

- 704 -

CITY OF PROVIDENCE
RHODE ISLAND



CITY COUNCIL

JOURNAL OF PROCEEDINGS

No. 113 City Council Special Meeting, Thursday, September 22, 1994, 7:30 o'clock P.M. (E.D.T.)

PRESIDING

COUNCIL PRESIDENT

JAMES A. PETROSINELLI

IN CITY COUNCIL
OCT 20 1994

APPROVED:

Richard L. Clement CLERK

ROLL CALL

Present: Council President Petrosinelli,
Councilmen DeLuca, Dillon, Councilwomen
DiRuzzo, Fagnoli, Councilmen Fenton,
Glavin, Lombardi, Mancini and Rollins-10.

Absent: Councilmen Clarkin, Iglizzi,
Councilwomen Nolan, Williams and
Young-5.

INVOCATION

The Invocation is given by COUNCILWOMAN EVELYN V. FARGNOLI.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

COUNCILMAN THOMAS M. GLAVIN leads the members of the City Council and the Assemblage in the Pledge of Allegiance to the Flag of the United States of America.

PERSONAL PRIVILEGE

COUNCILWOMAN DiRUZZO request the privilege of the Floor to speak on a Point of Personal Privilege, and states:

"I meant to do this at the last meeting. I just want to congratulate Councilman Rollins on his

victory in this Primary election and welcome him back here because I was really worried and I am very happy that he won his election."

**CALL FOR SPECIAL MEETING
COMMUNICATION FROM
COUNCIL PRESIDENT JAMES A. PETROSINELLI**

September 20, 1994

An Ordinance Establishing a Tax Stabilization Plan.

Honorable Michael R. Clement
City Clerk
City Hall
Providence, RI 02903

An Ordinance authorizing the Issuance of Bonds and/or Bond Anticipation Notes to Finance the Providence Place Garage.

Dear Mr. Clement:

An Ordinance to Adopt the Providence Place Tax Increment Project Plan.

In accordance with the Provisions of Section 406 of the Providence Home Rule Charter of 1980, I respectfully request you call a Special Meeting of the City Council on Thursday, the 22nd day of September, 1994 at 7:30 o'clock P.M.

Sincerely,

JAMES A. PETROSINELLI
Council President

The purpose of said meeting is for the City Council to consider the following matters, viz:

Received.

WARRANT FROM THE CITY CLERK

The City Clerk reads the following Warrant with the City Sergeant's Return endorsed thereon, certifying that he did notify the Members of the City Council of the Special Meeting to be held Thursday, September 22, 1994 at 7:30 o'clock P.M. (E.D.T.) by Personally Delivering a Copy of the Warrant on September 20, 1994.

Whereas, James A. Petrosinelli, Council President of the City of Providence has, pursuant to Section 406 of the Providence Home Rule Charter of 1980, requested the City Clerk, in writing, to Call a Special Meeting of the City Council to be held on the 22nd day of September A.D., 1994, at 7:30 o'clock P.M. (E.D.T.) for the purpose of Enacting the following:

September 20, 1994

An Ordinance Establishing a Tax Stabilization Plan.

TO RALPH GUGLIELMINO,
CITY SERGEANT:

An Ordinance authorizing the Issuance of

Bonds and/or Bond Anticipation Notes to Finance the Providence Place Garage.

September 20, 1994

An Ordinance to Adopt the Providence Place Tax Increment Project Plan.

You are therefore, hereby commanded and required to summon each Member of the City Council to that Special Meeting, as Called.

Hereof, Fail Not, and make true return of this Warrant, with your doings thereon.

Given under my Hand and Official Seal of the City of Providence, State of Rhode Island, and Providence Plantations this 20th Day of September, A.D., 1994.

MICHAEL R. CLEMENT
City Clerk

I, Ralph Guglielmino, City Sergeant, do hereby certify that I have notified each Member of the City Council of the Special Meeting scheduled to be held on Thursday, September 22, 1994 at 7:30 o'clock P.M. (E.D.T.) in the Chamber of the City Council, City Hall, Providence, in accordance with the subject warrant by delivering to each member, a copy thereof.

RALPH P. GUGLIELMINO
City Sergeant

Received.

ORDINANCES SECOND READING

The following Ordinances were in City Council September 20, 1994, Read and Passed the First Time, as Amended, and are Severally Returned for Passage the Second Time, as Amended:

An Ordinance Establishing a Tax Stabilization Plan.

