



SHAKER HEIGHTS

COUNCIL MINUTES
March 25, 2019

The Council of the City of Shaker Heights met in regular session at 7:31 p.m., Mayor David E. Weiss presiding.

Council members present: Mr. Roeder, Mrs. Senturia
Ms. Williams, Mr. Williams
Mr. Malone, Mrs. Moore

Council members absent: Mr. Zimmerman

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Audio of this meeting may be found [here](#) through June 25, 2019.

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Confirming the appointment of Kim Bixenstine, Kevin Alin, Teri Chmielewski, and Dr. Ted Teknos to serve on the Board of Trustees of the Shaker Heights Development Corporation.

William M. Ondrey Gruber, Law Director, stated that the maximum number of board members for the Shaker Heights Development Corporation is 21. Two members will be leaving the board as of March 31, and there is a vacancy. In addition, when Kim Bixenstine’s term expired last year, for some reason she was missed from the reappointment list. The board officially reappointed her in January, and now Council is being requested to confirm her appointment along with the three other appointments by the board.

It was moved by Ms. Williams, and seconded by Mr. Roeder to confirm the appointment of Kim Bixenstine, Kevin Alin, Teri Chmielewski, and Dr. Ted Teknos to serve on the Board of Trustees of the Shaker Heights Development Corporation.

Roll Call: Ayes: Mr. Roeder, Mrs. Senturia
Ms. Williams, Mr. Williams
Mr. Malone, Mrs. Moore

Nays: None

Motion Carried

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intends to lease 4500 square feet in the second floor office space of the C2 building in the Van Aken district for a 10-year lease term. Align has agreed on the terms for their lease and is doing that process concurrent to the approval of this incentive. The Vision Fund has made 10 loans to date, totaling \$362,000. The loans have stabilized office buildings in Shaker Heights and yielded \$653,000 through 2018, representing a 2:1 ratio. The funds for the incentive are available in the 2019 Economic Development budget. Upon approval of this incentive there will be \$190,000 remaining in the Vision Fund line item. Align will occupy the last 10% of the office property in the RMS development. It is useful for marketing our office corner to say that we have 100% office occupied. The incentive we are offering will reduce the cost of the build out for the business to move from Beachwood to the Van Aken district. We will be recapturing some additional income tax by bringing one of the partners who is a Shaker resident and one employee into the City with their income tax dollars. The company is a growth oriented private equity firm making controlled investments in business to business specialty, manufacturing, distribution, and business service companies. Align has been in business for two and one half years. The Align team has completed over 90 transactions representing more than \$5 billion in enterprise value. Of the three principals, two live in Ohio: one in Shaker Heights and one in Cleveland Heights. They have a second office in Dallas, Texas. The out of pocket expense for the business to move to the Van Aken district totals \$316,000 over the course of their 10-year lease term. This incentive supports their build out, data cabling, furniture fixtures, equipment, and the increase in rent. Align is projecting that their income tax and net profits will range from \$60,000 to \$113,000 annually between 2019 and 2026. If we assume a very conservative tax generation that is more in line with what they have produced in Beachwood the past two and one half years, it would be \$44,000 annually in income tax coming in to our City. Because they are a younger company and we are accounting for net profits, we have come up with a different model for how the incentive would be paid out. The first payment to the business would be for a flat amount of \$12,000. Each year thereafter, it would depend. If they are producing between \$30,000 and \$90,000 in income tax, they would receive a \$12,000 payment. If they are producing more than \$90,000, they will receive a \$17,000 payment. They can only receive a maximum of \$80,000 regardless of what they earn over six years. This item is requested as an emergency and with a suspension of the rules in order to allow Align Capital Partners to finalize their lease with RMS and to not cause delay as their proposed opening is for November 2019.

Council member Ms. Williams stated that this item was reviewed and unanimously approved by the Neighborhood Revitalization Committee. They supported having this business come to the district and appreciated how this was structured given the type of business with the lack of a long history.

