company authorized to conduct business within the State of Ohio as a surety and shall be deposited with and preserved by the Clerk of Council.

Section 10. This Council reserves the right in its sole discretion to dissolve the Authority until such time as that right is expressly waived by this Council.

Section 11. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or its committees and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 12. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order that the formation of the Authority must occur promptly in order to facilitate the orderly and timely development of the District property; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

Signed:

_____

Mayor - Presiding Officer

Attest:

_____

Clerk of Council

Passed: _____, 2015

Effective: _____, 2015

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Memo

To: Members of Dublin City Council

From: Dana L. McDaniel, City Manager

Date: February 13, 2015

Initiated By: Terry D. Foegler, Director of Strategic Initiatives/Special Projects
Angel L. Mumma, Director of Finance

Re: Ordinance No. 14-15 – Determining the Sufficiency of the Petition to Establish the Bridge Park New Community Authority, Authorizing the Execution of Such Petition by the City as a Proximate City, Setting a Date for a Public Hearing under Chapter 349 of the Ohio Revised Code, and Declaring an Emergency.

Summary

The primary goal for implementing the Bridge Street District (BSD) plan is to help enhance the City's long term economic competitiveness. Studies by Battelle and, more recently, the Insight2050 report issued by the Mid-Ohio Regional Planning Commission (MORPC) have reaffirmed that the type of denser, mixed-use, vibrant and walkable area planned for the BSD will enhance our City's ability to attract and retain young talent – a critical component to our community's long term economic success. Also, businesses are increasingly seeking these types of environments as part of their branding and talent attraction efforts.

In order to support this type of development planned for the BSD, which is unlike development in most suburbs, a significant investment in infrastructure improvements on the part of the City will be required. This has been recognized since the early visioning of the BSD. While the infrastructure improvements will be driven in part by particular developments, we are aware that significant additional revenue streams (beyond new income tax revenue) and development financing tools will likely be needed for the BSD vision to move forward. The opportunities for implementing such new tools have been greatly improved as a result of the Cooperative Agreements entered into with the Dublin City School District and Tolles Career and Technical Center in 2014, which facilitate the use of various real property tax based incentive tools in exchange for an annual payment to both districts.

Since the early 90's, the City has utilized tax increment financing (TIF) as its primary real estate tax incentive-based economic development tool to help fund infrastructure improvements in and around TIF districts. Over the years, TIF revenues have totaled approximately $79.1 million, which has supported nearly $108.6 million in infrastructure improvements and has created over $603 million of additional property tax valuation – much of which would not have occurred without the infrastructure improvements made by the City.

Another economic development tool available to assist in funding such infrastructure improvements, which has been increasingly used in recent years is a New Community Authority (NCA). Created under Chapter 349 of the Ohio Revised Code, an NCA can be created to encourage the orderly development of a well-planned, diversified and economically sound new

community. A "new community" is a community or an addition to an existing community planned to include facilities for the conduct of industrial, commercial, residential, cultural, educational and recreational activities and designed in accordance with planning concepts for the placement of utility, open space and other supportive facilities.

An NCA is a separate public entity with its own powers, which is governed by its own board of trustees and limited by the provisions of the organizational petition and a related declaration of covenants. It has no power over functions such as zoning or subdivision regulation, provision of police or fire protection, water supply, sewage treatment or disposal. However, once created, an NCA has the power to do the following:

1. Purchase real/personal property
2. Improve/sell real/personal property and community facilities
3. Landscape and otherwise aesthetically improve areas within the NCA
4. Provide recreational, education, health, social, vocational, cultural, etc. activities primarily for residents of the NCA
5. Collect service fees to cover community development programs
6. Adopt and enforce rules for use of community facilities
7. Employ staff
8. Sue and be sued
9. Enter into contracts, including with private parties and other public bodies
10. Apply for and accept grants, loans or commitments of guarantee
11. Procure insurance
12. Maintain funds and reserves necessary for performance of duties
13. Procure goods and services and enter into construction contracts
14. Issue debt and pay costs of operational and maintenance of community facilities
15. Enforce collection of Community Development Charges (to be discussed below)
16. Appropriate land, easements, rights or way within the community authority

From a financing standpoint, the Community Development Charge (the Charge) which is levied and collected by the NCA provides a revenue stream that can be used to pay for operations and maintenance of the community facilities as well as debt service on bonds issued for land development and community facilities. The Charge may be based on the assessed valuation of real property, income of the residents of such property subject to such charge, a uniform fee on each parcel within the NCA, or any combination thereof. While the Charge is not a property tax, it does run with the land by way of a recorded declaration of covenants and if not paid, the unpaid Charge can become a lien on the property against which it is charged and collected in the same manner as property taxes.

NCAs have been successfully implemented for other projects throughout the state of Ohio and central Ohio. Examples included:

- The New Albany Community Authority
- The Liberty Community Infrastructure Financing Authority (Powell)
- The Powell Community Infrastructure Financing Authority
- The Jeffrey Place New Community Authority (Columbus)
- Pinnacle Community Infrastructure Financing Authority (Grove City)

To create an NCA, a developer that "owns and controls" the land in which the future development is to occur prepares and files a petition with the "proximate city", the "organizational board of commissioners", and the county board of commissioners.

For an NCA created between March 21, 2012 and March 21, 2015, the "proximate city" is the municipal corporation in which, at the time of filing the Petition, any portion of the proposed NCA is located. After March 21, 2015, the largest city in the county in which the proposed NCA is located becomes the "proximate city". As such, for NCAs created before March 21, 2015 within the City of Dublin, the "proximate city" would be the City of Dublin and for those created after that date, the "proximate city" would be the City of Columbus.