Be it Ordained by the City of Providence:

Whereas, Providence Place Group ("PPG"), the State of Rhode Island (the "State") and the Rhode Island Port Authority and Economic Development Corporation ("Port Authority") have entered into a Development Agreement dated February 24, 1994, as amended, and as it may be amended subsequent to the date hereof (the "Agreement") relating to the development and construction of

the Providence Place super regional shopping center (the "Shopping Mall") and a publicly owned garage to be constructed beneath the shopping Mall (the "Garage"); and

Whereas, Pursuant to Section 33.2 of Title 45 of the Rhode Island General Laws (the "Act"), the City of Providence (the "City") has adopted the Providence Place Tax Incremental Project Plan (the "Project Plan"); and

Whereas, Pursuant to the Act, the City has designated the tax increment from the develop-

ment of the Shopping Mall and certain associated improvements for the benefit of the Garage as described in the Project Plan; and

Whereas, PPG and the Port Authority have requested that the City fix and stabilize the level of taxes on the Shopping Mall built by PPG, the Port Authority and/or others under the Project Plan; and

Whereas, The City, the Port Authority and PPG wish to enter into an Agreement for Payments in Lieu of Taxes under Sections 42-64-13(e) and 42-64-20 of the Rhode Island General Laws with respect to fixing and stabilizing the property taxes on the Shopping Mall, a copy of which is attached hereto as *Exhibit A* (the "Tax Agreement"); and

Whereas, The Tax Agreement sets forth the terms and conditions of such tax stabilization; and

Whereas, The City has made and hereby reaffirms the following findings with respect to the tax stabilization plan set forth under the Tax Agreement:

1. The Tax Agreement is in the public interest; and

2. Section 42-64-20 of the Rhode Island General Laws provides that the Port Authority shall make payments in lieu of real property taxes and assessments to municipalities during such time as the Port Authority derives revenue from the lease or operation of facilities on its property, such as the Shopping Mall; and

3. The Port Authority and PPG are or will be deriving revenue from the lease or operation of the Shopping Mall, including, without limitation, lease payments made to the Port Authority by PPG under a certain Air Rights Agreement providing for the conveyance of the air rights over the site of the Garage by the Port Authority to PPG; and

4. The payments made pursuant to the Tax

Agreement are in an aggregate amount which will enable the City to stabilize the amount of taxes that would be paid on account of property used for retail and commercial purposes and located in the City and are reasonable and in the public interest.

Now, therefore, be it Ordained by the City Council of the City of Providence, Rhode Island, as follows:

Section 1. That the findings set forth in the preceding *Whereas* clauses are hereby made and confirmed.

Section 2. That the City, in accordance with Section 42-64-13(e) and 42-64-20 of the Rhode Island General Laws and upon satisfaction of the conditions set forth in *Exhibit B* hereto, is authorized to enter into the Tax Agreement with the Port Authority and PPG.

Section 3. That the scheduled time frames and payments under the Tax Agreement may be adjusted or amended on behalf of the City by the Finance Director and Finance Director shall provide written notice to such adjustments or amendments to the City Council.

Section 4. If this Ordinance or any part of this Ordinance conflicts or is inconsistent with any existing Ordinance then the provisions of this Ordinance shall govern.

Section 5. This Ordinance shall take effect immediately upon passage.

An Ordinance authorizing the Issuance of Bonds and/or Bond Anticipation Notes to Finance the Providence Place Garage.

Be it Ordained by the City of Providence:

Whereas, The City of Providence (the "City"), the State of Rhode Island (the "State") and the

Rhode Island Port Authority and Economic Development Corporation (the "Port Authority") expect to make capital expenditures of approximately \$94,500,000 (of which the City is to contribute the maximum amount of \$47,250,000) toward the acquisition of land, and the design and construction of approximately 5,000 space parking garage (the "Garage") to be located on the property ("Providence Place") which has been designated as the Project Area under the Providence Place Tax Incremental Project Plan; and

Whereas, The City (following separate City Council approval), the Port Authority and Providence Place Group ("PPG") will enter into an Agreement for Payments in Lieu of Taxes (the "Tax Agreement") under Sections 42-64-13(e) and 42-64-20 of the Rhode Island General Laws which fixes the property taxes on the shopping center (the "Shopping Mall") to be located above the Garage; and

Whereas, Pursuant to Section 33.2 of Title 45 of the Rhode Island General Laws (the "Act"), the City has designated a portion of the tax increment from PPG's construction of the Shopping Mall and certain associated improvements for the benefit of the Garage, as described in the City's Providence Place Tax Increment Project Plan, previously approved by this Council (the "Project Plan"), including, without limitation, a portion of the payments made under the Tax Agreement; and

Whereas, The City wishes to provide authorization for the issuance of special obligation bonds and bond anticipation notes pursuant to the Act in an aggregate outstanding amount not to exceed \$69,500,000, which shall include no more than \$47,250,000 for capital expenditures including construction costs, plus approximately \$22,250,000 for a debt service reserve fund, capitalized interest and the costs of issuing such debt, including but not limited to, underwriter's discount and costs of credit enhancing such debt, to finance or refinance the acquisition, development and construction of the Project described in the Project Plan.

