

**CITY OF DELAWARE  
CITY COUNCIL  
CITY COUNCIL CHAMBERS  
1 SOUTH SANDUSKY STREET  
7:00 P.M.**

**AGENDA**

**7:00 P.M. REGULAR MEETING**

**July 8, 2019**

1. ROLL CALL
2. INVOCATION – Jackie Walker, Assistant City Manager
3. PLEDGE OF ALLEGIANCE
4. APPROVAL of the Motion Summary of the regular meeting of Council held on June 24, 2019, as recorded and transcribed.
5. CONSENT AGENDA
  - A. Acceptance of the Motion Summary of the Shade Tree Commission meetings held on February 26, 2019 and April 23, 2019, as recorded and transcribed.
  - B. Resolution No. 19-29, a resolution appointing members to various Boards, Commissions, and/or Committees, and specifying the term of the appointments.
6. LETTERS, PETITIONS, AND PUBLIC COMMENTS
7. COMMITTEE REPORTS
8. CONSIDERATION of Resolution No. 19-30, a resolution authorizing the City Manager to adopt a Traffic Calming Guide for Neighborhood Streets.
9. CONSIDERATION of Resolution No. 19-31, a resolution approving a traffic calming pilot program for West Hull Drive.
10. CONSIDERATION of Ordinance No. 19-38, an ordinance declaring the improvement to certain parcels in the City to be a public purpose and exempt from taxation pursuant to ORC 5709.40(B); providing for the collection and deposit of service payments and specifying the purposes for which those service payments may be expended; and authorizing school compensation payment.

- 11. CONSIDERATION of Ordinance No. 19-39, an ordinance supplementing the 2019 Appropriations Ordinance in the amount of \$10,000 and authorizing the City Manager to enter into an agreement to participate into an agreement to participate in a Regional Housing Strategy.
  
- 12. CONSIDERATION of Ordinance No. 19-40, an ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$12,510,000 for the purpose of paying the cost of refunding bonds previously issued by the City for the purpose of paying the costs of improving the City’s Southeast Highland Sewer area by constructing and installing sewer lines, including the acquisition of interests in real estate, together with all necessary appurtenances thereto, and declaring an emergency.
  
- 13. CONSIDERATION of Ordinance No 19-41, an ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$2,500,000 for the purpose of paying the costs of improving and renovating City Hall and a related annex building and otherwise improving the site therefor, together with all necessary appurtenances thereto, and declaring an emergency.
  
- 14. CONSIDERATION of Ordinance No 19-42, an ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$1,500,000 for the purpose of paying the costs of acquiring and installing a software system for use by various city departments, together with all necessary appurtenances thereto, and declaring an emergency.
  
- 15. COUNCIL DISCUSSION ITEMS:
  - A. Contract Agreement for Recreation Services between the City of Delaware and YMCA
  - B. Review of Rules Suspension Guidelines
  
- 16. ETHICS TRAINING FOR ELECTED OFFICIALS
  
- 17. CITY MANAGER’S REPORT
  
- 18. COUNCIL COMMENTS
  
- 19. ADJOURNMENT

# RECORD OF PROCEEDINGS

Held June 24 2019

The regular meeting of Council held June 24, 2019 was called to order at 7:00 p.m., in the City Council Chambers. The following members of Council were present: Second Ward Lisa Keller, Third Ward Jim Browning, At-Large George Hellinger, Vice-Mayor Shafer, and Mayor Carolyn Kay Riggle, who presided. Absent from the meeting was First Ward Chris Jones and Fourth Ward Kyle Rohrer. The invocation was given by Chaplain Jon Powers of Ohio Wesleyan University, followed by the Pledge of Allegiance.

Staff Present: Darren Shulman, City Attorney, Bill Ferrigno, Public Works Director/City Engineer, Dean Stelzer, Finance Director, Dave Efland, Planning and Community Development Director, Bruce Pijanowski, Police Chief, Jackie Walker, Assistant City Manager, and Tom Homan, City Manager.

**Motion to Excuse:** Mrs. Keller motioned to excuse Mr. Jones, seconded by Vice-Mayor Shafer. Motion approved by a 5-0 vote.

**Motion to Excuse:** Vice-Mayor Shafer motioned to excuse Mr. Rohrer, seconded by Mr. Browning. Motion approved by a 5-0 vote.

**ITEM 4: APPROVAL OF MINUTES**

APPROVAL of the Motion Summary of the regular meeting of Council held on June 10, 2019, as recorded and transcribed.

**Motion:** Mrs. Keller motioned to approve the Motion Summary of the regular meeting of Council held June 10, 2019, seconded by Vice-Mayor Shafer. Motion approved by a 5-0 vote.

**ITEM 5: CONSENT AGENDA**

- A. Acceptance of the Motion Summary of the Finance Commission meeting held on April 3, 2019, as recorded and transcribed.
- B. Acceptance of the Motion Summaries of the Parking Safety Committee meeting held on October 15, 2018 and January 7, 2019, as recorded and transcribed.
- C. Resolution No. 19-23, a resolution authorizing the City Manager to enter into an agreement with the Ohio Bureau of Criminal Investigations (BCI) for the use of the National Webcheck Program Services and Equipment and to execute successor agreements between the same parties with substantially similar conditions.
- D. Resolution No. 19-24, a resolution authorizing the City Manager to sign the Holder of the Record Agreement between the Delaware City Police Department and Delaware County Emergency Communications.
- E. Resolution No. 19-25, a resolution authorizing the City Manager to sign the United States Marshals Service Violent Offender Task Force Memorandum of Understanding.
- F. Resolution No. 19-26, a resolution authorizing the City Manager to sign a subsidy agreement with the State of Ohio Department of Natural Resources Division of Wildlife to accept grant funds
- G. Resolution No. 19-27, a resolution authorizing the restriction of on street parking on the north side of West Fountain Avenue and Euclid Avenue between the hours of 7:30 am and 3:45 pm on school days.