Council member Mr. Malone stated that this item was reviewed and unanimously approved by the Finance and Administration Committee. He congratulated Ms. Starinsky and the Administration for taking a good program with the Vision Fund and making it even better for the City because it reduces our risk. While this is a company with a track record, it is a new company. By paying as we go we are reducing any risk in the worst case scenario. This company sought us out and wanted to move to the Van Aken district which bodes well for future development there. It gives us another reason to keep building new office space in Shaker. The Committee also appreciated the fact that there are \$190,000 remaining in the Vision Fund for future use if need be for the Van Aken district or elsewhere.

Council member Mrs. Senturia asked if this was one of the largest loans the fund has made and if the application process is open to any firm.

Ms. Starinsky stated that larger loans were given to McGlinchey Stafford in the amount of \$350,000 and ABA Insurance in the amount of \$500,000. She does make the program aware to all businesses who may be interested.

Mayor Weiss stated that the Vision Fund will be used in appropriate cases. It was needed at the beginning phases before the Van Aken district was fully completed where tenants were taking risks. Now that the district is up and running and this will complete the leasing of the office building, we can scale back a little since there is less risk to the tenants. However, we will do the same kind of things for prospective anchor tenants at the new multistory office building at Warrensville and Chagrin. We are trying to preserve some of that capital for an anchor for that new project. We felt comfortable structuring this pay as you go deal. If they do better it makes sense to increase the amount. This required little initial capital outlay by the City. While this is a younger company they do have a track record of several years. This company is a spinoff of another private equity firm that has been around for quite some time. The principals have a good deal of experience. We also weighed doing this now as a bird in the hand against determining when we might fill the space with a tenant that draws this kind of income in a small amount of space. This is good for our tax dollars and overall a very good deal.

It was moved by Ms. Williams, and seconded by Mr. Malone, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-25 be placed upon its final enactment.

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| Roll Call: | Ayes: | Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams Mr. Malone, Mrs. Moore |
| | Nays: | None |

Motion Carried

Moved by Ms. Williams, and seconded by Mr. Malone, that Ordinance No. 19-25 be enacted as read.

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| Roll Call: | Ayes: | Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams Mr. Malone, Mrs. Moore |
| | Nays: | None |

Ordinance Enacted

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Ordinance No. 19-26, by Mr. Malone, adopting the Solid Waste Management Plan Update (2019-2033) for the Cuyahoga County Solid Waste Management District, and declaring an emergency.

Patricia Speese, Public Works Director, stated that in 1988 the Ohio General Assembly passed the Ohio State Solid Waste Disposal Act. The purpose of the Act was to regulate the proposed disposal of 14 million tons of garbage produced in our State each year, to reduce reliance on landfills and increase recycling initiatives in each municipality. The Cuyahoga County Solid Waste Management District (CCSWMD) was formed a year later in 1989 and they are the entity we use to report our information about solid waste. They are very helpful when it comes to supplying grants. The generation fee we pay on trash is \$1.50/ton to the CCSWMD which supports their initiatives. The new plan is for the years 2019 – 2033. Every five years there will be an update to the plan. In 2023 the generation fee will increase by \$.50/ton with a \$4,500 impact on our current budget. Some of the existing programs are grants for education which we have been very fortunate to receive every year the litter collection program that uses Court Community Service workers to target areas to pick up litter, the household hazardous waste program, computer roundups, and the scrap tires program which is a huge savings for the City. The tires would cost us \$8.00 each but they dispose of 800 tires for us for free. Some of the newer initiatives include municipal yard waste contracts similar to recycling, multifamily recycling, and having more areas for litter control. We have a great partnership with them. If we do not approve this plan the Ohio EPA will write a plan on our behalf. This item is requested as an emergency and with a suspension of the rules in order to meet their deadline of April 1.