Now, therefore, be it Ordained by the City of Providence:

Section 1. There is authorized the issuance of special obligation tax incremental revenue bonds and bond anticipation notes pursuant to the Act in an aggregate outstanding amount not to exceed \$69,500,000 to finance or refinance the acquisition, development and construction of the Project described in the Project Plan (the "TIF Debt") upon the satisfaction of the conditions set forth in Paragraph 1 of Exhibit A hereto.

Section 2. It is the official intent of the City that proceeds of any TIF Debt may be used to pay any costs incurred and/or paid by the City as a result of its participation in the development of the Garage, including costs incidental and related thereto, prior to the issuance of such TIF Debt hereunder.

Section 3. TIF Debt shall be issued for the purpose of carrying out the Project described in the Project Plan. Without limiting the generality of the foregoing, the TIF Debt shall be issued for the cost of the Project described in the Project Plan, which may include interest prior to and during the carrying out of the Project and for a reasonable time thereafter, such reserves as may be required by any agreement or arrangements securing the TIF Debt, and all other expenses with respect thereto, including, without limitation, reimbursement of expenses previously paid by the City or any other source, incidental to planning, carrying out and financing the Project.

Section 4. TIF DEBT SHALL BE PAYABLE SOLELY FROM "PROJECT REVENUES" AS DEFINED IN THE ACT AND SHALL NOT BE DEEMED TO BE A PLEDGE OF THE FAITH AND CREDIT OF THE CITY. EVERY BOND AND BOND ANTICIPATION NOTE SHALL RECITE ON ITS FACE THAT IT IS A SPECIAL OBLIGATION BOND OR NOTE PAYABLE SOLELY FROM SUCH PROJECT REVENUES PLEDGED FOR ITS REPAYMENT.

Section 5. The bonds and bond anticipation

notes of any issue of TIF Debt shall be dated and may be made redeemable before maturity with or without premium. The City's Treasurer and Finance Director shall determine the security structure or structures for each issue of TIF Debt in accordance with the Act and the Project Plan, including the manner in which the proceeds of TIF Debt shall be escrowed and disbursed in accordance with or upon satisfaction of the conditions set forth in Paragraph 2 of Exhibit A, the manner in which tax increments received and to be received under the Act and the Project Plan and other "project revenues" under the Act, including, without limitation, the required portion of the payments received by the City under the Tax Agreement, may be escrowed, pledged or otherwise used to secure any such TIF Debt issue, and shall also determine the date or dates of the TIF Debt, their denomination or denominations, the place or places of payment of the principal and interest thereon, which may be at any bank or trust company within or without the State, their interest rate or rates, interest rate mode structure or structures in the case of TIF Debt issued as serial bonds or capital appreciation bonds in a fixed rate mode or a variable rate mode, maturity or maturities, redemption privileges, if any, and the form and other details of the TIF Debt and shall also be authorized to enter into any agreements or documents, including amendments thereto, to evidence the details of the TIF Debt including, but not limited to, remarketing agreements, trust indentures, purchase agreements, offering statements, escrow agreements, documents relating to bond issuance and other security arrangements and shall be further authorized to appoint the trustee, paying agent, remarketing agent and underwriter engaged in connection with the issuance of the TIF Debt. As set forth in subparagraph 1(b) to the issuance of TIF Debt in Exhibit A, such TIF Debt shall not be issued unless it is fully secured by project revenues, bond proceeds or other necessary security arrangements or credit enhancements supplied by PPG and is structured in a manner whereby the City will have no risk, liability or obligation with respect to such debt other than to apply Tax Agreement payments actually received by or on behalf of the

City to debt service thereon; accordingly, in such circumstances where PPG is taking the risk, liability and obligation of debt service on such TIF Debt, PPG may determine any interest rate or interest rate mode changes in connection therewith, and the City's Treasurer and Finance Director shall be authorized to execute any documents, including amendments to existing documents and take any actions necessary to give effect to such interest rate or interest rate mode changes or security arrangement changes and to provide for the termination of any escrow arrangement for the proceeds of TIF Debt.