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Minutes of

Delaware City Council

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held June 24 20 19

**Motion:** Vice-Mayor Shafer motioned to approve the Consent Agenda, seconded by Mr. Browning. Motion approved by a 5-0 vote.

## **ITEM 6: LETTERS, PETITIONS, AND PUBLIC COMMENTS**

### **PUBLIC COMMENT:**

Mike Rush  
778 Canal Street  
Delaware, Ohio

Mr. Rush informed Council that he works for Vertiv in the Industrial Parkway. He requested that the business sign on the corner of London Road include the Vertiv business. Mr. Homan discussed that staff is looking at removing the sign altogether and having a new sign that is part of the new branding and wayfinding.

## **ITEM 7: COMMITTEE REPORT**

Mr. Hellinger provided an update on the Finance Committee meeting.

Vice-Mayor Shafer provided an update on the Parking and Safety Committee meeting.

## **ITEM 8: STAFF INTRODUCTIONS**

A. Kyle Kridler, Assistant City Manager

## **ITEM 9: DIRECTOR UPDATE**

A. Bruce Pijanowski - Chief of Police

## **ITEM 10: PRESENTATIONS**

- A. Delaware Citizen Police Academy Alumni Association – John Rybka, Former Vice-President and Bernie Workman, Former President
- B. Memorial signage request recognizing Elmer W.B. Curry – Benny Shoultz, Curator, Meeker Homestead Museum
- C. Revised Traffic Calming Guide for Neighborhood Streets and Hull Drive Discussion – Bill Ferrigno, Public Works Director/City Engineer

Mrs. Keller voiced her concern over the revision to the Traffic Calming Guide and preferred the first draft presented to Council. Mr. Homan discussed the revisions based on funding and that he did not feel it was realistic to have residents pay for traffic modifications. Mr. Hellinger voiced his concern that if the issued is speed then the pilot program should start at a street that has more of a speed issue and that volume will not change until there is an alternative primary traffic route. Mayor Riggie discussed her support to striping on Hull Drive due to their consistent concerns. Vice-Mayor Shafer voiced his support to make changes to Hull Drive and that the resident's perception of the impact to their quality of life should be accounted for. Mrs. Keller discussed that she had received complaints about speeding and traffic on Cobblestone and recently at the Parking and Safety meeting on Executive Blvd. Mr. Homan recommended that staff draft a resolution to authorize changes to Hull Drive and present at the next meeting.

**ITEM 11: ORDINANCE NO. 19-35** [Public Hearing and Second

RECORD OF PROCEEDINGS

Held June 24 20 19

Reading]

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR THE OHIO WESLEYAN VILLAGE STUDENT HOUSING LOCATED AT THE NORTHWEST CORNER OF LIBERTY STREET AND PARK AVENUE ON APPROXIMATELY 3 ACRES ZONED PO/I (PLANNED OFFICE/INSTITUTIONAL DISTRICT).

The Clerk read the ordinance for the second time. There was no public participation.

APPLICANT:

Randy Reger
BSHM Architects, Inc.
1020 Goodale Blvd.
Columbus, Ohio

Motion: Mrs. Keller motioned to suspend the rules for Ordinance No. 19-35, seconded by Vice-Mayor Shafer. Motion approved by a 5-0 vote.

Motion: Mrs. Keller motioned to adopt Ordinance No. 19-35, seconded by Vice-Mayor Shafer. Motion approved by a 5-0 vote.

ITEM 12: ORDINANCE NO. 19-36 [Second Reading]

AN ORDINANCE FOR OHIO WESLEYAN UNIVERSITY APPROVING A COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR OHIO WESLEYAN VILLAGE STUDENT HOUSING LOCATED AT THE NORTHWEST CORNER OF LIBERTY STREET AND PARK AVENUE ON APPROXIMATELY 3 ACRES ZONED PO/I (PLANNED OFFICE/INSTITUTIONAL DISTRICT).

The Clerk read the ordinance for the second time.

Motion: Mrs. Keller motioned to suspend the rules for Ordinance No. 19-36, seconded by Vice-Mayor Shafer. Motion approved by a 5-0 vote.

Motion: Mrs. Keller motioned to adopt Ordinance No. 19-36, seconded by Vice-Mayor Shafer. Motion approved by a 5-0 vote.

ITEM 13: ORDINANCE NO. 19-37 [Public Hearing and Second Reading]

AN ORDINANCE FOR APPROVAL OF AN ALLEY VACATION REQUEST BY OHIO WESLEYAN UNIVERSITY OF AN ALLEY FOR OHIO WESLEYAN VILLAGE STUDENT HOUSING LOCATED ALONG THE NORTH SIDE OF PARK AVENUE JUST WEST OF LIBERTY.

The Clerk read the ordinance for the second time. There was no public participation.

Motion: Mrs. Keller motioned to suspend the rules for Ordinance No. 19-37, seconded by Vice-Mayor Shafer. Motion approved by a 5-0 vote.

Motion: Mrs. Keller motioned to adopt Ordinance No. 19-37, seconded by Vice-Mayor Shafer. Motion approved by a 5-0 vote.

ITEM 14: ORDINANCE NO. 19-32 [Third Reading]

RECORD OF PROCEEDINGS

Held June 24 20 19

AN ORDINANCE ACCEPTING THE ANNEXATION OF 100.648± ACRES OF LAND MORE OR LESS, DESCRIPTION AND MAP ARE ATTACHED HERETO AS EXHIBITS "A" AND "B" FOR THE ANNEXATION KNOWN AS THE GRDEN LLC ANNEXATION BY MICHAEL R. SHADE, AGENT FOR THE PETITIONERS.