Council member Mrs. Moore stated that the Safety and Public Works Committee did not have a quorum but the level of support was unanimous. The main issue is that if we don't approve this plan the State of Ohio will write one for us.

Council member Mr. Malone stated that this item was reviewed and unanimously approved by the Finance and Administration Committee. They noted the significantly lower fee compared to other municipalities. He was personally excited to see a potential new initiative about multifamily recycling because it has been a sore spot for those on the Sustainability Committee that there is no recycling in the apartment buildings in Shaker. To the extent that the CCSWMD can help us with that he would be very supportive. This gives us input into the process and a seat at the table we would not otherwise have if a plan was generated for us.

It was moved by Mr. Malone, and seconded by Mrs. Moore, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-26 be placed upon its final enactment.

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| Roll Call: | Ayes: | Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams Mr. Malone, Mrs. Moore |
| | Nays: | None |

Motion Carried

Council member Mr. Malone stated that this item was reviewed and approved by the Finance and Administration Committee.

It was moved by Mrs. Moore, and seconded by Mr. Roeder, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-28 be placed upon its final enactment.

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| Roll Call: | Ayes: | Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams Mr. Malone, Mrs. Moore |
| | Nays: | None |

Motion Carried

Moved by Mrs. Moore, and seconded by Mr. Roeder, that Ordinance No. 19-28 be enacted as read.

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| Roll Call: | Ayes: | Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams Mr. Malone, Mrs. Moore |
| | Nays: | None |

Ordinance Enacted

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Ordinance No. 19-29, by Mrs. Senturia, authorizing the application made on March 22, 2019 and acceptance of a LEED for Cities grant award with an estimated value to the City of \$25,000 to pursue certification of the City under the U.S. Green Building Council's (USGBC) LEED for Cities and Communities Program, and declaring an emergency.

Michael Peters, Sustainability Coordinator, stated that this request is for authorization to apply for and accept a grant from the U.S. Green Building Council's LEED for Cities and Communities Program. This was a pilot program last year. The City was previously interested in getting certified under the Star Communities program which has become part of the U.S. Green Building Council. This new program will be announced April 1. In anticipation of that announcement there is the opportunity for 14 cities to receive a grant to support certification. It is a non-cash award for membership for the City in the U.S. Green Building Council, a waiver of the certification fees, a two-day orientation session in Washington, D.C. including expenses to attend for two members of the City, and a grant for the Green Building Conference in October. We would be the first in the State if we were certified under this program so it would be fairly prestigious especially for a city of our size. Historically, this has gone to larger cities. Last year it was Chicago, New Orleans and San Jose. In the grant application it was specifically mentioned that they were looking for diversity in the size of cities to apply as well as those cities that had an emerging sustainability program. While we do believe the grant will be competitive we think we have

That agreement was worked on for a number of months and he thought it was important to respect that agreement notwithstanding the volatility of our tax revenues at that time. Late in the year the Union voted and rejected the Tentative Agreement which put us back in the position of continuing the negotiation process and eventually going to fact-finding. In the meantime, at the end of 2018 acknowledging there was some volatility in our revenues Council passed a budget without any wage increases for any employees, which was a very difficult decision, until May or June when we would have better clarity on our tax revenues. That was a tough decision for the Administration to recommend and Council to pass but they felt it was the right one at the time. A week ago the Fact Finder issued his report and recommendations relating to the negotiations. In large part the Fact Finder's report essentially recommended the terms of the Tentative Agreement. The Union voted last Wednesday to approve the Fact Finder's report. We do not have a good deal of clarity on our revenues, not much has changed from the end of 2018. It does cause some concerns. Council has three options tonight. They have the ability to reject the Fact Finder's report. It could approve the Fact Finder's report, or Council could take no action and the Fact Finder's report would go into effect. There are important implications for any of the actions taken by Council. From the Administration's perspective, if we do not see a rebound in our income tax revenues he suspects regardless of the action taken by Council tonight, we will have some difficult decisions to make down the road, which may be unavoidable regardless of the action tonight. He strongly believes in two fundamental principles: maintaining a strong reserve for these kinds of unexpected changes in economic circumstances; and to continue to find revenues to invest in economic development efforts that we have underway. Only by increasing our tax base and our tax revenues can we ultimately secure a future for Shaker Heights with a level of services that the community has become accustomed. Depending on how Council chooses to proceed we will be hard pressed to keep our budget balanced with increasing costs and potentially with revenues that do not keep up with those rising costs. Council and the Administration is in agreement that we will continue those conversations and work on the budget as our financial picture becomes clearer. Council is not required to take any action tonight. If they take no action the Fact Finder's report will go into effect.