Section 6. The bonds and bond anticipation notes of any issue of TIF Debt shall be signed by the City Treasurer, shall be countersigned by the Mayor of the City, either manually or by facsimile, and shall bear the seal of the City or a facsimile thereof.

Section 7. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or bond anticipation notes of any issue of TIF Debt shall cease to be an officer before the delivery thereof, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery.

Section 8. The City's Treasurer and Finance Director may sell the bonds and bond anticipation notes of any issue of TIF Debt in such manner, either at public or private sale, and for such price, as they may determine will best effect the purposes of this Ordinance and the Act.

Section 9. Notwithstanding any provisions of the City Charter or any general or special law to the contrary, bonds issued hereunder may be issued in more than one series and may provide for annual or more frequent installments of principal in equal, diminishing, or increasing amounts, with the first installment of principal to be due at any time within five (5) years from the date of the issuance of the bonds.

Section 10. Without limiting the generality of

the foregoing, the City may issue one or more issues of special bond anticipation notes prior to the issuance of its special obligation bonds hereunder for the purposes and in the manner authorized hereunder.

Section 11. This Ordinance shall take effect immediately upon its final passage.

An Ordinance to Adopt the Providence Place Tax Increment Project Plan.

Be it Ordained by the City of Providence:

Whereas, Providence Place Group ("PPG"), the State of Rhode Island (the "State") and the Rhode Island Port Authority and Economic Development Corporation ("Port Authority") have entered into a Development Agreement dated February 24, 1994, as amended, and as it may be amended subsequent to the date hereof (the "Agreement"), relating to the development and construction of the Providence Place super regional shopping center (the "Shopping Mall") and a publicly owned garage to be constructed beneath the Shopping Mall (the "Garage"); and

Whereas, The City has developed with the State, the Port Authority and PPG a detailed plan describing the Garage and the public need therefor, a copy of which is attached hereto as Exhibit A (the "Project Plan"); and

Whereas, Pursuant to Section 33.2 of Title 45 of the Rhode Island General Laws (the "Act"), the City wishes to designate the tax increment from the development of the Shopping Mall and certain associated improvements for the benefit of the Garage, as described in the attached Project Plan, including, without limitation, a portion of the payments made under an Agreement for Payments in Lieu of Taxes (the "Tax Agreement") entered into by the City, the Port Authority and PPG pursuant to Section 42-64-13(e) and Section 42-64-20 of the Rhode Island General Laws; and

Whereas, The Project Plan contemplates the issuance of approximately \$69,500,000.00 (\$47,250,000.00 in bond proceeds for construction costs plus approximately \$22,250,000.00 in costs associated with the borrowing) of special obligation tax increment revenue bonds under Section 45-33.2-6 of the Act (the "TIF Bonds"), following separate City Council authorization of any such debt, to finance or refinance the acquisition, development and construction of a portion of the Garage; and

Whereas, The Internal Revenue Service has promulgated regulations (the "Regulations") which require, in order to preserve the tax-exempt status of any TIF Bonds to the maximum possible extent, that the City declare an official intent to reimburse any expenditures for the Project described in the Project Plan made prior to the date of issuance of the TIF Bonds, where such reimbursement is to be derived from the proceeds of TIF Bonds; and

Whereas, The most administratively efficient means of handling the technical timing requirement of the Regulations is to designate the appropriate City official to make such official intent declarations; and

Whereas, The Project Plan sets forth an estimate of project costs and the amounts and sources of funds to be used to defray those costs; and

Whereas, The Project Plan sets forth an estimate of the tax increment, including, without limitation, payments to be made under the Tax Agreement, to be generated by the Shopping Mall, the method of calculating said tax increment, and the City Officer responsible for calculating said tax increment; and

Whereas, The Project Plan sets forth the location and boundaries of the Garage project area and of the Shopping Mall tax increment area; and

Whereas, The Project Plan sets forth the land

acquisition, demolition and removal of structures and such development, redevelopment, and general public improvements as are proposed to be carried out within the Garage project area; and

Whereas, No person or organizations will be displaced by the Garage project, except for the Rhode Island Department of Elementary and Secondary Education and the University of Rhode Island College of Continuing Education, which is expected to be relocated to Shepards Building, so-called in Providence as described in the Project Plan; and

Whereas, The City has made and hereby reaffirms the following findings with respect to the Project Plan:

(a) The facilities, programs and other assistance described in the Project Plan are needed; and

(b) That component of the Project Plan calling for the financing of a portion of the Garage through the issuance by the City of approximately \$69,500,000 of TIF Bonds is in the public interest; and

(c) That unemployment and the threat thereof exists in the City and that security against future unemployment is required; that the Project Plan is needed, and its implementation will provide employment and security against unemployment, having a reasonable relationship to the probable cost thereof.

