

SPECIAL MEETING OF CITY COUNCIL

TO: THE HONORABLE PRESIDENT AND MEMBERS OF MASSILLON CITY COUNCIL

Ladies and Gentlemen:

P-503A
P-POW

A Special Meeting of the City Council of the City of Massillon, Ohio, is hereby called. This meeting shall be held in Massillon City Council Chambers at City Hall on MONDAY

AUGUST 9, 2004, at 5:00 P.M. for the purpose of: 1. Roll Call. 2. Pledge of Allegiance. 3. First Reading and Consideration for Passage: ORDINANCE NO. 134-2004: BY: FINANCE COMMITTEE: AN ORDINANCE declaring the improvement of certain real property located in the City of Massillon, Ohio, to be a public purpose; declaring such property to be exempt from real property taxation; designating improvements to be made that will benefit such property; requiring annual service payments in lieu of taxes; authorizing the execution of a service payment agreement with the developer; authorizing compensation agreements with the Perry Local School District and with the Massillon City School District; establishing an Urban Redevelopment Tax Increment Equivalent Fund; and declaring an emergency. 4. Adjournment.

**** A work session will be held before the Special Council meeting at 4:30 P.M.

On this 6th Day of AUGUST, 2004

CC: MAYOR
DIRECTOR OF SERVICE & SAFETY
LAW DIRECTOR
AUDITOR
CITY ENGINEER
PLANNING DEPARTMENT

Francis Hinchelli, Jr.
MAYOR

Section 731.46 Revised Code

"The Council of a municipal corporation shall not be required to hold more than one regular meeting in each week; and the meetings may be held at such time and place as may be prescribed by ordinance and shall at all times be open to the public; and the Mayor or any three members may call special meetings upon at least twelve hours notice to each member, served personally or left at his usual place of residence."

DATED: AUGUST 9, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 134 - 2004

BY: THE FINANCE COMMITTEE

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF MASSILLON, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING IMPROVEMENTS TO BE MADE THAT WILL BENEFIT SUCH PROPERTY; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; AUTHORIZING THE EXECUTION OF A SERVICE PAYMENT AGREEMENT WITH THE DEVELOPER; AUTHORIZING COMPENSATION AGREEMENTS WITH THE PERRY LOCAL SCHOOL DISTRICT AND WITH THE MASSILLON CITY SCHOOL DISTRICT; ESTABLISHING AN URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND; AND DECLARING AN EMERGENCY

WHEREAS, the development of commercial properties in the City of Massillon, Ohio (the "City") will benefit the City and its residents by creating jobs, enlarging the property tax base, enhancing income tax revenues and stimulating collateral development in the City; and

WHEREAS, by providing infrastructure improvements (the "Designated Improvements"), as further described in Exhibit A attached hereto and made a part hereof, the City may facilitate the development of commercial properties; and

WHEREAS, the current and future owners of certain parcels of real property located in the City (each an owner and, hereinafter referred to collectively as the "Owners" and individually as an "Owner"), as further described in Exhibit B attached hereto and made a part hereof (the "Site") wish to redevelop the Site (the "Redevelopment"), provided that the Designated Improvements be made; and

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40 through 5709.43, and specifically Section 5709.41, the City may utilize municipal tax increment financing to declare the increase in the assessed value of any parcel of property subsequent to the acquisition of such parcel by the City, as part of its urban redevelopment efforts, to be a public purpose and to exempt such increased value from real property taxation, in order to provide a mechanism to the finance the construction of infrastructure improvements on such real property, provided the City has held fee title to such real property prior to adoption of the ordinance; and

WHEREAS, the City has acquired fee title to the Site, pursuant to a Quitclaim Deed recorded with the Stark County Recorder's Office, and, pursuant to a Quitclaim Deed recorded with the Stark County Recorder's Office on the same date, conveyed said Site back to the prior owner; and

WHEREAS, Perry Local Schools, on June 28, 2004, and Massillon City Schools, on July 29, 2004, each forwarded a certified copy of a resolution of their respective boards of education to the City, which resolutions approved the exemption for the Improvements on the condition that the City enter into School Compensation Agreements (as defined hereinbelow) with each of the School Districts to compensate such School Districts for a portion of the real property taxes that would have been received by the School Districts with respect to the Improvements, but for the exemption for the Improvements granted pursuant to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, COUNTY OF STARK, STATE OF OHIO, THAT:

Section 1. It is hereby declared that Redevelopment of the parcels comprising the Site (each a "Parcel"), is a public purpose benefiting the City and its residents pursuant to Section 5709.41 of the Ohio Revised Code, and that the duration of such public purpose shall be thirty (30) years.

