

ORDINANCE NO. 2008-510

SPONSOR Mr. Pry

DATE December 15, 2008

COMMITTEE Rules

An Ordinance amending Chapter 164A of the Codified Ordinances of the County of Summit, entitled "Port Authority," to modify and clarify the composition, roles, responsibilities and duties of the Summit County Port Authority, for the Executive's Department of Law, and declaring an emergency.

WHEREAS, Chapter 164A of the Codified Ordinances of the County of Summit, entitled "Port Authority" created the Summit County Port Authority ("Port Authority") and sets forth the composition, roles, responsibilities and duties of the Port Authority; and

WHEREAS, since the adoption of Chapter 164A and the creation of the Port Authority there under, the Port Authority has shifted its focus to economic development functions while minimizing its initial function of saving abandoned railroad lines located in the County of Summit; and

WHEREAS, Chapter 164A currently provides that one of the members of the Port Authority must be recommended by Metro RTA because, at its inception, Metro RTA was the funding source for the Port Authority for the acquisition of the abandoned railroad lines;

WHEREAS, it is no longer necessary for Metro RTA to recommend an appointment to the Port Authority because (i) the Port Authority is no longer the owner of said railroad lines, (ii) the Port Authority transferred ownership of said railroad lines to Metro RTA several years ago, (iii) the Port Authority has shifted its purpose toward economic development rather than the acquisition of said railroad lines; and

WHEREAS, given said shift toward economic development and because the actual operation of the Port Authority differs slightly from the provisions of Chapter 164A, it is necessary to make additional minor modifications to Chapter 164A regarding the roles, responsibilities and duties of the Port Authority; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the County of Summit to amend Chapter 164A to modify and clarify the composition, roles, responsibilities and duties of the Port Authority.

NOW, THEREFORE, BE IT ORDAINED by the Council of the County of Summit, State of Ohio, that:

SECTION 1

Chapter 164A of the Codified Ordinances of the County of Summit, entitled "Port Authority," is hereby amended as follows:

164A.01 CREATION AND DESIGNATION OF AGENCY FOR DEVELOPMENT.

A port authority to be known as the "Summit County Port Authority" (the "Port Authority") is hereby created. The Port Authority is hereby designated as an agency within the County of Summit, Ohio for economic development pursuant to Ohio R.C. 4582.21 to 4582.59.

164A.02 POWERS AND JURISDICTION.

The Port Authority shall have territorial limits co-terminus with and including all of the territory within the boundaries of the County of Summit as they now or hereafter exist, and, in addition, if the Port Authority acquires ownership of or leases real property, or one or more railroad lines, the territorial limits of the Port Authority shall automatically be extended to include the territory on which such real property and railroad line or lines, terminals, and related facilities are located, if and to the extent such real property, railroad rights of way, and other related facilities extend outside the boundaries of the County of Summit. The Port Authority shall be a body corporate and politic which may sue and be sued, plead and be impleaded, and except as its powers are limited in this chapter, has the powers and jurisdictions now or hereafter given to it by statute, including, but not limited to the powers set forth in Ohio R.C. 4582.31, the exercise of those powers in cooperation and pursuant to agreements with other port authorities, counties, and other political subdivisions, the State of Ohio and its departments and agencies, and any joint office of economic development created pursuant to Ohio R.C. 307.07. The County may, from time to time, by subsequent ordinance, expand or restrict the permitted scope of the Port Authority powers. No new restriction can impair any then current Port Authority contracts-agreements, contracts, notes, bonds, mortgage and security interests, and any other documents or obligations in connection therewith. The exercise of those powers and jurisdiction by the Port Authority shall be deemed to be essential governmental functions of the State of Ohio.

164A.03 BOARD OF DIRECTORS.

The Port Authority shall be governed by a seven member board of Directors, each of whom shall serve for a term of three years. The Board members serving prior to the adoption of this section with terms expiring 12/31/99, 12/31/01, and 12/31/02, shall serve through those periods. The additional four members shall be appointed to staggered initial terms of two years terms for two members and one year terms for two members with the persons initially appointed to the two year terms serving through 12/31/00 and the persons initially appointed to the one year terms serving through 12/31/99. All of the members of the Board of Directors shall be appointed by the County Executive, and approved by County Council in accordance with the procedure provided by the County of Summit Charter. Board members shall be appointed from a variety of professions and disciplines, such as Labor, Engineering, Insurance, Legal, Financial, Transportation, Real Estate, and Planning. Upon the resignation or removal of a member of the Board or the expiration of a member's term of office, a new

member of the Board shall be appointed in the same manner by the County Executive and approved by County Council. ~~One member of the Board shall be appointed from a list of eligible candidates recommended to the County by Metro RTA.~~ No member shall hold office as an elected Summit County official, be employed by the County of Summit nor shall they be appointed to any other Board or Commission by the County Executive.

