

RECORD OF PROCEEDINGS

MINUTES OF THE

BOARD OF CANFIELD TOWNSHIP TRUSTEES

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Meeting held on February 11, 2015 at 2:30 P.M.

Canfield Township Trustees met in Special Session in the Canfield Township Hall, on Wednesday, February 11, 2015 at 2:30pm. The meeting was called to order by Chairman Maszczak, followed by the Pledge of Allegiance. Also Present: from the City of Canfield Mayor Bernie Kosar; Councilmen Don Dragish, John Morvay, and Steve Rogers; Atty. Mark Fortunato, and City Manager Joseph Warino. Advertised as required by the Ohio Sunshine Law, the following legal ad ran in the *Youngstown Vindicator* on February 10, 2015.

Canfield Township Trustees will hold a Special Meeting on Wednesday, February 11, 2015 at 2:30pm at the Township Hall, 21 S. Broad Street, for the purpose of meeting with Canfield City Council members to discuss terms of a Joint Economic Development District (JEDD) between the two entities and any other business that might come before the Board. Public is welcome to attend.

Keith Rogers, Administrator/Road Superintendent called the roll for Canfield Township.

Attendance

Mr. Governor	present,
Ms. Cartwright	present,
Mr. Maszczak	present,

MR. MASZCZAK: Both parties being here today for informational purposes regarding the Joint Economic Development District between the City of Canfield and Canfield Township. There is a proposed JEDD Agreement that has been drafted. The parties have had an opportunity to review that agreement. We are here today to discuss that agreement in an open forum with the public. With that, are there any specific questions, concerns, or topics that we want to cover? Mark, I don't know if you have specific...

MR. FORTUNATO: I was looking for certain attachments. Once we have our public hearings or once we adopt the JEDD, so to speak and it gets set for public hearing by both parties for 30 days; prior to that we need to have the JEDD Agreement and all of the related attachments attached to it for public inspection during those 30 days. As of now, I believe we have all of the attachments. We have a proposed Economic Development Plan which Jim Matthews and I have agreed upon; it's very succinct and discusses the project. We have the map and depiction of the real estate along with the legal description. I believe that is the balance of what we needed. Although we will have to make sure on both sides that we have everything that the Revised Code contemplates.

MRS. CARTWRIGHT: I think we also need the Zoning Resolution as it was passed before that. We do have that from the Township side. I don't know if you have been supplied with that, but I think that is part of the documentation.

MR. FORTUNATO: We have not. We will need that and at this point reviewed the document for what is required:

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- A copy of the contract creating the district.
- A description of the area or areas to be included in the district, including a map in sufficient detail to denote the specific boundaries.
- An economic development plan for the district.
- A schedule for the provision of the new, expanded, or additional services, facilities, or improvements, which would likely fall into the City's lap in terms of the water and sewer to the point of connection.
- A schedule for the collection of an income tax levied within the JEDD.
- The zoning information that Marie had indicated.

Mr. Warino will need a schedule for the collection of income tax; and Christine can put together when the income tax would be collected from both the employees in the JEDD and the businesses in the JEDD as well as a schedule for the provision of the new expanded or additional services or facilities. It's all private roads in the development so it's limited to our water and sewer line extensions as listed in the Resolution that Jim Matthews prepared, at the bottom of page (1) and (C) (1) and (2). At the next meeting Wednesday, set the public hearing with the agreement completely compiled.

MR. WARINO: A question of clarification. Are you having one meeting or do we have to have two separate public meetings?

MR. FORTUNATO: No. We set a public hearing next Wednesday. That is the City's public hearing for the citizens of the city to comment on the JEDD. The citizens have 30 days to inspect the documents and then we have the public hearing to hear comments from the citizens of the city. The Township is doing the exact same thing on their end. So they are not joint meetings; they are separate. So, we would be the 18th. So sometime on or after March 18th, we would need to have the public hearing. We are kind of going to be moving along the same path, but not exactly, date-wise.

MRS. CARTWRIGHT: Correct. We will be following you guys by a week or so, which I don't think is a problem. Mark, since you are already starting this conversation, do you just want to go through and hit the high points of what is in the document? If there are any questions then we can address them at that time.

MR. FORTUNATO: All have seen a copy of the document or at least a previous draft of it. There are two parties to the agreement, the Township and the City. Page one identifies those parties. The second half of page one just indicates that the parties are doing this to facilitate economic development, etc. On page two of the agreement at the top, identifies the authority the parties have to enter into this agreement; the location of the JEDD Territory, which is the map and legal description that Marie has passed out today. We have to indicate that there is a NEXUS between the Township and the City. That is paragraph 5. In paragraph 6, JEDD CRITERIA, there are certain steps to requirements. They are listed there A thru C and we are stating that those requirements are satisfied.

