

ORDINANCE 2491

AN ORDINANCE DECLARING IMPROVEMENTS TO A CERTAIN PARCEL OF REAL PROPERTY TO BE A PUBLIC PURPOSE, DESCRIBING THE PUBLIC IMPROVEMENTS TO BE MADE TO DIRECTLY BENEFIT SUCH PARCEL, REQUIRING THE OWNER OF THE IMPROVEMENTS ON SUCH PARCEL TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS, AND RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40, 5709.42 AND 5709.43 AND AUTHORIZING A TAX INCREMENT FINANCING AGREEMENT WITH OHIO POWER COMPANY; AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (the "Act") provide that this Council may describe public improvements to be made which directly benefit certain parcels, declare Improvements (as defined in O.R.C. Section 5709.40) with respect to such parcels of real property located in the Village to be a public purpose, thereby authorizing the exemption of those Improvements from real property taxation for a period of time, and provide for the making of service payments in lieu of taxes by the owner such parcels, and establishing a municipal tax increment equivalent fund into which such service payments shall be deposited; and

WHEREAS, an industrial and commercial development has been proposed (the "Project") to be located on the parcel and in the area described in Exhibit A hereto (that area, is hereinafter referred to as the "Property," excluding the portions thereof to be part of public streets and parks otherwise exempt from property taxation); and

WHEREAS, this Council desires to construct or cause the construction of the public infrastructure improvements described in Exhibit B hereto (the "Public Improvements") that once made will directly benefit the Property; and

WHEREAS, the Village has determined that it is necessary and appropriate and in the best interests of the Village to provide for service payments in lieu of taxes with respect to the Property pursuant to Section 5709.42 of the Ohio Revised Code (the "Service Payments"); and

WHEREAS, the Property is located in the Leipsic Local School District (the "School District") and the School District has approved the real property tax exemption provided for in this Ordinance, has waived notice requirements and waived its right to any payments pursuant to Section 5709.82 of the Revised Code; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Leipsic, Putnam County, Ohio, that;

Section 1. Public Improvements. The Public Improvements described in Exhibit B hereto intended to be made or caused to be made, by the Village are hereby designated as those Public Improvements that directly benefit, or that once made will directly benefit, the Property, and improvements on the Property will place direct, additional demand on the Public Improvements.

Section 2. Property Tax Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40, and, in particular, Section 5709.40(B), this Council hereby finds and determines that 100% of the increase in the assessed value of the Property that would first appear on the tax list and duplicate of real property after the effective date of this Ordinance (which increase in assessed value is herein referred to as the "Improvement" or "Improvements" as defined in said Section 5709.40) is a public purpose, and 100% of said Improvement is hereby declared to be a public purpose for a period of 15 years and exempt from taxation commencing with tax year 2008 and ending on the earlier of (1) the date the Improvements have been exempted from taxation for a period of 15 years or (2) the date on which the Village has collected into the Fund established in Section 4 hereof a total amount of payments in lieu of taxes available for and sufficient to pay the costs provided in Section 4 hereof.

Section 3. Service Payments. As provided in Section 5709.42 of the Revised Code, the owner or owners of the Improvement are hereby required to and shall pay the Service Payments to the County Treasurer on or before the final dates for payment of real property taxes, which Service Payments, together with any associated rollback payments, shall be deposited in the Iron Highway Public Improvement Tax Increment Equivalent Fund established in Section 4 hereof. The Mayor is hereby authorized to execute, in the name of and on behalf of the Village, the Tax Increment Financing Agreement between the Village and the Company (the "TIF Agreement"), providing for, among other things, the payment of such service payments, in substantially the form as is now on file with the Fiscal Officer, together with such changes as are consistent with this Ordinance and that are approved by the Mayor and Solicitor. This Council hereby authorizes the Mayor, Fiscal Officer, Administrator and Solicitor, and other appropriate officers of the Village, to provide such information and certifications, and execute and deliver or accept delivery of such instruments, as are necessary and incidental to collect those Service Payments, and to make such arrangements as are necessary and proper for payment of the Service Payments.

Section 4. Tax Increment Equivalent Fund. This Council hereby establishes pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the Iron Highway Public Improvement Tax Increment Equivalent Fund (the "Fund"), into which shall be deposited all of the Service Payments and any associated rollback payments distributed to the Village with respect to the Improvement on the Property, by or on behalf of the County Treasurer as provided in Section 5709.42 of the Ohio Revised Code, and hereby provides that all of the moneys deposited in the Fund shall be used for any or all of the following purposes:

- i. To pay any and all planning, engineering, acquisition, construction, installation, financing costs, and any and all other direct and indirect costs of the Public Improvements, including those costs set forth in Ohio Revised Code Section 133.15(B);
- ii. To pay the interest on and principal of bonds or notes, and premium, if any, including refunding or additional bonds or notes or other obligations issues or loans entered into by the Village, the State of Ohio or other governmental entity to finance costs of the Public Improvements until such notes or bonds or other obligations or loans are paid in full, and to pay trustee and other costs related to servicing the obligations and providing and replenishing a reserve fund and to pay costs charged by the issuer of the obligations;
- iii. To reimburse the Village, the State or other governmental entity for any funds used to pay costs of the Public Improvements, or to pay interest, principal, or premium, and related costs on any of the aforesaid notes, bonds, loans or other obligations, prior to receipt of Service Payments; and
- iv. To compensate the School District pursuant to any school agreements.

The Fund shall remain in existence so long as the Service Payments are collected and used for the aforesaid purposes, after which Fund shall be dissolved in accordance with said Section 5709.43.

Section 5. Filing and Reporting to State. Pursuant to Section 5709.40 of the Ohio Revised Code, the Fiscal Officer is hereby directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 hereof remains in effect, the Administrator or other authorized officer of this Village shall prepare and submit to the Director of the Department of Development of the State of Ohio the status report required under Section 5709.40 of the Ohio Revised Code.

Section 6. Captions. The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 7. Severability. Each section and each part of each section of this Ordinance is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the other provisions of this Ordinance would have been passed independently of such section, or parts of a section, so held to be invalid.

Section 8. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council of committees, and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 9. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the Village, and for the further reason that this Ordinance is required to be immediately effective in order to induce the Project to proceed, thereby creating job opportunities in the Village; wherefore, this Ordinance shall be in full force and effective immediately upon its passage.

PASSED: 4.21.08

ATTESTED: Rosemary Schortgen
Fiscal Officer

Mark D. Telen
President of Council

APPROVED: John J. Butts, Mayor
Mayor

EXHIBIT A

DESCRIPTION OF PROPERTY

Inlot 1105 located at 3875 State Route 65 (rear). The said property is located in northwest quarter of Section 20 of Van Buren Township, Putnam County, Ohio.

The parcel is numbered by the Putnam County, Ohio Auditor as follows:

Inlot 1105 – 61-1230000000

EXHIBIT B

DESCRIPTION OF THE PUBLIC IMPROVEMENTS

The public improvements that will directly benefit the above described property are as follows:

1. The Yellow Creek Reservoir and Pump Station.
2. The Raw Process Waterline.
3. The State Route 65 turning lane widening.
4. The Village's share of the natural gas line extension by KNG.
5. The Rail Spur to connect the CSXT RR and the NSRR to Summit Ethanol.
6. The contribution in aid of construction to AEP to extend electrical service to Summit Ethanol.
7. Any other related public improvements needed to serve AEP's Electrical Substation.