

MINUTES

FEBRUARY 27, 2023

COMMITTEE OF THE WHOLE

7:00 P.M.

Council Members in Attendance:

Sam Crowl
Sarah Grace
Micah McCarey
Jeff Risner
Alan Swank
Ben Ziff

Administrators and/or
Other Elected Officials:

President Knisely
Mayor Patterson
Service-Safety Director Stone

Items Discussed:

- New Community Authority (NCA) - presentation
 - President – this concept was first presented in November, 2022 – the NCA is a mechanism for both the City and the University to move forward with possible preservation of the existing buildings and redevelopment at the Ridges – next steps: 1) petition to create the NCA, aligns with ORC 349.03; 2) review finances with City Auditor; and 3) a public hearing prior to initiating legislation
 - Joe Recchie – presented The Ridges Development Strategy update (see attached) – proceeding with the concept of the NCA, having gained approval from the Ohio University Board of Trustees to pursue this approach, subject to the desire of the City of Athens – there is a complex array of approvals that are needed – after about 30 months of research the plan has reached step 2, finalizing development strategy – the vast majority of this approximately 700-acre site will be designated in a conservation easement, with restrictions that match up with the way the property has been used in the last 40 years – City Council will need legislation to: 1) approve the petition of the NCA (vehicle for stewardship); 2) create a Community Reinvestment Area (CRA); 3) approve a Tax Increment Financing (TIF) District (to comprise the basis for seeking funding for infrastructure that is not an obligation of the City, County or University, but instead directly of the NCA); 4) Rezoning the site (currently zoned as educational) – City Council has 30-45 days from the filing of the petition to hold a hearing to approve or disapprove the creation of the NCA
 - Ziff – asked for clarification once the petition has been approved

-Recchie – once the NCA is formed (a pre-condition for the transfer of property) there will be a purchase agreement between the Ridges Community Development, LLC and Ohio University that will have many pre-conditions: negotiating the restrictions, deciding on the conservation easements, and forming and approving the NCA – the University has to approve the transfer of the property, and the NCA must have the CRA and TIF in place

-Ziff – asked whether, after all of the above is in place, there will be an opportunity for Council and public input on what is built

-Recchie – yes, because the City has zoning control over the whole site, including restrictions that might be placed on historic buildings, using the National Park Service standards as a guidepost for any redevelopment of the site – there will still be a lot of room for input all along the way, and each component will have many participants – this is a 7-10 year plan focusing on buildings #2, #3 and #4, iconic and most impaired, and needing to be addressed as soon as possible

-Ziff – asked about a plan for the buildable area – in looking at the 2015 Ridges Development Plan with highlighted buildable areas, he expressed concern that the vast majority of the buildable areas is in the northwestern quadrant where there are existing trails

-Recchie – responded that this plan is doing just the opposite – when looking at the feasibility, the infrastructure, the quality of the land, and the other uses of the land, it was decided this was not an appropriate area to develop – the land lab, current trails, and the old growth forest are part of the approximately 600 acres that will remain and become part of a conservation easement, to retain its natural beauty and used for active enjoyment – the development is compressed to a little finger along Dairy Lane, the area around the perimeter of the historic buildings, and the area off Carriage Lane

-Swank – asked about the TIF

-Recchie – would be a 30-year TIF, covers only the non-school portion of taxes – first 15 years are subject to the CRA that will have tax abatement (a payment in lieu of taxes) to retire infrastructure bonds – the property is now tax exempt – in year 15 the school will receive revenue from the improved tax base available to them – in year 30 the County will get its share of the tax revenue – all along the way the residents and workers at the site will be paying City income tax – the City will gain from economic development – expect over \$2 million of investment over the 7-10 year period that will ultimately be part of the tax base that all will benefit from

-Swank – questioned whether the NCA would be asking for a 70% or 100% TIF from the school district

-Recchie – has met with the School Superintendent to discuss 100% -- the infrastructure is a big lift to bring forward development

-Crowl – has been asked by a constituent if there is any thought of including a golf course at the site