Now, therefore, be it Ordained:

Section 1. That the findings set forth in the preceding *Whereas* Clauses are hereby made and confirmed.

Section 2. That the Project Plan, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, is hereby approved and adopted.

Section 3. That the scheduled time frames for the calculation of the tax increment, including,

without limitation, payments to be made under the Tax Agreement and under the Project Plan may be amended or adjusted by the Finance Director and Finance Director shall provide written notice of such amendments or adjustments to the City Council.

Section 4. That the City is authorized to enter into an agreement with the State and/or Port Authority with respect to the ownership of the Garage and any other agreements necessary to the implementation of the Project Plan, subject to final approval of the City Council.

Section 5. Boyce Spinelli, Director of the Department of Finance is hereby designated as authorized to declare official intent under Section 1.150-2 of the Regulations in connection with reimbursement of expenditures made for the Project described in the Project Plan, and to amend such declarations on behalf of the City upon written notice of such amendment to the City Council.

Section 6. If this Ordinance or any part of this Ordinance conflicts or is inconsistent with any existing Ordinance, then the provisions of this Ordinance shall govern.

Section 7. This Ordinance shall take effect immediately upon its passage.

COUNCILMAN GLAVIN moves that the Ordinances be Severally Read and Collectively Passed the Second Time, as Amended.

This motion is seconded by COUNCILWOMAN FARGNOLI.

COUNCILMAN DeLUCA moves that "An Ordinance Authorizing the Issuance of Bonds and/or Bond Anticipation Notes to Finance the Providence Place Garage" be amended by adding the words "so that the increases that take place at the Mall Garage will need City Council Approval".

This motion is seconded by COUNCILMAN LOMBARDI.

DEPUTY CITY SOLICITOR McLAUGHLIN informs that since there is another agreement to do with the developer that would be the proper place and time to offer such amendments and that the foregoing Ordinances are not dealing with this aspect.

COUNCILMAN DeLUCA thereupon withdraws his motion to amend and COUNCILMAN LOMBARDI withdraws his second.

COUNCILMAN DeLUCA moves that the Ordinance be further amended that "PPG will be responsible for the Maintenance of the Garage".

There is no second to this motion.

COUNCILMAN DeLUCA offers a third amendment "if the City Council of the City of Providence determines that the Mall has lost its upscale character, the pilot agreement shall be null and void".

There is no second to this motion.

DEPUTY CITY SOLICITOR McLAUGHLIN further refers to the agreement at this time.

COUNCILMAN DeLUCA moves that the Ordinances be Severally Referred Back to Committee for further study.

There is no second to this motion.

COUNCILMAN GLAVIN moves that the Ordinances be Amended to include "City Council approval of any agreement relative to the Garage" and to amend "An Ordinance to Adopt the Providence Place Tax Increment Project Plan" on Page 3, Section 4, to add the following words: "subject to final approval of the City Council".

This motion is seconded by COUNCILMAN DeLUCA.

COUNCILMAN GLAVIN repeats his motion for Passage the Second Time, as Amended with the following Two (2) Provisions:

1. That Page 40 of the agreement between the State and the Developer so that the reference to the City, State and the Developer be corrected so that the reference to the City of Providence be deleted.

2. That there will be a linkage with the developer and the community and a donation made to the Smith Hill Center of \$10,000.00 over a 10 year period which will be vital to the neighborhood.

COUNCILMAN GLAVIN further states for the record that this is ONLY for the Management of the Garage.

This motion being seconded by COUNCILWOMAN FARGNOLI, is Put to Vote and Passed, by the following Roll Call Vote:

Ayes: Council President Petrosinelli, Councilman Dillon, Councilwomen DiRuzzo, Fagnoli, Councilmen Fenton, Glavin, Mancini and Rollins-8.

Noes: Councilmen DeLuca and Lombardi-2.

Absent: Councilmen Clarkin, Igliozzi, Councilwomen Nolan, Williams and Young-5.

The motion for Passage the Second Time, as Amended, is Sustained.

ADJOURNMENT

There being no further business, on motion of COUNCILMAN GLAVIN, seconded by COUNCILWOMAN FARGNOLI, the City Council adjourns at 8:30 o'clock P.M. (E.D.T.).

Michael R. Clement

City Clerk



September 22]

2416

[1994