The Clerk read the ordinance for the third time.

Motion: Mr. Browning motioned to adopt Ordinance No. 19-32, seconded by Vice-Mayor Shafer. Motion approved by a 4-1 (Hellinger) vote.

ITEM 15: ORDINANCE NO. 19-29 [Third Reading]

AN ORDINANCE APPROVING A REZONING AMENDMENT FOR GRDEN LLC., FOR WINTERBROOKE PLACE FROM A-1 (AGRICULTURAL DISTRICT) TO R-3 PMU (ONE-FAMILY RESIDENTIAL DISTRICT WITH A PLANNED MIXED USE OVERLAY DISTRICT) CONTAINING 263 SINGLE FAMILY LOTS ON APPROXIMATELY 100.6 ACRES AND LOCATED ON THE NORTH SIDE OF PEACHBLOW ROAD JUST EAST OF THE BELMONT PLACE SUBDIVISION (PARCEL #'S 418-330-01-019-000, 418-330-01-018-001, 418-330-018-000, 418-320-01-038-000).

The Clerk read the ordinance for the third time.

APPLICANT:

Robert Grden
Grden LLC
1059 Wellington Blvd
Powell, Ohio

Mike Shade
Attorney at Law
P.O. Box 438
Delaware, Ohio

PUBLIC PARTICIPATION:

Steve Elliott
Representative for John and Toni Gundling
200 Civic Center Drive, Suite 1200
Columbus, Ohio

John Gundling
957 Peachblow Road
Delaware, Ohio

Motion: Mr. Browning motioned to adopt Ordinance No. 19-29, seconded by Vice-Mayor Shafer. Motion approved by a 4-1 (Hellinger) vote.

ITEM 16: ORDINANCE NO. 19-30 [Third Reading]

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR GRDEN LLC., ALLOWING THE PLACEMENT OF A PMU (PLANNED MIXED USED OVERLAY DISTRICT) TO BE ESTABLISHED FOR WINTERBROOKE PLACE CONTAINING 263 SINGLE FAMILY LOTS ON APPROXIMATELY 100.6 ACRES AND LOCATED ON THE NORTH SIDE

RECORD OF PROCEEDINGS

Held June 24 20 19

OF PEACHBLOW ROAD JUST EAST OF THE BELMONT PLACE SUBDIVISION.

The Clerk read the ordinance for the third time.

Motion: Mr. Browning motioned to adopt Ordinance No. 19-30, seconded by Vice-Mayor Shafer. Motion approved by a 4-1 (Hellinger) vote.

ITEM 17: ORDINANCE NO. 19-31 [Third Reading]

AN ORDINANCE APPROVING A PRELIMINARY DEVELOPMENT PLAN FOR GRDEN LLC., FOR WINTERBROOKE PLACE CONTAINING 263 SINGLE FAMILY LOTS ON APPROXIMATELY 100.6 ACRES ZONED R-3 PMU (ONE-FAMILY RESIDENTIAL DISTRICT WITH A PLANNED MIXED USE OVERLAY DISTRICT) AND LOCATED ON THE NORTH SIDE OF PEACHBLOW ROAD JUST EAST OF THE BELMONT PLACE SUBDIVISION.

The Clerk read the ordinance for the third time.

Motion: Mr. Browning motioned to adopt Ordinance No. 19-31, seconded by Vice-Mayor Shafer. Motion approved by a 4-1 (Hellinger) vote.

ITEM 18: RESOLUTION NO. 19-28 [Second Reading]

A RESOLUTION OF NO OBJECTION TO THE EXPANSION OF THE CONCORD/SCIOTO COMMUNITY AUTHORITY, A NEW COMMUNITY AUTHORITY UNDER CHAPTER 349 OF THE OHIO REVISED CODE.

The Clerk read the resolution for the first time.

Motion: Vice-Mayor Shafer motioned to adopt Resolution No. 19-28, seconded by Mrs. Keller. Motion approved by a 5-0 vote.

ITEM 19: FINANCE DIRECTOR'S REPORT

ITEM 20: CITY MANAGER'S REPORT

Mr. Homan discussed that he had received emails voicing concerns regarding the City's recreation programs through the YMCA. He will be following up with those concerns by meeting with the new CEO. The concerns have also been forwarded to Ms. Zingale. He discussed the need to focus on the importance of the relationship of the City and the YMCA and the current strain on the relationship and concerns that have been received.

Mr. Homan plans to meet with the County to discuss EMS billing. He will be also having a meeting with the new Superintendent of Delaware City Schools to have a discussion regarding Boardman Park.

Mr. Homan provided an update on the Riverby Project.

ITEM 21: COUNCIL COMMENTS

Mrs. Keller informed Council that she was contacted by members of a local swimming group and was informed that they will be meeting with Ted Miller.

**RECORD OF PROCEEDINGS**

Minutes of

Delaware City Council

Meeting

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Held June 24 20 19

Mr. Browning thanked Chief Pijanowski on his participation in the recent Juneteenth event.

Mayor Riggle discussed the weddings that she had presided over and events that she had attended. She informed staff that there was a concern over DORA events by downtown business owners and that she was informed that they had a lack of understanding on how the DORA operates.

Mayor Riggle requested information on if funds had been received from OhioHealth.

**ITEM 22: ADJOURNMENT**

**Motion:** Mrs. Keller motioned to adjourn the meeting, seconded by Vice-Mayor Shafer. The meeting adjourned at 8:57 p.m.

\_\_\_\_\_  
Mayor Carolyn Kay Riggle

\_\_\_\_\_  
Elaine McCloskey, Council Clerk

**SHADE TREE COMMISSION**  
**February 26, 2019**  
**MOTION SUMMARY**

ITEM 1. Roll Call

Chairwoman Wright called the meeting to order at 6:30 p.m.