The TERRITORY consists of six (6) parcels, 18.6005 acres, and that is identified on the legal description. The Township has already zoned the property, so paragraph 8 indicates that the JEDD Territory is zoned for commercial use.

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Paragraph 9 indicates the PUBLIC HEARING requirement, that before we approve the agreement, we have delivered a copy to the Board of County Commissioners and we have had the public hearings required under the statute.

On page 4 beginning with Section 10 for adoption to occur, a majority of the owners of the property located in the JEDD and a majority of the business owners located in the JEDD have to submit petitions supporting the creation of the JEDD. We have one individual who will do that.

After we adopt the JEDD, A thru G on that page is what is submitted to the County Commissioners. This goes down to the County Commissioners after it has been approved by the parties after the public hearings and the County Commissioners then approve or disapprove. I'm sure in this instance they would approve it. They have to have a public hearing as well. The effective date is effective 31 days after the agreement has been approved. So there is a 30 day period, like with our City Ordinances, where we pass something. Unless it's an emergency, it goes into effect and becomes law 30 days after. In this instance, it's the 31st day.

Paragraph 12 is the TERM. The term is initially 25 years. The City has the option to extend the agreement for two additional terms of 25 years each, so a maximum of 75 years. Then it becomes the problem of other people who would sit around this table to extend, unwind or otherwise. It can also be terminated on page 6 pursuant to mutual agreement of all the parties at any time.

The JEDD Statutes set up a Board of Directors to manage and operate the JEDD. The makeup of that Board is required by the statute. Paragraph 13, on page 6, there is one member that represents the city, one member representing the township, one member who represents the owner of businesses located in the JEDD, and one member representing persons who will be working within the JEDD; and then those four select a fifth. So, it's a five (5) member Board. Obviously, there is nobody working in the JEDD initially. We've taken care of that in our agreement contemplating certain quorum requirements. So at the end of the day a fully functioning JEDD Board will have a quorum requirement of three (3), and that was a little bit of a sticking point; we went back and forth on that. But the Resolution and it's a wonderful one, is that that quorum of three (3) has to have consist of the township representative and the city representative, so that at no point and no action occurs without both the township and the city being at the table. I don't remember who recommended that as a way through that negotiation, but that was a wonderful concept. That is how we got that done.

MRS. CARTWRIGHT: Mark, the other point, is that on the five (5) person Board, it is that fifth person that is chosen by the four that becomes the Chairman.

MR. FORTUNATO: That is right. Absolutely, that is the Chairman.

MR. FORTUNATO: We initially drafted the agreement to meet at least annually. We got smart and said this Board needs to meet at least quarterly. In paragraph 14, it's contemplated and required that the Board acts and meets quarterly. There is a secretary and a chairman. The Board can enter into agreements. So, the Board functions within the terms of this agreement. The Board can't amend the agreement that takes both parties, the Township and the City, to amend it. But the Board itself functions

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pursuant and within the scope of this document, in terms of entering into agreements, applying and receiving grants, etc. That is what is laid out in paragraph 14.

Paragraph 15, Ohio law grants the JEDD Board of Directors the power to adopt a resolution to levy an income tax on income earned within the JEDD territory. We are doing that. We are required that the Board imposes an income tax on income in the JEDD. That will be at the same rate as it exists in the City of Canfield at any given time. That right now is 1%. So if the City were to adjust its income tax rate, up or down, the JEDD's income tax would go up or down. The obligation on the JEDD Board is to impose that same tax within the JEDD that is being opposed upon the citizens of the municipality. The tax distribution is as follows: I think everybody is aware of it. The Income Tax is paid to the City of Canfield. The increase property tax, valuation tax, and all the property tax, are paid to the Township. I think there are some numbers floating around the table, in somebody's folder, about what those numbers look like. We have a construction cost of 10 to 12 million. Mayor, is that correct? We have a payroll of 72 individuals and there are more statistics behind all of that. That is how the revenue is distributed.

In terms of contributions, the City is providing points of connection to its public water and public sanitary sewer systems to the JEDD. That is subject to all special assessments, extra-territorial user fees, and tap-in fees, as required by the City Ordinances. The township is providing police protection services within the JEDD, on the same basis that it provides those services to residents of the Township. Currently that is the Sheriff. If that were to ever change, the obligation on the Township is not to maintain any particular level or type of police service, but to maintain that level and type of police service that it is providing to all Township residents.