The Port Authority board may with the consent of the Executive and the approval of County Council, request an increase in the total size of the board to nine or eleven members.

~~164A.04 ADVISORY COMMITTEE.~~

~~There is hereby designated the Advisory Committee to the Port Authority, which shall consist of the County Executive, President of County Council, County Engineer, County Fiscal Officer and the General Manager of RTA Authority. Such committee shall carry out such review and analysis concerning railroad and other transportation systems activities, and make such recommendations to the Board of the Port Authority as are in the best interest of carrying out the objectives of the Port Authority, the County, Metro RTA and the political subdivisions in the County, with respect to railroad and other transportation systems. The Board in making its determinations shall take such recommendations of the committee into account. The Director of the Department of Community and Economic Development, the staff members of such department, and other County Officials and staff as appropriate for the purpose, are hereby authorized to provide staff support from time to time as needed to the Board and the Committee.~~

~~164A.0504 TERRITORIAL LIMITS EXPANDED.~~

~~The territorial limits of the Port Authority may be expanded from time to time in the manner provided by statute.~~

~~164A.0605 DISSOLUTION.~~

~~Subject to compliance with or assumption and satisfaction of the applicable requirements (if any) of any outstanding notes, bonds, contracts, or other obligations of the Port Authority, the Port Authority may be dissolved at any time upon enactment of an ordinance by the County Council; provided that upon dissolution, any real or personal property or combination thereof which has been received from or made available by the County shall be returned to the County. In the event of the dissolution, and after paying all expenses, debts and costs of the Port Authority, and subject to such rights of reversion or other property interests (if any) held by Metro RTA or the United States of America in railroad rights of way or related property interests, any balance remaining in the Port Authority's funds and any remaining real or personal property belonging to the Port Authority shall be distributed to the County.~~

164A.0706 ORGANIZATIONAL MEETING; NOTICE AND PLAN WITH FUTURE POWER RESTRICTION.

The Clerk of Council, after consultation with the County Executive, shall give written notice of the time and place of the organizational meeting of the Board of Directors to the members of the Board at least five days prior to the meeting. The Clerk of Council shall also give public notice of the time, place and purpose of the organizational meeting of the Board to the news media at least twenty-four hours prior to the meeting. The Board at such organizational meeting shall, pursuant to Ohio R.C. 4582.27, elect one of its members as chairman, another as vice- chairman and shall appoint a secretary who need not be a member of the Board. The Board shall prepare, or cause to be prepared, a plan for the future development, construction and improvement of the Port Authority pursuant to the provisions of Ohio R.C. 4582.32, ~~but consistent with the provisions of this chapter relating to the restriction of the Port Authority's power to railroad and other transportation systems.~~

164A.0807 BOARD OF DIRECTORS QUALIFICATIONS.

Each member of the Board of Directors shall be a qualified elector of, or have had a place of business or place of employment in, one or more of the political subdivisions within the area of the jurisdiction of the Port Authority as set forth herein for a period of at least three years prior the date of this section and shall remain such during the duration of his or her term.

164A.0908 REMOVAL OF BOARD MEMBER.

Any member of the Board of Directors may be removed by the County Executive, with confirmation of County Council, for misfeasance, nonfeasance or malfeasance in office and/or for a member's being absent from five regular meetings of the Board of Directors during any one calendar year.

164A.1009 PERSONNEL.

With the exception of the position of Executive Director of the Port Authority, all Port Authority hirings, dismissals, promotions, reductions, classifications, reclassification, disciplinary action, and other personnel actions shall comply with the Summit County Codified Ordinances and the rules of the County Human Resource Commission as each exists and as each may be amended in the future. The Summit County Port Authority shall be subject to the County of Summit's Classification and Compensation Plan as it exists and may be amended in the future.

164A.1110 BUDGET APPROVAL.

A copy of annual budgets adopted by the Port Authority Board of Directors shall be filed with the Clerk of Council and the County Fiscal Officer each year no later than thirty (30) days after they have been adopted.

164A.~~1211~~ CHIEF FISCAL OFFICER; FINANCES.