Members Present: Stan Eddy, Tom Glissman, Tom Wolber, Becki Wood-Meek, Vice-Chairwoman Shannon Brewster, and Chairwoman Susan Wright

Members Absent: Dave Carey and Fredericka Shanks

Staff Present: Doug Richmond, Arborist, Linda Mathews, Customer Service Liaison, Ted Miller, Parks and Natural Resource Director,

**Motion to Excuse:** Mr. Wolber moved to excuse Mr. Carey and Ms. Shanks, seconded by Mr. Glissman. Motion approved with a 6-0 vote.

ITEM 2. APPROVAL OF MOTION SUMMARY of Shade Tree Commission meeting of November 27, 2018 as recorded and transcribed.

**Motion:** Ms. Wood-Meek moved to approve the Motion Summary for the November 27, 2018 meeting, seconded by Vice-Chairwoman Brewster. Motion approved with a 6-0 vote.

ITEM 3. PUBLIC COMMENTS

ITEM 4. DISCUSSION of Community Outreach Activities

A. Arbor Day

Chairwoman Wright requested that staff reach out to Ms. Shanks regarding plans to include the students from Hayes High School in the planting and Arbor Day celebration. The date for Arbor Day is April 26.

B. First Friday

The Commission plans to have a booth at the May 3, 2019 First Friday event to pass out seedlings and information leaflets. Chairwoman Wright confirmed that Mr. Carey had notified her that the seedlings were ordered. Mr. Eddy discussed the ability to get additional seedlings from the National Tree Trust. Chairwoman Wright requested that staff provide a volunteer online sign up for the event and informed staff that the handouts on how to plant the seedlings would be needed.

C. NOW Festival

Mr. Wolber informed the Commission that the date for this event is June 22. He also provided information regarding the need to remove invasive species at Mingo Park on March 9. This event is being organized by Caroline Cicerchi, Watershed Coordinator.

The Commission also discussed participating at the YMCA Easter Egg Hunt and Family Day (formally Healthy Kids Day) that will be April 20. Mr. Miller informed the Commission that staff is working on if the two events can be combined and voiced concerns over traffic.

ITEM 5. DISCUSSION of the City Council Annual Report

Mr. Wolber volunteered to help prepare the City Council Annual Report. The Commission requested to be able to present their report to Council on the April 8 City Council meeting.

ITEM 6. ARBORIST REPORT

Mr. Richmond reviewed the Arborist Report. He informed them that in November and December that there was 54 trees planted by the City and 127 trees planted by a contractor. There was a total of 55 trees pruned and 12 small trees were removed and 5 large silver maple trees were removed by a contractor during this period. He also reviewed the Arborist Report for January in which only 17 trees were pruned during this period and 2 trees removed by staff. He discussed that the weather prevented some work to be completed.

Mr. Wolber questioned if the Cost Share Program was still in use. Mr. Richmond informed the Commission that the program is no longer active.

ITEM 7. STAFF COMMENTS

Mr. Richmond discussed the need for volunteers for the cleanup of invasive species at Mingo Park on March 9. He also invited the Commission to attend the Tree City USA award ceremony on April 18.

Mr. Miller reviewed with the Commission the current Tree Fund Balance which is \$156,124. He also provided information regarding revenues and expenditures. He invited the Commission members to have a tour of the greenhouse on March 26. The Commission that are available agreed to meet at the greenhouse at 3:30 p.m.

Staff requested that the Commission help to identify 1-2 heritage trees in the City on public property in which staff can use for public education.

ITEM 8. MEMBER COMMENTS

Chairwoman Wright discussed the plans to have Mr. Carey provide a report on the Canopy Assessment.

Mr. Eddy discussed the different way to prevent damage to trees during construction and ways to help protect the trees.

ITEM 9. PLAN REVIEWS

- A. Burger King – Approved with suggested changes to the evergreen species for the buffer near Crestview Drive; Arborist can provide the suggested changes.
- B. Flats on Houk – Approved as submitted
- C. Springer Woods, Section 1, Phase 3 – Approved as submitted
- D. Seattle House – This is a re-approval, approved with request to diversification of elm plantings; substituted plantings
- E. OhioHealth Medical Building – Approved as submitted

ITEM 10. ADJOURNMENT

**Motion:** Mr. Wolber moved to adjourn the meeting. The Shade Tree Commission meeting adjourned at 7:29 p.m.

  
Chairperson

  
Clerk

**SHADE TREE COMMISSION**  
**APRIL 23, 2019**  
**MOTION SUMMARY**

ITEM 1. Roll Call

Vice-Chairwoman Brewster called the meeting to order at 6:30 p.m.

Members Present: Melissa Bargar, Dave Carey, Stan Eddy (exited the meeting at 7:34 p.m.), Tom Wolber, and Vice-Chairwoman Shannon Brewster

Members Absent: Fredericka Shanks, Tom Glissman, Becki Wood-Meek, and Chairwoman Wright

Staff Present: Doug Richmond, Arborist, Linda Mathews, Customer Service Liaison, Ted Miller, Parks and Natural Resource Director,

**Motion to Excuse:** Mr. Wolber moved to excuse Ms. Shanks, Mr. Glissman, Ms. Wood-Meek, and Chairwoman Wright, seconded by Vice-Chairwoman Brewster. Motion approved with a 5-0 vote.

ITEM 2. APPROVAL OF MOTION SUMMARY of Shade Tree Commission meeting of February 26, 2018 as recorded and transcribed.

**Motion:** Mr. Wolber moved to approve the Motion Summary for the February 26, 2019 meeting, seconded by Mr. Carey. Motion failed with a 4-0-1 (Bargar) vote.