Council member Mrs. Senturia thanked the Mayor for his balanced approach to these tough issues.

Council member Mrs. Moore stated that her vote of nay does not imply any lack of respect or lack of support for the Public Works Union workforce and non-bargaining work force. As she stated in December 2018 when she approved the 2019 budget after making \$500,000 in unexpected but necessary reductions, the first action she would support if revenues from the Regional Income Tax Agency (RITA) that were missing this past fall materialized in the spring of 2019, would be to act retroactively to approve a pay increase for Public Works employees. Unfortunately, we do not have the ability to wait and see about RITA revenues because by law the Fact Finder's report must be acted upon by City Council within seven days of issuance. This agreement tonight will likely require a minimum additional annual appropriation in 2019 of \$600,000 for across the board contractual pay increases for both bargaining and non-bargaining employees. If we approve it we must find the operating funds to balance the budget, a requirement under Ohio law. A yes vote for this labor agreement tonight would mean if the missing 2018 RITA revenues do not materialize this spring in part or in full one of two actions will be required to balance the 2019 budget. The first is that we will have depleted the operating fund reserve. If we do this there are three

possible consequences that may follow. When we deplete or erode our reserve funds we potentially jeopardize our credit ratings by the major credit rating agencies making it more costly for the City to borrow money. Secondly, we would hamstring the City financially to confront and respond to emergencies that require additional allocations from reserves. Finally, in uncertain economic times when revenue streams may decrease unexpectedly for reasons that are little understood without adequate operating and capital reserves our City will have to make expenditure cuts in programs and workforce. She has had to do this as a 16-year member of City Council no less than three times. She has had the Fire Department sit in the seats in front of her with babies in their arms knowing that by Monday their paychecks would disappear. She is very reluctant to go through this exercise again. Another consequence of voting yes for this agreement is implicitly going to require some budget cutting if all the revenues that were missing at the end of 2018 do not materialize by the spring of 2019. If required, budget cutting in her experience can demoralize the workforce just as much as not approving a pay increase through a union bargaining contract. It can put us at a competitive disadvantage with attracting and retaining residents because the perception is that we are unstable, weak, and incapable of better financial planning. It can put our economic development initiatives in jeopardy if we cannot finance them. Finally, it can definitely create anxiety in the minds of residents who fear that the next step may be another tax increase. For all these reasons and because of her experience with historically difficult times and the necessity to both spend down the cash reserve (she saw it as low as 11%), and cut the budget in an exercise involving Council three times, she votes no on this agreement.

It was moved by Mrs. Senturia, and seconded by Mr. Williams that Council accept the Fact Finder's Report and recommendations dated March 18, 2019 in SERB Case No. 17-MED-10-1343 with the International Brotherhood of Teamsters Local No. 507, Public Works employees and the City of Shaker Heights.

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| Roll Call: | Ayes: | Mrs. Senturia, Ms. Williams Mr. Williams, Mr. Malone |
| | Abstain: | Mr. Roeder |
| | Nays: | Mrs. Moore |

Motion Carried

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There being no further business before Council, the Mayor adjourned the meeting at 9:28 p.m.

DAVID E. WEISS, Mayor

JERI E. CHAIKIN, Clerk of Council