Regardless of the date of creation, for any NCA located entirely within a municipal corporation, that municipal corporation's council will act as the "organizational board of commissioners". Therefore, Dublin City Council will act as the "organizational board of commissioners" for any NCA proposed within the City limits, regardless of when it is formed.

This petition filed with the board of county commissioners, the "proximate city" and the "organizational board of commissioners" must contain the following:

1. Name of the NCA
2. Address of the NCA
3. Map and full description of the boundaries of the NCA together with a description of properties within such boundaries, if any, which will not be included in the NCA
4. Statement of the current/proposed zoning
5. Current plan of development
6. Suggested number of members of the board of trustees ranging from seven (7) to thirteen (13)
7. Preliminary economic feasibility analysis, including provision of public services
8. Statement that the development will comply with environmental laws

Once the petition is filed, the "proximate city" will approve the petition while the "organizational board of commissioners" must determine whether the form of the petition is sufficient in accordance with the ORC. If sufficient, the petition must be accepted and a date be established for a public hearing on the actual creation of the NCA. The Ordinance affirming the compliance of the petition with the statutory requirements is referred to as the Sufficiency Ordinance. In the instance where the City of Dublin acts as "proximate city" and the "organization board of commissioners", the Sufficiency Ordinance would contain three components (assuming the petition met the requirements identified in Chapter 349 of ORC):

1. Authorize the execution of the petition as the proximate City of Dublin
2. Determine the sufficiency of the petition
3. Set a date for a public hearing

If the Sufficiency Ordinance is passed by Council, a public hearing must be held between 30 - 45 days after the petition is filed with the board of county commissioners. After the public hearing, Council would then consider whether or not the authority will be conducive to the public health,

safety, convenience or welfare, and will result in the intended development. If Council finds that the authority accomplishes these objectives, the finding is affirmed by passage of an Ordinance that would formally establish the NCA.

Bridge Park New Community Authority

As the owner of approximately 30 acres within the Bridge Street District, Crawford Hoying (the Developer) has been working with the City on the development of the properties known as Bridge Park. Council was presented with and approved the Basic Development Plan, as well as Basic Site Plan for Phase I of this development, at Council's special meeting held January 20, 2015.

Similar to the process undertaken with other development projects throughout the City, staff and the Developer have been working together to develop the basic terms and mutual understandings as to the responsibilities of both parties with respect to the development. Ultimately, if mutual agreement is achieved and approved by City Council, this will be memorialized in a development agreement between the Developer and the City. The concepts framing some of the key elements of this development agreement are expected to also include the establishment of at least two TIF districts (one created under ORC 5709.40 and the other created under ORC 5709.41), land exchanges necessary to facilitate the establishment of the 5709.41 TIF, the creation of an NCA, and the creation of a Community Reinvestment Area (CRA).

While those basic terms and conditions are still being negotiated, the Developer has filed a Petition for the creation of the Bridge Park NCA with the City. The Developer is proposing that the NCA charges will provide the funding mechanism for the structured parking facilities and possibly a performing arts center and a special event conference facility. This mechanism was pursued by the Developer in large response to the City's direction that the parking facility financing could not utilize or have any negative impact upon the City's financial credit.

As outlined above, the filing of the Petition triggers a series of statutory procedural steps which must be undertaken by Dublin City Council, the first of which is consideration of the Sufficiency Ordinance. The City's legal counsel, led by Chris Franzmann, partner with Squire Patton Boggs, has reviewed the Petition and has advised the City that it contains the necessary information, which is required to be included in such a petition pursuant to Chapter 349 of the ORC. If Council is in agreement, Ordinance No. 14-15 would be approved, which would: render the petition as sufficient; authorize the City Manager to execute the Petition as the "proximate city"; and set the date and time for the public hearing. In order to have this NCA in place prior to March 21, 2015 (and therefore subject to the current statutory "proximate city" provisions), staff recommends that the public hearing be scheduled for March 19, 2015 at 6:30 p.m., after which Council would hold said public hearing, consider the information presented, and determine, through an Ordinance establishing the NCA, whether or not the NCA will be conducive to the public health, safety, convenience or welfare and will result in the intended development. This Ordinance will further:

1. Declare the Bridge Park NCA to be organized with the corporate name designated in the resolution
2. Define the boundary of the Bridge Park NCA

3. Provide the method of selecting the Board of Trustees of the Bridge Park NCA
4. Fix the surety for the trustees' bonds in accordance with ORC 349.04 for at least $10,000

Additionally, at this meeting, it would be recommended that City Council appoint the four city-appointed members to the seven member Bridge Park NCA board of trustees.

As previously mentioned, there will be a number of additional pieces of legislation that will come before City Council for consideration related to the Bridge Park development, including a Development Agreement, before the project can move forward. It is important to note that the steps related to the creation of the NCA will not have any impact on limiting Council's decisions and discretion regarding these other pieces of legislation, including those related to the development review and approval process and the development agreement. Most importantly, staff will ensure that the proposed Ordinance establishing the NCA will have a provision that states that if the Development Agreement is not executed and the appropriate development approvals are not secured, the City will be able to rescind the authorization creating the NCA and dissolve the NCA.

Recommendation

Staff recommends Council dispense with the second reading/public hearing and adopt Ordinance 14-15 as an emergency at the February 17, 2015 Special City Council meeting.