ITEM 3. PUBLIC COMMENTS

ITEM 4. DISCUSSION of Community Outreach Activities

A. Arbor Day

Mr. Richmond provided information on the April 26 Arbor Day activities that will be held at Rutherford B. Hayes High School. Mr. Richmond discussed the involvement of the Environmental Science Class and Mr. Backus in the celebration. The Mayor will provide a proclamation during the event.

B. First Friday

The Commission plans to have a booth at the May 3, 2019 First Friday event to pass out seedlings and information leaflets. The online signup sheet for volunteers at the event were reviewed. Mr. Carey has 300 white pine seedlings for the Commission to pass out and informed the Commission that the seedlings are not bagged.

C. NOW Festival

Mr. Wolber informed the Commission that the date for this event is June 22. This event is being organized by Caroline Cicerchi, Watershed Coordinator.

ITEM 6. DISCUSSION of Tree Canopy

Mr. Carey discussed the report provided to the Commission. He discussed the software he utilized and the methodology. He discussed how the report can help determine future expansion needs of the canopy and how much is needed to grow each year. The Commission to discuss in more detail with staff how the report can be utilized.

ITEM 7. ARBORIST REPORT

Mr. Richmond reviewed the Arborist Report. There was 27 trees pruned and 3 trees and 3 stumps that were removed. He discussed that there was a cleanup for Earth Day at Mingo Park, organized by Caroline Cicerchi. This event had 75 volunteers to assist with picking up litter and trash. He attended the Tree City USA celebration recently. The City of Delaware as renewed its memorandum of understanding with the Columbus Zoo in helping to provide browse to help feed the animals at the zoo.

Ms. Bargar asked how the tree removal is tracked. Mr. Richmond explained that the City can only track city trees that are removed, including trees in parks and city right of ways.

Mr. Wolber discussed a concern that was brought up by Mayor Riggle at the April 22 Council meeting during the Shade Tree Annual Report. She had discussed the pruning that had taken place throughout the Northwest Neighborhood relating to the overhead wires and if trees that needed replaced could be a slower growing tree. Mr. Carey discussed the need to look at the list of recommended trees for under utility wires to be reviewed as there is not much selection available.

ITEM 8. STAFF COMMENTS

ITEM 9. MEMBER COMMENTS

Mr. Carey provided a review of the Annual Shade Tree Commission report to be presented before City Council.

Mr. Wolber questioned how the recent visit to the City's greenhouse was. Mr. Richmond discussed the types of plants that are being grown in the greenhouse

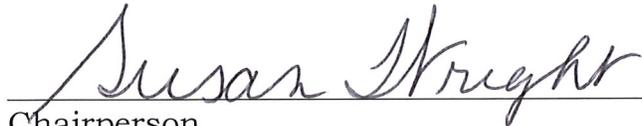
which includes, tropical plants, annuals, and perennials.

ITEM 10. PLAN REVIEWS

- A. Belmont Place – Section 6 – approved with species changes
- B. Belmont Place – Section 7 – approved with species changes
- C. Glenross – Section 13 – approved with species changes
- D. Wesleyan Inn – approved as submitted
- E. Winterbrooke Place - approved with species changes and suggested change to pear trees in the common ground areas
- F. Coughlin Crossing – Sub Area 6 – approved as submitted
- G. Preserve at Quail Pass - Informational

ITEM 11. ADJOURNMENT

**Motion:** Mr. Carey moved to adjourn the meeting, seconded by Mr. Wolber. The Shade Tree Commission meeting adjourned at 7:59 p.m.

  
Chairperson

  
Clerk



## FACT SHEET

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AGENDA ITEM NO: CONSENT ITEM B      DATE: 07/08/2019  
ORDINANCE NO:                                      RESOLUTION NO: 19-29  
READING: FIRST                                      PUBLIC HEARING: NO

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TO:                      Mayor and Members of City Council  
FROM:                 R. Thomas Homan, City Manager  
VIA:                    ---

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

A RESOLUTION APPOINTING MEMBERS TO VARIOUS BOARDS, COMMISSIONS, AND/OR COMMITTEES, AND SPECIFYING THE TERM OF THE APPOINTMENTS.

**BACKGROUND:**

**REASON WHY LEGISLATION IS NEEDED:**

**COMMITTEE RECOMMENDATION:**

**FISCAL IMPACT(S):**

**POLICY CHANGES:**

**PRESENTER(S):**

Carolyn Kay Riggle, Mayor

**RECOMMENDATION:**

**ATTACHMENT(S)**

RESOLUTION NO. 19-29

A RESOLUTION APPOINTING MEMBERS TO VARIOUS  
BOARDS, COMMISSIONS, AND/OR COMMITTEES, AND  
SPECIFYING THE TERM OF THE APPOINTMENTS.

WHEREAS, Members are to be appointed to serve on various Committees, Commissions and Boards by the Mayor of the City of Delaware and confirmed by Council; and

WHEREAS, the Mayor has appointed and Council has confirmed the following appointments.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Delaware that:

SECTION 1. The following appointments are hereby made:

1. Civil Service Commission – John Rybka-Reappointment (term expiring June 30, 2025)
2. Board of Zoning Appeals – Adam Vaughn - Reappointment, Fourth Ward Representative (term expiring June 30, 2022)
3. Board of Zoning Appeals – Matt Dick – Reappointment, Third Ward Representative (term expiring June 30, 2022)
4. Airport Commission – Jane McIntire – Reappointment, City Representative (term expiring June 30, 2022)
5. Airport Commission – John Lewis – Reappointment (term expiring June 30, 2022)
6. Parks and Recreation Advisory Board – Jillian Staugler - New Appointment, At-Large (term expiring June 30, 2022)
7. Parks and Recreation Advisory Board – Dianna Hibinger – Reappointment, First Ward (term expiring June 30, 2022)
8. Parks and Recreation Advisory Board – Corie Thompson – Reappointment, Fourth Ward (term expiring June 30, 2022)
9. Parks and Recreation Advisory Board – Maria Schul – New Appointment, Student Representative (term expiring June 30, 2021)
10. Planning Commission – Stacy Simpson – Reappointment, Fourth Ward (term expiring June 30, 2022)
11. Planning Commission – Robert Badger, Reappointment, First Ward (term expiring June 30, 2022)
12. Shade Tree Commission – Shannon Brewster, Reappointment, Citizen Representative (term expiring June 30, 2022)
13. Shade Tree Commission – Susan Wright, Reappointment, Citizen