The Summit County Fiscal Officer shall be the Chief Fiscal Officer for the Port Authority for its general operations. Notwithstanding the foregoing, the Port Authority's Secretary or Treasurer shall act as its Fiscal Officer as it relates to the specific project in which the Port Authority engages in furtherance of its ~~five primary economic development~~ functions, under its ~~Business Plan~~ business plan, as it may be amended from time to time. As it relates to general operations, the County Fiscal Officer shall have authority to exercise over the Port Authority all the powers and authority vested in the County Fiscal Officer by Ohio R.C. Chapter 5705, the County of Summit Charter, and the Codified Ordinances of the County of Summit as each exists or may be amended in the future.

164A.~~1312~~ COUNTY FISCAL OFFICER; CUSTODY, INVESTMENT OF FUNDS.

The County Fiscal Officer shall have jurisdiction over the Port Authority funds and shall exercise over the Port Authority all powers to receive, maintain and invest funds which the Ohio Revised Code, County of Summit Charter and Codified Ordinances of the County of Summit currently vest in the County Fiscal Officer with respect to other County departments, offices and agencies or may vest in the future, unless the Treasurer's powers over the Port Authority and its funds are altered by ordinance of Council.

The County Fiscal Officer shall establish a separate interest bearing account for the investment of the Port Authority's funds. All interest accruing on the Port Authority shall be deposited into the Port Authority account and shall remain the property of the Port Authority.

164A.~~1413~~ CONTRACT PROCEDURES.

The Port Authority shall provide to County Council and the County Fiscal Officer its policy of bid process and contract procedure awards.

164A.~~1514~~ TRAVEL.

The Board of Directors shall establish a travel policy and procedure to govern all travel expenses incurred by the Port Authority. The Board shall promptly file a copy of its travel policy and procedure and any amendments thereto upon their adoption with the Clerk of County Council and the County Fiscal Officer.

164A.~~1615~~ ANNUAL REPORTS.

The Port Authority shall submit an annual report to County Council, ~~with quarterly updates,~~ regarding Port Authority activities, including details on Port Authority contracts, purchases and sales or leases of property and details on Port Authority receipt and expenditure of funds, including travel expenses.

164A.~~17~~16 AUDIT.

The Port Authority shall be audited by the State Auditor's Office on a regular basis to be determined by the State Auditor. In conformance with the provisions of the Ohio Revised Code, the Port Authority may, with the prior approval of the State Auditor, hire an independent certified public accounting firm which firm shall conduct an annual audit of the Port Authority's books and records. The Board shall file a copy of the final and completed audit with the Clerk of County Council within five (5) days of their receipt. Additional financial or management audits of the Authority may be required by ordinance of County Council.

164A.~~18~~17 OPEN MEETINGS.

All meetings of the Port Authority Board of Directors and Advisory Committee shall be open to the public as required by Section 5.03 of the County of Summit Charter, unless the subject matter under consideration is excepted by law. All meetings of the Board of Directors of the Port Authority shall be held in the Port Authority offices or at such other location as the Port Authority may publish in any public notice which is required by law.

164A.~~19~~18 OPEN RECORDS.

All records of the Port Authority shall be public records, unless otherwise exempt, as required by Ohio R.C. Chapter 149 currently or as it is amended in the future.

164A.~~20~~19 BOARD RECOMMENDATIONS.

The provisions set forth in Sections 164A.09, 164A.10, 164A.11, 164A.12, 164A.13, 164A.14, 164A.15, and 164A.16, ~~and 164A.17~~ shall remain in effect until the Port Authority Board presents its own recommendations for policies and procedures governing these areas and which recommendations must be submitted to and approved by the Executive and County Council.

SECTION 2

This Ordinance is hereby declared an emergency in the interest of the health, safety and welfare of the citizens of the County of Summit, and for the further purpose of immediately amending Chapter 164A to modify and clarify the composition, roles, responsibilities and duties of the Port Authority.

SECTION 3

Provided this Ordinance receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

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SECTION 4

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted 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.

INTRODUCED December 1, 2008

ADOPTED December 15, 2008

Shirley P. Green
CLERK OF COUNCIL

Nick Kostantaras
PRESIDENT OF COUNCIL

APPROVED December 15, 2008

Russell M. Ray
EXECUTIVE

December 15, 2008
ENACTED EFFECTIVE

Voice Vote: 9-0 YES: Comunale, Crawford, Crossland, Heydorn
Kostandaras, Poda, Schmidt, Shapiro, Smith ABSENT: Congrove, Prentice