Section 2. One hundred percent (100%) of the increase in the assessed value of the Site and the assessed value from the Redevelopment of the Site (collectively, the "Exempted Property") shall be exempt from real property taxation (the "TIF Exemption"), for a period commencing with the effective date of this Ordinance (which, solely for purposes of the provision, shall mean the tax year in which the Exempted Property first appears on the tax list and duplicate of real and public utility property [the "Commencement Date"]) and ending on the thirtieth (30th) anniversary of such Commencement Date or the date the Designated Improvements are paid in full, whichever occurs first (the "Exemption Period"). The TIF Exemption shall take effect with respect to a Parcel when the respective Improvements to such Parcel are made and an exemption therefor is claimed in the manner provided for hereinabove.

Section 3. The City shall construct, or cause to be constructed, the Designated Improvements, as more particularly described on Exhibit A, attached hereto and made a part hereof. The City hereby determines that the Designated Improvements will directly benefit the Site, by virtue of the fact that the Improvements will place direct, additional demand on the existing infrastructure and on the Designated Improvements. The cost of such Designated Improvements shall be paid from the proceeds of bonds and/or notes (the "Developer Bonds") to be issued by LRC Massillon Investors, LLC, an affiliate of Levey & Company, which is the developer of the Site (the "Developer"), and paid from revenues received by the City from service payments in lieu of taxes (the "Service Payments") made by the Owners, including any future owners of all or a portion of the Site, as set forth herein.

Section 4. The Owners shall make semi-annual Service Payments, which Service Payments shall be paid to the Stark County Treasurer and collected and distributed as set forth in Ohio Revised Code Section 5709.42. Payments due with respect to partial calendar years shall be apportioned on a pro rata basis.

The Mayor and the City Auditor, or either of them individually, are hereby authorized and directed to execute on behalf of the City a Service Payment Agreement between the City and the Developer, which Service Payment Agreement shall provide for: (i) the payment and collection of such annual Service Payments in lieu of taxes by the Developer and the Owners, (ii) the payment of the compensation due to the School Districts under the School Compensation Agreements from the Service Payments, and the requirement of the Developer to pay such compensation in the event that the Service

Payments are not adequate, and (iii) the payment to the Developer of the amounts remaining after the payments to the School Districts, as described under (ii) above, to the Developer to pay costs of the Designated Improvements or debt service charges on the Developer Bonds. The Service Payment Agreement shall be in such form as is acceptable to such officials, approved by the Director of Law, and not substantially inconsistent with the terms of this Ordinance.

Section 5. Pursuant to Ohio Revised Code Sections 5709.41, 5709.42, 5709.43 and 5709.82, the City is hereby authorized to enter into a School Compensation Agreement with Perry Local Schools and a School Compensation Agreement with Massillon City Schools (collectively, the "School Compensation Agreements"), which shall provide that during the Exemption Period, the City shall pay to the School District a portion of the payments in lieu of taxes collected annually with respect to the Improvements, as set forth in such School Compensation Agreements. The School Compensation Agreements shall be executed by the Mayor and the City Auditor, or either of them individually, on behalf of the City. The School Compensation Agreements shall be in such form as is acceptable to such officials, approved by the Director of Law, and not substantially inconsistent with the terms of this Ordinance.

Section 6. There is hereby established within the City Treasury an urban redevelopment tax increment equivalent fund (the "Tax Increment Fund") into which shall be deposited service payments in lieu of taxes received from the Owners and distributed to the City by the County Treasurer. Such Fund may be combined with other funds created by ordinances of this Council authorizing other such projects. Money in the Tax Increment Fund shall be used to finance the Designated Improvements and shall, to the extent provided in further ordinances of this Council, be pledged to the repayment of the Developer Bonds issued to finance such improvements. Such monies may also be used to make payments due under the School Compensation Agreement.

Section 7. The Clerk of this Council is hereby directed to deliver, not later than fifteen (15) days after the effective date of this Ordinance, a copy thereof to the Director of Development of the State of Ohio and to further deliver to such Director, not later than March 31 of each year during which the tax exemption remains in effect, a status report outlining the progress of the project herein described.

Section 8. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed 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 action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 9. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this Ordinance must be immediately effective so that the work can begin on the Site and the Developer Bonds can be sold as soon as possible to complete such work, wherefore this Ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 9th day of August, 2004.

Effective this 9th day of August, 2004.

Attest:

Attest:

Clerk

President of Council

Approved:

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. ____ - 2004 duly adopted by the Council of the City of Massillon, Ohio on August 9, 2004.

Clerk
City of Massillon, Ohio

EXHIBIT A

DESCRIPTION OF THE DESIGNATED IMPROVEMENTS

The Designated Improvements consist of site demolition, storm detention and grading, construction and improvement of a retaining wall, construction of sanitary sewer improvements and water lines with related site improvements and appurtenances thereto.

EXHIBIT B

DESCRIPTION OF THE SITE

[INSERT LEGAL DESCRIPTION]