- Representative (term expiring June 30, 2022)
14. Shade Tree Commission – Tom Glissman, Reappointment, Citizen Representative (term expiring June 30, 2022)
  15. Shade Tree Commission – Grace Martin, New Appointment, Student Representative (term expiring June 30, 2021)
  16. Sister City Advisory Board – Colleen Rush, Reappointment, Citizen Representative (term expiring June 30, 2022)
  17. Sister City Advisory Board – Julie Horvath, Reappointment, School Representative (term expiring June 30, 2022)
  18. Income Tax Board of Review – Eric MacWhinney, Reappointment (term expiring June 30, 2021)
  19. Records Commission – Michele Kohler, Reappointment, (term expiring June 30, 2021)
  20. Delaware South NCA – Bill Rogers, Reappointment, two-year citizen (term expiring August 30, 2021)
  21. Delaware South NCA – Bill Rogers, Reappointment, two-year citizen (term expiring August 30, 2020)
  22. Delaware South NCA – Jim Hill, Reappointment, two-year citizen (term expiring August 30, 2020)
  23. Delaware South NCA – Benjamin Kelly, Reappointment, two-year citizen (term expiring August 30, 2021)
  24. Delaware South NCA – Jennifer LaPointe, Reappointment, two year local government appointee (term expiring August 30, 2021)
  25. Delaware South NCA – Randy Palmer – two year developer appointee (term expiring August 30, 2021)
  26. Delaware South NCA – Matt Callahan – two year developer appointee (term expiring August 30, 2021)
  27. Northern NCA – Mark Reed, two year community appointee (term expiring August 30, 2020)
  28. Northern NCA – Diane Nutter, two year community appointee (term expiring August 30, 2020)
  29. Northern NCA – David Miller, two year community appointee (term expiring August 30, 2021)
  30. Northern NCA – Mike Hite, local government appointee (term expiring August 30, 2020)
  31. Northern NCA – Gary Hough, two year developer appointee (term expiring August 30, 2020)
  32. Northern NCA – Tim Todaro, two year developer appointee (term expiring August 30, 2021)
  33. Northern NCA – Todd Hamula, two year developer appointee (term expiring August 30, 2021)
  34. Historic Preservation Commission – Sherry Riviera, Reappointment, Preservationist (term expiring June 30, 2022)





## FACT SHEET

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AGENDA ITEM NO: 8

DATE: 07/08/2019

ORDINANCE NO:

RESOLUTION NO: 19-30

READING: FIRST

PUBLIC HEARING: NO

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: William L. Ferrigno, P.E., Public Works Director/City Engineer

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ADOPT A TRAFFIC CALMING GUIDE FOR NEIGHBORHOOD STREETS.

**BACKGROUND:**

City staff has prepared a Traffic Calming Guide for Neighborhood Streets to be used in future requests for neighborhood traffic complaints. The guide outlines the process by which traffic complaints are to be considered by the city as well as identifies acceptable traffic calming measures that can be implemented based on the severity of traffic issues, verified through field study and data collection.

**REASON WHY LEGISLATION IS NEEDED:**

To journalize City Council's approval of the guide (attached).

**COMMITTEE RECOMMENDATION:**

Parking & Safety Committee recommended advancement of the Traffic Calming Guide to full Council for additional consideration and action.

**FISCAL IMPACT(S):**

N/A

**POLICY CHANGES:**

The new Traffic Calming Guide for Neighborhood Streets supersedes all past traffic calming policies and guidance documents previously considered and adopted by the City.

**PRESENTER(S):**

William L. Ferrigno, P.E., Public Works Director/City Engineer

**RECOMMENDATION:**

Approval

**ATTACHMENT(S)**

Traffic Calming Guide for Residential Streets

RESOLUTION NO. 19-30

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ADOPT A TRAFFIC CALMING GUIDE FOR NEIGHBORHOOD STREETS.

WHEREAS, City staff recently completed a traffic calming guide for neighborhood streets; and

WHEREAS, this guide provides a uniform process for addressing citizen concerns with traffic in residential areas; and

WHEREAS, City Council desires to address traffic concerns in an equitable and consistent manner.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DELAWARE, OHIO THAT:

SECTION 1. City Council adopts the Traffic Calming Guide for Neighborhood Streets (attached).

SECTION 2. City Council may periodically review amendments to this guide to address changing conditions.

SECTION 3. That this resolution shall take effect and be in force immediately after its passage.

PASSED: \_\_\_\_\_, 2019

YEAS\_\_\_ NAYS\_\_\_  
ABSTAIN \_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR



**Please**

**Traffic Calming Guide**

**for**

**Neighborhood Streets**

**Down**

City of Delaware

Public Works Department

Revised May 30, 2019

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## 1.0 Introduction and Overview

The City of Delaware has long-standing policy for implementing traffic calming measures with the goal being safer streets and lower vehicular speeds in residential neighborhoods, near schools, and other areas with high numbers of pedestrians and bicyclists. In the past, policy has lumped regulatory measures with non-regulatory measures. Also, some older policy advocates traffic calming measures that have been deemed ineffective over the years or are outdated due to advances in technology. In the past, the use of the term “traffic calming measures” has been overly broad. Therefore, the purpose of this manual is to give City leaders new focus and direction in keeping City streets safer for all modes of travel. This manual replaces the City’s existing traffic calming policy and attempts to address the most frequently requested items from the public.