The Cardinal Joint Fire District will supply fire protection services within the JEDD. The Township will provide road maintenance services for roads within the vicinity of the JEDD. Although, the roads within the JEDD will be private roads that the developer will be obligated to plow, maintain, construct, etc.

As to ANNEXATION, there is a prohibition on the City from annexing the JEDD territory so long as this agreement is in effect. The prohibition doesn't go beyond the territory of the JEDD. The City shall not annex the JEDD territory as long as the JEDD is in place.

MRS. CARTWRIGHT: If you'll go back to page 11 and top of page 12, that last change, did not get onto the document that we presented, referencing the Sheriff's Office.

MR. FORTUNATO: Yes, Jim needs to make that change. That did not get taken out. What we got inserted is correct.

MR. FORTUNATO: The first paragraph of 18A is accurate. That is again, the Township will provide police protection services in the same manner it provides for residents and the businesses within the Township, whatever that may be. So, the contradiction at the end of page 11 going to the top of page 12; will have to be deleted.

MR. FORTUNATO: Paragraph 24, which we touched on earlier. The agreement can only be amended by mutual agreement of the parties. So, the Township can't amend it unilaterally the City can't amend it unilaterally and the Board of the JEDD Directors cannot amend this agreement. They function within the scope of the document itself and the Township and the City govern what that document says.

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MR. MASZCZAK: I guess at this point, if there are any questions from either entity or from the public?

MR. WARINO: Going back to the comment you made on page 11 and 14, I'm not grasping what needs to come back out of there.

MRS. CARTWRIGHT: At the top of page 12, Joe, Jim did not delete that last reference.

MR. WARINO: Provided through the Mahoning County Sheriff's Office, under contract with the Township

MRS. CARTWRIGHT: The County Sheriff's Office. That will not be accurate.

MR. WARINO: I believe that reads correct. To recognize police protection services for the JEDD Territory are currently provided by Mahoning County Sheriff's Office under a contract with the township and that contract shall not be affected by this Agreement. However, during the term of this Agreement, including any renewal, the Township will provide for police protection services in the same manner it provides.

MR. FORTUNATO: I think you're right Joe, that it is accurate. I don't understand why the Township would want the statement in there.

MRS. CARTWRIGHT: We had asked that that not be in there. That we would just provide it in the services that we would be providing and not to name any specific services, is what we asked Jim to do. So, we just want to change that so it is consistent throughout.

MR. FORTUNATO: Marie, are you going contact Jim to make that change?

MRS. CARTWRIGHT: Yes.

MR. FORTUNATO: Can you also have him note that Don is now President of Council. It indicates that Steve is.

MRS. CARTWRIGHT: Okay, I'll have him make that change.

MR. FORTUNATO: Joe, your point is well taken. I just think it's an unnecessary statement that can only get somebody in trouble down the road.

MRS. CARTWRIGHT: Right. That is what we had thought. That is why we wanted it changed. It's accurate what it reads, but it wasn't what we had asked to be changed.

MR. MORVAY: On page 4 of the adoption, that first paragraph; for adoption to occur, a majority of the owners of property located in the JEDD territory. The JEDD territory on page 2 is six (6) parcels herein referred to as the JEDD territory. I just thought that it was vacant land.

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MR. FORTUNATO: It is vacant land. What that is contemplating is what the statute requires. It's assuming that there are a lot of different owners, multiple owners of the JEDD territory. In this case it's one entity that has bought the JEDD territory. So, it will be one individual signing that petition.

MR. FORTUNATO: I believe its Canfield Acres Company, LLC.

MR. MORVAY: On page 6 of 14, in the middle of that page pursuant to R.C. 715.74(D), this Agreement may be terminated at any time by mutual consent of all the JEDD parties. Does that include the Board, too?

MR. FORTUNATO: No. The JEDD parties are the Township and the City.

MR. MORVAY: It would have to be a mutual?

MR. FORTUNATO: Yes. Otherwise it remains in place for up to 75 years. It's wise that if something changes the tax code changes, something changes in state government, or something changes in the JEDD statute, that we can come sit around this table and say, you know what, we have to terminate this, do something different maybe, but terminate this.

MR. MOVARY: On page 8 of 14 under Board Activities, what was the logic in changing the quarterly review verses the annual review?

MR. FORTUNATO: We think that there is going to be more work to do than annually. We want to get everybody together at least quarterly to make sure that what is going on out there is what we intend.

MRS. CARTWRIGHT: What happens is if you read through the document, it is saying that the City has to provide to the JEDD Board, on a quarterly basis, the financials. Well, if they are not meeting on a quarterly basis, how are they going to provide the financials? Understanding that they absolutely have to meet to review those, it just made sense for us to change it from annually to quarterly.