-Recchie – no proposal for a golf course – there is very limited land devoted to development – if development does not create an assessment for the historic area, or if it encroaches upon the conservation area, it will not be developed
-Crowl – understands that the University, as the current owner of the property, would negotiate the establishment of that conservation easement with the NCA
-Recchie – that is correct – anticipates that the conservation easement would be filed before the transfer or a requirement at the time of transfer – there are many stakeholders – this is a full collaborative effort
-Crowl – in the creation of the Board, asked for a definition of the (3) “citizen” members
-Recchie – as per the ORC “citizens” are those using the NCA site, living or working at it
-Crowl – questioned the varied list of owners at the end of the document as the Board of Trustees, the President of the University, Ohio University, or State of Ohio
-Recchie – these were recorded in various ways, but the State will be asked to approve the conveyance as a whole

-Swank – asked if this draft proposal would be discussed again in committee
-President – a committee meeting will be held prior to first reading of the ordinance – clarified for the record that City Council does have the right to name (3) representatives
-Recchie – that is correct, as per ORC
-Swank – highlighted ORC language would be helpful to Council Members, as opposed to what is negotiable or interpreted
-Recchie – that can be provided – before the next discussion there will be further review with some refinements – there is plenty of time to get this right

-Mayor – believes this is the best shot for restoration and development of the Ridges, and is hopeful this will come to fruition – the historic buildings are in dire need of repair – absent this process, he shared concern for the ultimate fate of the Ridges

- Solid Waste Contract

-President – requested a legal opinion from Law Director (see attached) – Law Director stated there is a substantial legal risk with awarding the contract to bidders AHRC or Rumpke based on the existing bid documents

-Crowl – hope is to have a service provider that meets the City’s sustainability goals and partners with local organizations in helping the City move forward, not just manage what we have today, but to move forward to help us do a better job when it comes to our waste management

-Milena Miller, Graham Drive – encouraged Council to consider reaching out to the University and the landlords to better coordinate student move-out

-Heather Johnson, West Union – is a senior at Ohio University and works with campus recycling, working toward zero waste goals – she is pleased that the Athens community cares so deeply about sustainability – she supports AHRC