Speeding in residential neighborhoods is often times a concern among City of Delaware residents because of its effect on the livability of our streets and neighborhoods. In response to citizen concerns, the City of Delaware has developed the Neighborhood Traffic Calming Guide to more effectively work with neighborhoods in developing appropriate traffic solutions. The work represents a collaborative effort by the City of Delaware Police Department, Public Works Department, Parking and Safety Committee and Citizens to address speeding concerns on public streets.

The purpose of traffic calming is to address problems associated with neighborhood speeding, though the techniques and traffic calming measures can be extended to higher order major collector and minor arterial routes as well. Cut-thru traffic is often blamed as the source of neighborhood speeding problems, however it has been found that both neighborhood residents as well as motorists travelling through a residential area are equally likely to exceed posted speed limits. Therefore, the focus of this document is to provide guidance in mitigating vehicle speed regardless of origin or destination.

A successful traffic calming program requires involvement and cooperation from the impacted residents, travelling public, and local jurisdiction. Delaware’s Traffic Calming Guide employs an approach that incorporates Education, Encouragement, Enforcement, Engineering, and Evaluation in resolving traffic issues.

Public **Education** and **Encouragement** are recommended first steps for residents to help promote traffic calming in their neighborhoods. Motorists are made aware of community concerns and reminded of the importance of safe driving habits. Well informed motorists regarding safety concerns and traffic laws in neighborhoods, are more likely to follow the rules. The implementation of a yard sign campaign is an inexpensive means to remind all motorists of the posted speed limit and risks associated with speeding in a residential neighborhood. Speed feedback display units can be used to promote awareness and reinforce safe driving habits by showing actual travel speeds next to the posted speed limit. The community can also play a role through encouraging motorists to respect the speed

limits within residential areas and to consider alternative routes on higher level roads to help reduce the traffic load on a particular street.

**Enforcement** typically involves an increased presence of law enforcement to monitor and enforce the speed limits in neighborhoods. Enforcement efforts should be undertaken as much as possible prior to implementation of physical traffic calming devices. Citizens can call the City of Delaware Police Department at (740)203-1111 and report areas where speeding is perceived to be a problem and request enforcement.

There are cases where enhanced public **Education, Encouragement and Enforcement** need to be supplemented with additional measures to address traffic concerns such as continued complaints over excessive speeding, vehicular crashes and pedestrian incidents. In these cases **Engineering Analysis, Design and Follow-up Evaluation** may be initiated to further understand the issue and make recommendations to mitigate the undesirable behavior. In these cases engineering strategies can involve adding non-intrusive signage, pavement marking and geometric roadway features that result in lowered vehicle speeds on affected roads. These physical traffic calming measures are indiscriminate and affect all motorists; therefore, they are used after education, encouragement and enforcement strategies have been exhausted. More intrusive traffic calming measures are available if the volume of traffic must be adjusted, redirected or otherwise changed to address a particular safety concern within a neighborhood such as high crash history or congestion.

An **Evaluation** of traffic calming measures generally follows the installation of traffic calming measures to verify the effectiveness in addressing a particular traffic safety concern. Evaluation may involve community survey, social media feedback, additional speed studies, and traffic counts to determine the impacts a particular measure may have had on motorist behavior. Adjustments to traffic calming measures may be recommended based on the results of the evaluation.

## **2.0 Program Limitations**

Traffic calming is a community-driven effort, however there are limitations as to the effectiveness that calming measures achieve, and those requesting improvements should have realistic expectations as to what those benefits are. Additionally, what may seem like obvious solutions are often not viable in accordance with accepted traffic regulations and codes.

- a) As a municipal organization, the City must abide by regulations set forth by our State and Federal government. The Ohio Manual of Uniform Traffic Control Design (OMUTCD) is a governing set of regulations adopted by the State of Ohio, which contains specific regulations regarding the use of public right of way, and specifically concerning pavement markings, signage and the management of traffic. The City of Delaware does not approve of any infrastructure modification or improvement that is not specifically permitted under the regulations of the OMUTCD.

- b) For the purposes of this guide, the recommendations are limited to implementation on publically owned local residential and collector streets.
- c) There is limited funding available for the construction of permanent traffic calming measures. If it is determined that permanent traffic calming measures are recommended, funding sources must be considered. Section 4.0 addresses recommended strategies for the funding of traffic calming measures in various situations.
- d) In some instances, the implementation of certain traffic calming measures can result in unintended consequences such as increased traffic in surrounding streets and neighborhoods, increased vehicle noise and pollution, sign clutter, tree removal, and the reduction or elimination of on-street parking.
- e) It has been found that the use of traffic calming measures is minimally effective in reducing vehicle speeds when the measured 85th percentile speeds are determined to be below 30 MPH. (See Appendix C for definition of 85<sup>th</sup> percentile speed)

### 3.0 Development of Neighborhood Traffic Calming Plans

The following process is followed when evaluating requests for the installation of proposed traffic calming measures on a neighborhood street.



### **3.1 Receipt of Initial Traffic Complaint**

A request for the installation of traffic calming measures can be initiated by an individual, neighborhood group and/or by City staff. If the request is initiated by a neighborhood group, it is recommended that the neighbors designate a point-of-contact who will act as a liaison between City staff and other neighborhood residents. In any case, the consideration for, and the implementation of traffic calming measures should involve considerable neighborhood consensus building in the community. The neighborhood point-of-contact should submit, on behalf of the neighborhood, a formal written request to the City of Delaware Parking and Safety Committee explaining the concerns and to request traffic calming measures be implemented. Requests can be sent via email or through the City website.