MR. MORVAY: That does make sense. Have we spearheaded anybody for this Board yet?

MRS. CARTWRIGHT: Initially, it's just going to be a representative from the City, a representative from the Township and the owner will have a representative.

MR. FORTUNATO: I am assuming that it is going to be a Township Trustee, a Council Member and somebody from Canfield Properties, LLC.

MR. MORVAY: On that same page, in the middle of the page, 8 of 14, The Board of Directors as designated, shall keep Minutes of Board Meetings and Resolutions. Where are these stored? Where are we going to store these?

MR. FORTUNATO: I don't think we've made that determination yet. But they will be subject to the Ohio Public Records Law. It's a public body. When the JEDD meets, it's a public meeting. Their records are public. They are subject to the same Sunshine Law and Public Records Act that both these entities are.

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MRS. CARTWRIGHT: It's a District. Just as the Fire District, it's going to abide by the same rules and regulations basically.

MR. FORTUNATO: We don't even know where we are going to meet yet. This room or council chambers, I would assume.

MR. BETTILE: Were the properties zoned commercial prior to this?

MRS. CARTWRIGHT: That is why we will have a zoning resolution as part of this. It was rezoned to commercial.

MR. BETTILE: Would that be R-2, or not?

MR. FORTUNATO: About a year ago.

MR. BETTILE: Shouldn't it be classified as R-2, not commercial, if you're looking to do residents?

MR. FORTUNATO: Well, it's an assisted living facility and a skilled nursing facility. I understand that sometimes they are characterized as residents but it's really a commercial building. I don't know your zoning code.

MRS. CARTWRIGHT: That is the reason that it was, indeed, zoned that way. It was my understanding. I'll defer to Steve and Brian as other Trustees. I believe that is the reason.

MR. BETTILE: Are there limitations on what type of businesses or could we do other commercial businesses on the 18 acres?

MR. FORTUNATO: You could do other businesses on the 18 acres. I don't know that it is likely, given the plan.

MRS. CARTWRIGHT: They would have to meet any of the regulations of the zoning code at that time. The Township Zoning Code as well.

MR. FORTUNATO: You're right. If it's zoned commercial and somebody bought some land from the owner now and there was room, again I don't mean to speak for the Township but a commercial applicant could come forward and be a business in the JEDD, assuming it met the zoning requirements.

MR. MASZCZAK: Mark, one of the requirements before the approval is that this is submitted to the Board of County Commissioners. Has this actually been submitted already to the Commissioners?

MR. FORTUNATO: No, it can't be. Once we set our public hearings, in some point, in that algorithm.

MRS. CARTWRIGHT: I think once each of us passes Resolutions that we have for the public meetings, then we can present that to them.

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MR. MASZCZAK: Then it's submitted prior to the 30 day period expiring. Just for a procedural standpoint, so everyone is onboard.

MR. FORTUNATO: I know it's not yet, Steve. I apologize for not knowing that specific date. But what happens is it's actually a joint petition that we file. I think it's either after we set the public hearings or pass it after the 31st day, one or the other. I'll find that out.

MRS. CARTWRIGHT: Well, I believe at Council next week you'll be passing a Resolution and setting your public hearing. The following Tuesday, Trustees will meet and we'll set our meeting date. Then we'll have those hearings on those dates that we've scheduled. Then, following that, we have to adopt it and then we have a 31 days waiting period.

MR. FORTUNATO: Steve to answer your earlier question. After the legislative authority of the Municipal Corporation and the Board of Township Trustees have adopted the ordinance or Resolution approving the contract, so that is after our 30 day public hearing period, then we submit a joint petition to the County Commissioners. They have 10 days, I believe, to act.

MR. FORTUNATO: I believe to answer Marie's question, Legislative authority of the county shall within 30 days after the petition is filed, and either adopt a Resolution approving or disapproving. So, we are probably almost 90 days out from all wrapped-up with a bow on it.

MR. MASZCZAK: We can adjourn. I would just like to say I appreciate the mutual way both entities worked together; the Township and the City. I think we've come a long way with this. I think this is going to have a great benefit on our community as a whole, the schools, and the jobs that it is creating. I appreciate everyone's effort in this and look forward to wrapping this up and moving forward. I appreciate everyone coming today.

MR. MASZCZAK: I'll move for adjournment.

MR. DRAGISH: I'll move for adjournment, also.

ADJOURNMENT

Chairman adjourned the meeting at 5:00pm.

Mr. Stephen M. Maszczak, Chairman

Ms. Marie Izzo Cartwright, Vice-Chairman

absent

Mr. Brian Governor, Trustee

Mrs. Carmen I. Heasley, Fiscal Officer