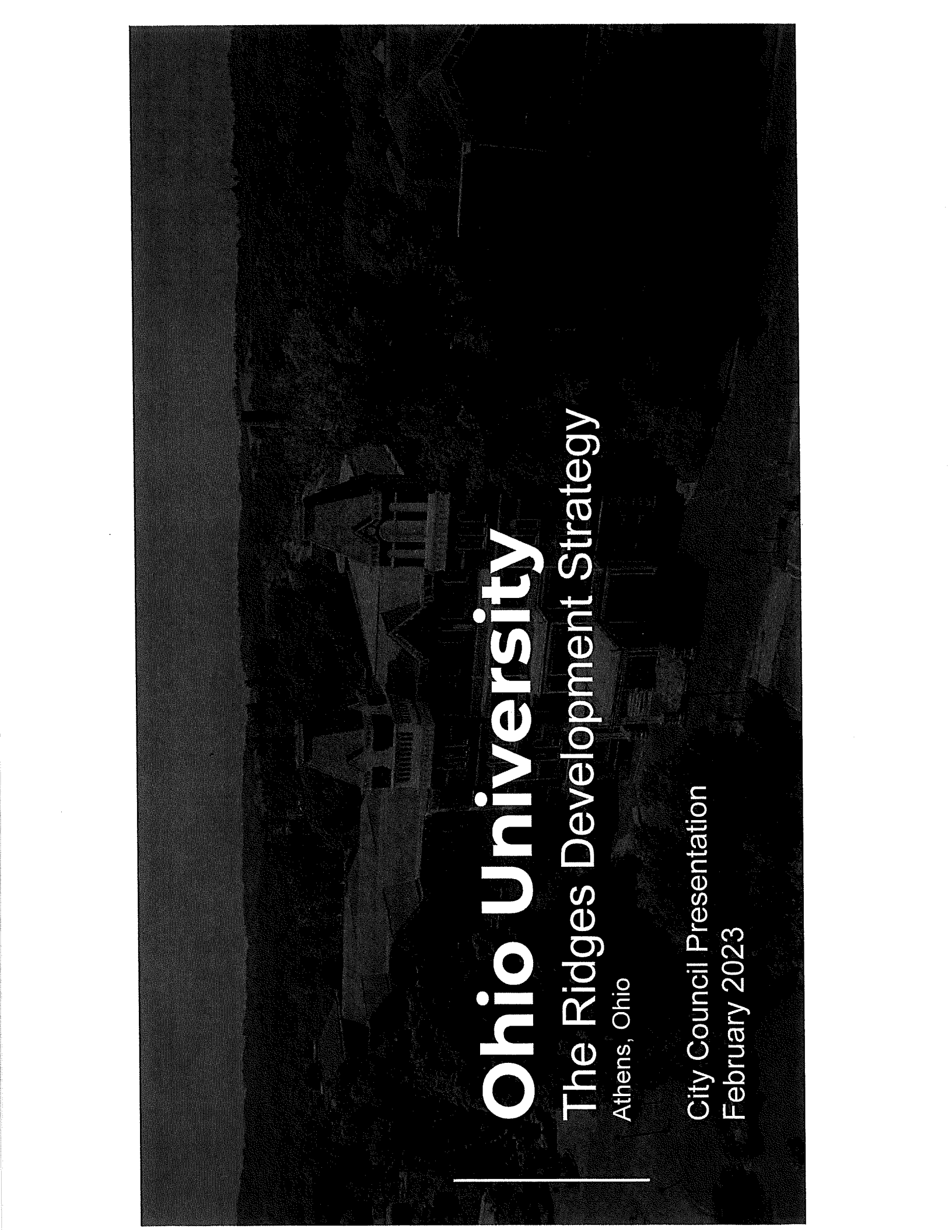
- Local Government Funds

-President – in consideration of House Bill 33, the FY 2024-2025 State Operating Budget, the Ohio Municipal League urges local legislators to pass a resolution in support of full restoration of the Local Government Fund (LGF), to restore these funds to pre-recession numbers – the current LGF provides 1.66% of the state's General Revenue Fund to go to municipalities – this current percentage was established during the state's projected fiscal crisis a decade ago to fill a perceived \$8 billion biennial budget gap, replacing the previous level of 3.68% -- the City has received as high as \$815,063 annually to as low as \$340,689 – the 2022 allocation was \$550,695

-Mayor – appreciates Council actively pursuing full funding – the Ohio Mayors Alliance, the Mayor's Partnership for Progress, and the Ohio Municipal League are actively pursuing full funding

ITEMS NEEDED ON AN UPCOMING CITY COUNCIL AGENDA:

1. Solid Waste
2. Local Government Fund



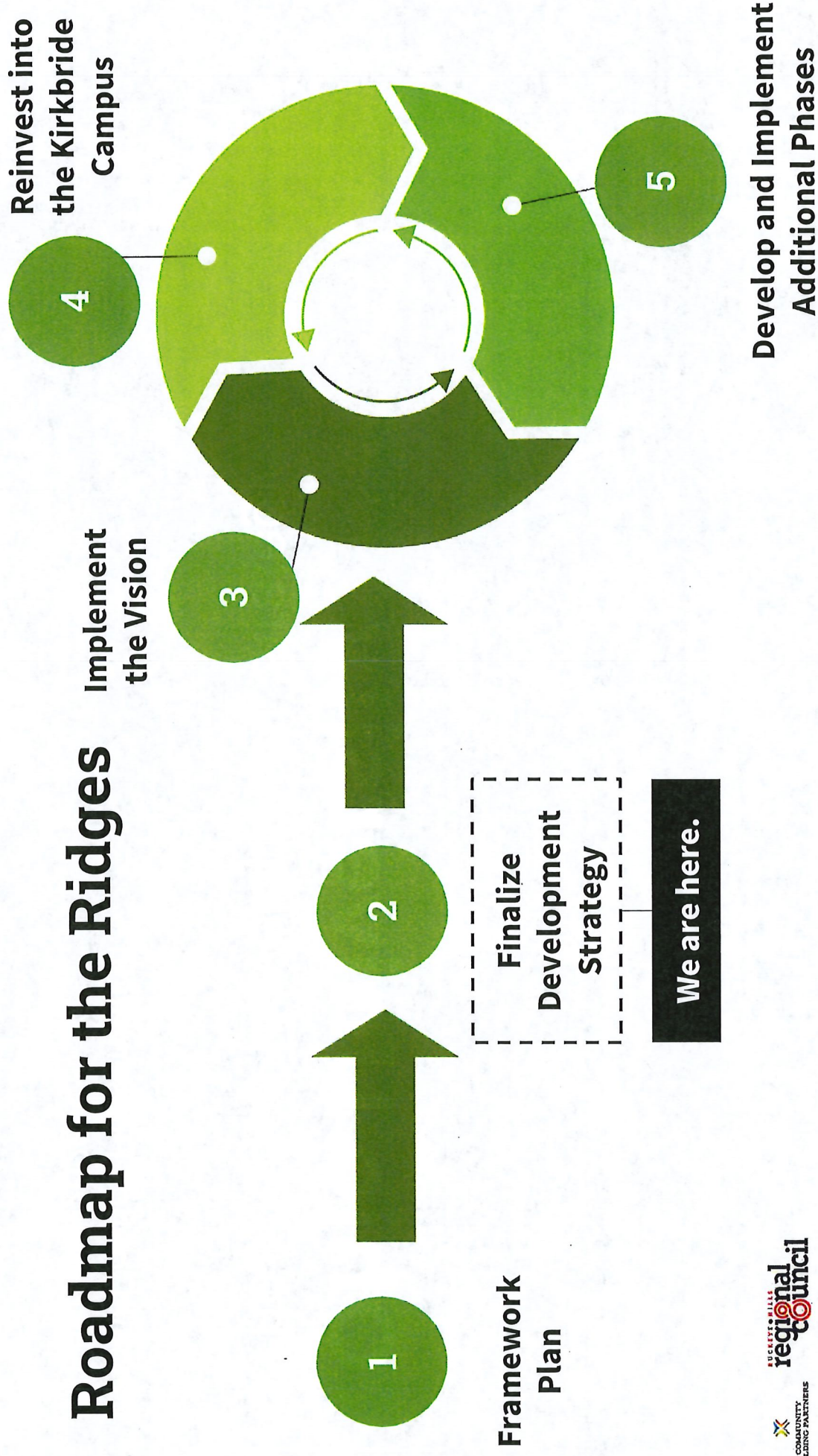
Ohio University

The Ridges Development Strategy

Athens, Ohio

City Council Presentation
February 2023

Roadmap for the Ridges



Finalize Development Strategy

30 months of R&D and Due Diligence.

- Building the Economic Development Strategy
- Determine Constraints and Viability of Specific Economic Incentives
- Align Market Study and Planning Analysis to Refine the Vision

Stakeholder Engagement Building off Public Engagement and Consensus from the Ridges Framework Plan

Visioning with the Ridges Advisory Committee

1:1 meetings with:

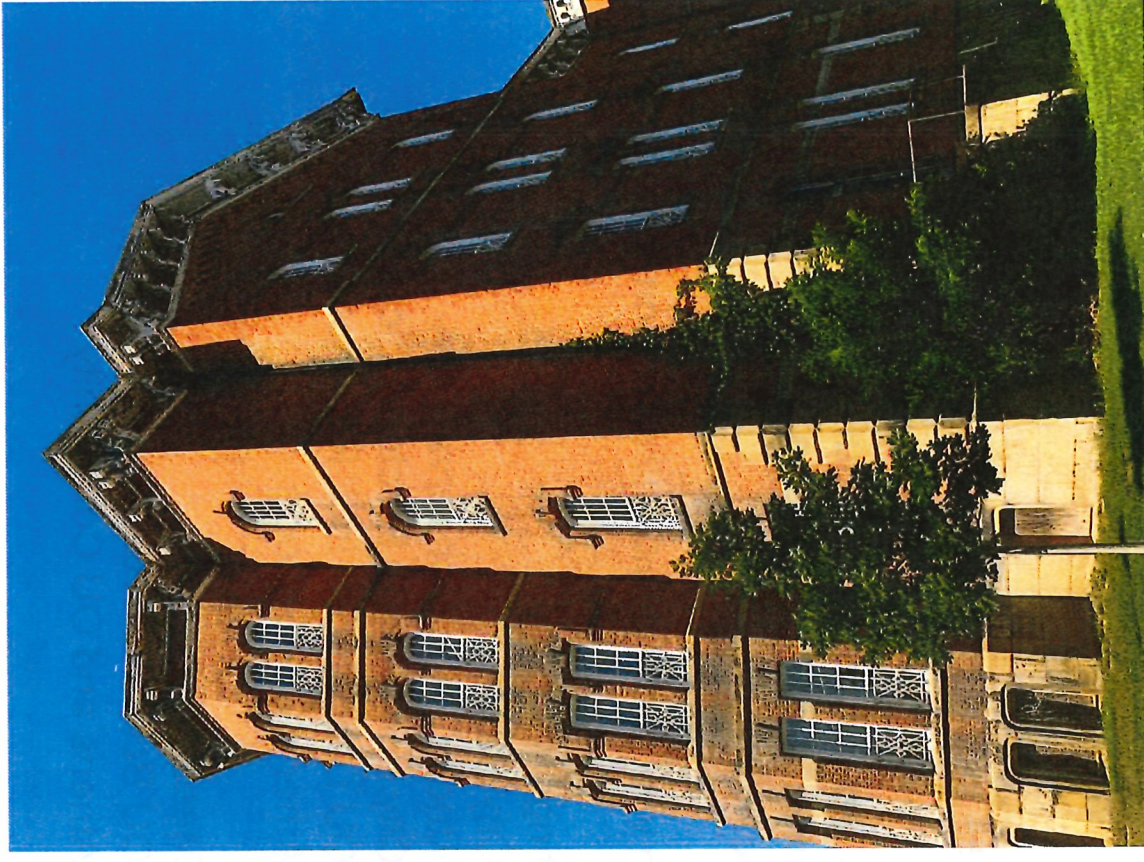
- City Staff
- Athens Land Conservancy
- City and County Elected Officials
- OU Leadership, incl. President Sherman
- Athens City Schools

Public Meetings:

- OU Board of Trustees
- Athens and OU Community

Development Summary

- Maintains conserved land for recreation and public use
- Leverages vacant space and developable land to meet market housing needs
- Creates opportunities for flexible commercial space for mixed use experience
- Compliments OHIO's presence as an anchor
- Leverages significant OHIO investment over the years



2023 Coordination with Athens City Council

Legislation Necessary to catalyze development

- New Community Authority
 - *Vehicle for Stewardship*
- Community Reinvestment Area
- Tax Increment Financing District
- Rezoning of the site (currently
zoned as educational)



Next Steps: New Community Authority

Overview:

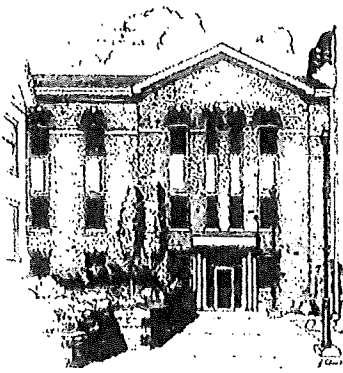
The New Community Authority is the stewardship vehicle to implement the Ridges Redevelopment. Key features include:

- *Governed by a Board of Trustees*
- *Has the ability to raise revenues (through property assessments) and issue bonds to pay for infrastructure.*
- *Requires no investment from City, County, or University*

Timeline:

- *Draft Petition Submitted Last Week to City Council and Law Director*
- *Formal Petition Filed Next Week*
- *City Council has 30-45 days from the filing to hold a hearing to approve the creation of the New Community Authority*

Office of the Law Director
and City Prosecutors
Law Administration Bldg.
8 E. Washington St., Suite 301
Athens, Ohio 45701
Telephone (740) 592-3332
Fax (740) 592-3350



City of Athens

LISA A. ELIASON
CITY LAW DIRECTOR

Tracy W. Meek, Chief City Prosecutor
Jesse Branner Hittle, Asst. Law Director
Justin Townley, City Prosecutor

OPINION 23-02

To: Chris Knisely, President of Athens City Council

From: Lisa A. Eliason, Athens City Law Director *LE*

Date: February 27, 2023

Re: 2023 Solid Waste Contract

You asked me to review the bidding documents from the 2023 Solid Waste contract and the bids received from AHRC and Rumpke in response to those bidding documents.

There is a substantial legal risk with awarding a contract to bidders AHRC or Rumpke based on the existing bid documents and the bids that have been received. Both bidders have errors that do not comply with the instructions to the bidders and an award to either could result in a legal challenge by the other. The instructions to the bidders was very specific that all bid amounts on the form were required to be filled in and both bidders failed to do so. Specifically, in its Part A + Part B bid tab, AHRC failed to insert Base Cost amounts for dumpsters and special clean up services, failed to insert Unit Cost per year for the waste and recycling services, and failed to insert Unit Cost per year for the waste and recycling containers. In its Part A bid tab and in its Part B bid tab, Rumpke failed to insert an amount for the Solid Waste Disposal Costs (tipping fees, general landfill fees) and stated "No Bid" for these items.

The standard announced in the instructions to Bidders was that the contract would be awarded to the "lowest responsive and responsible bidder." There are no exceptions to the requirement that this contract be bid pursuant to Ohio Revised Code (R.C.) 735.05 and awarded to the "lowest and best bidder."

In the Instructions to Bidders, the City specifically reserves the right to reject any and all bids and to rebid the contract. Part 5, General, of the Instructions to Bidders states that "[t]he city reserves the right to reject any bids not prepared and submitted according to the provisions herein outlined, and may reject any or all bids." In implementing this option, the City must treat both bidders equally and cannot forgive errors by one bidder while rejecting the bid of the other bidder based upon similar errors. Awarding the contract to either bidder pursuant to the existing bidding process

would be subject to legal challenge. Legal action would take the form of a temporary restraining order, preliminary injunction, and permanent injunction with an award of attorney fees which could be considerable.

Rejecting all bids and rebidding the contract with three major changes in the instructions to bidders and bid structure will align the process more closely with Ohio Revised Code public bidding requirements for cities and create a situation where the City will receive bids that can be fairly compared. First, the "lowest and best" standard of award found in R.C. 735.05 must be utilized. Second, bidders should be informed in the revised instructions that they will be obligated to sign the contract as contained in the bid package without alteration or negotiation. A bid guaranty should be required to enforce that obligation. Finally, it is important that any award on a rebid align with a clearly announced breakout of the scopes of work that may be awarded separately.

To comply with this opinion, City Council should first pass an ordinance to reject all bids that were received and authorize the Service-Safety Director to rebid the contract pursuant to R.C. 735.05 on the basis that there was no lowest and best bid. Second, City Council should pass an ordinance to authorize the Service-Safety Director pursuant to R.C. 735.05 to advertise and accept bids in an amount not to exceed the recommendation of the Service-Safety Director. Finally, City Council should pass an ordinance to authorize the Service Safety Director to enter into a written contract with the lowest and best bidder as advertised pursuant to R.C. 735.05. The second and third ordinances could be combined into one ordinance. Council may have to consider adjusting solid waste rates accordingly. Since time is of the essence, City Council should consider suspending the rules and including emergency provisions, as necessary.

The current contract expires June 30, 2023. Should the rebidding process go beyond that date, the City may use R.C. 735.051 if council votes by a two-thirds majority that a "real and present emergency arising in connection with the operation and maintenance of the department of public services" exists. This would allow the City to continue the existing contract with AHRC for a VERY LIMITED TIME necessary to rebid and award the contract. The ordinance should state that neither of the bidders complied with the original bid requirements and the needs of the City for refuse collection cannot go unmet during a rebid.

MINUTES
CITY & SAFETY SERVICES COMMITTEE
FEBRUARY 27, 2023
7:00 p.m.

Members in Attendance:

Micah McCarey, Chair
Sarah Grace, Member
Sam Crawl, Member
Alan Swank, Member

Administrators and
Other Elected Officials:

President Knisely
Mayor Patterson
Auditor Hecht

ITEMS DISCUSSED:

- Reduction of Single-Use Plastic Bags (Athens ReThink Plastics, presentation)
 - Swank – discussion of single-use plastic bags is nothing new to the City, it was first discussed in 2016 – in 2018 Kroger announced that by 2025 their stores would no longer be using single-use plastic bags, and is currently piloting this in Richmond, VA, and it seems to be working well – in 2019 the Athens ReThink Plastics group was formed, have since partnered with the Sierra Club, and obtained grant funds to promote this cause – introduced the members of the Athens ReThink Plastics group that will be speaking
 - Nancy Pierce – the proposed legislation bans stores and restaurants from providing single-use plastic carryout bags to customers at checkout – it does not include produce or meat bags – it will include City funds to assist businesses with this transition – plastic hugely pollutes our environment, littering our roadsides, and filling our oceans – plastic lasts for hundreds of years; it doesn't decompose, but only breaks down into smaller pieces – it contains toxic chemicals not designed to be recycled – these micro-plastics are in our air, water and soil – they are even in our food chain – recycling plastics is not a solution, less than 10% of all plastics worldwide are recycled – more than 90% gets dumped or incinerated – plastic is a climate issue; it is crucial that we reduce plastic production – 10 states and at least 500 additional jurisdictions have a ban or a fee for single-use plastics – this legislation will be inconvenient at first, but consumers will quickly adjust
 - Lee Gregg – spoke to the health impact – chemicals are known to cause cancer and disruptions of the hormonal system – the single-use carryout bag is the

world's most used consumer product, and banning their use is not only the easiest, but would be the most impactful in reducing plastic in our environment

-Janalee Stock – spoke about plastics on human health and the environment – plastic pollution is a sleeping giant – plastic waste is a local problem for our waterways – it is time to move forward with legislation to ban single-use bags

-Milena Miller – the group will begin installing signs “WAIT, DON'T FORGET TO Bring in your BAGS” in windows of local businesses, paid for through a grant from the Ohio Sierra Club, and free of charge to participating stores – this proposed legislation will reduce the level of waste going to our landfill

-Swank – confirmed by AHRC and Rumpke that single-use plastic bags cause operation problems at recycling processing facilities, landfills, and transfer stations, and contribute to litter throughout the City of Athens, reducing efficiency and increasing cost

-Crowl – asked for clarification on the term “product bag”

-Pearce – those are items already packaged, or used for in-store produce or bulk items

-Crowl – may need a definition

-McCarey – asked about ways to encourage the use of single-use plastic bags and branding opportunities

-Swank – paper bags are currently being used by Whole Foods, Trader Joes, Bath & Body Works, and you need to bring your own bags to Aldi's – interested in having official City of Athens bags to promote our City

-Risner – asked about State of Ohio law

-Pierce – it is illegal in the State of Ohio to charge a fee, but communities can ban single-use bags

-Ziff – is the manager of a local business that has switched to compostable items – it is not a large cost to switch from single-use bags – challenged other businesses to do the same

-Pierce – this is a first step – plastics matter

- Ohio Valley Museum of Discovery (presentation) – deferred to a later date
- Washington County Jail Contract
 - McCarey – annual contract – daily cost per prisoner increase from \$83.00 to \$100.00, plus any additional cost for medical attention

-Swank – asked about 2022 use at this facility

-Stone – will check and report back

-Grace – clarified that this transfer is only made if our regional jail is full – City also uses closer jails that do not require legislation

-Risner – questioned whether this is for both male and female prisoners

-McCarey – yes

-Mayor – cost of transportation is also borne by the City

ITEMS NEEDED ON AN UPCOMING CITY COUNCIL AGENDA:

1. Single-use Plastics
2. Washington County Jail contract