Following initial receipt of a request for traffic calming, Public Works and Police staff will work with the neighborhood point-of-contact to define the specific nature of the complaint as well as the neighborhood study area. The study area may include more streets within a neighborhood than the street associated with the complaint. It is important to include an expanded study area because traffic calming measures installed on one street may have an impact on adjacent streets resulting in the shifting of a problem as opposed to mitigating it.

### **3.2 Review Eligibility for Neighborhood Traffic Calming**

Traffic calming measures are generally most effective in residential areas to manage speeds along residential streets, and where there exists the highest interaction between pedestrians, cyclists, parked vehicles, and pets. Therefore, only streets meeting the following criteria are appropriate candidates for further consideration for implementation of the neighborhood traffic calming measures detailed in this guide.

- ✓ Streets with a posted speed limit of 25 mph
- ✓ Streets classified as a local or neighborhood collector street
- ✓ Streets with an ADT < 3500 vehicles per day
- ✓ Street is not a cul-de-sac
- ✓ Streets is not designated as primary emergency response route

### **3.3 Data Collection & Analysis**

The following data is collected by Public Works and Police staff within the study area and used in analyzing the traffic characteristics, driving patterns and motorist behavior of a particular street in question.

- ✓ Vehicle Speeds to document the 85<sup>th</sup> percentile speeds
- ✓ Average Daily Traffic (ADT) volumes on all streets within the study area
- ✓ Turning movement counts at pertinent intersections that are within the study area during the peak hours 7AM-9AM, 11AM-1PM and/or 4PM-6PM (if applicable)
- ✓ Pedestrian counts at intersections if study area is near-by or adjacent to a school and/or park
- ✓ Accident history and rate of occurrence
- ✓ Roadway condition/geometrics
- ✓ Percent cut-through traffic

The collected data is reviewed to help identify observable safety issue such as excessive vehicle speeds, or conditions leading to the perception of speeding, and to make a determination as to what traffic calming measure(s) may be effective in addressing the issues. Staff will also identify the potential negative effects associated with the installation of traffic calming measures including impacts on the provision of emergency services, city refuse collection, highway maintenance and snow removal operations. Additional consideration is given to the impact on institutions such as, but not limited to, local schools, hospitals and emergency care facilities.

### **3.4 Draft Traffic Calming Plan**

City staff will develop a Traffic Calming Plan that identifies strategies to help reduce speeding, and that employs the Educate, Encourage, Enforcement, Engineering and Evaluation approach. Traffic Calming measures may include non-intrusive/guidance strategies, more intrusive measures, or a combination of both. Non-intrusive strategies include educational programs, enforcement, signage, pavement markings, construction of islands, bump-outs, chicanes etc., all to influence the motorist behavior in a particular location. The more Intrusive measures generally involve construction of deterrents that limit vehicle direction of travel and access to particular street. Non-intrusive measures are most successful in managing vehicle speed while intrusive measures are implemented to control vehicle volumes. Both have advantages and disadvantages as further described in detail in the information provided in Appendix A and B.

### **3.5 Public Involvement Process**

Following development of a draft traffic calming plan, staff will present the plan before the public and accept public input as to the proposal. City staff will prepare a summary describing the problem and potential solutions and make the information available to all interested parties via a combination of door hangers, mail service and other social media outlets. All interested parties are invited to attend a public discussion of the issue to be held during a regularly scheduled City Parking & Safety Committee meeting. Property owners within the study area, generally defined as those households and businesses fronting the affected segments of the project street(s), will receive additional information regarding the identified problem and potential traffic calming measures being considered. This includes, but not limited to, homeowners, businesses, apartment tenants and area schools. Adjustments to the plan may be considered based on public feedback.

### **3.6 Legislative Review & Approvals**

The City Parking & Safety Committee will make a final recommendation as to the approval or denial of a proposed traffic calming initiative for a particular area. For those plans recommended for approval, the recommendation is taken before full City Council for consideration, and ultimate approval. Because the Neighborhood Traffic Calming policy is for guidance only, City Council may have to consider such things such as public acceptance and project construction and funding responsibilities before any improvements can be implemented.

### **3.7 Implementation of Traffic Calming Plan**

Depending on the extent of the Neighborhood Traffic Calming Plan and the amount of funding available, the traffic calming measures may be implemented in phases and evaluated prior to considering full implementation. Construction of improvements may be by the property owners group, the city, or a combination of both entities. Some improvements can be installed any time of the year such as additional new signage, while others requiring changes to pavement markings, curb and roadway are generally restricted to the April through October construction season.

### **3.8 Evaluation**

A follow-up evaluation will be conducted to ensure that the strategies implemented are effective. The evaluation includes additional traffic counts and speed studies after each set of measures has been implemented. If speeding has not effectively reduced, the City and neighborhood residents will have additional meetings to determine what further measures may be needed.

The City will also be reviewing unintended consequences such as redistribution of vehicle trips to other residential streets, increase in accident rates, or other traffic problems developing as a result of the implementation of the traffic calming plan. Depending on the severity of the unanticipated consequences, the City may modify the plan, reduce the plan, or eliminate it all together.

### **4.0 Funding Strategies for Construction of Traffic Calming Measures**

Available funding for transportation system improvements is limited, and in many cases tied to the availability of outside revenues such as grants, safety program funds or other State sources. The value of traffic calming improvements are generally too low to make good candidate projects for grant programs, yet larger than what can typically be managed in the annual traffic maintenance operations budget at current funding levels. Nevertheless, as the need arises to make traffic calming improvements within the community, it would be helpful to have an established source of funding to allocate toward these efforts. Once a requested improvement has been identified, evaluated and approved for installation through the guidelines established in the Traffic Calming Guide, the cost of the improvement could be added to the next operations budget for funding consideration by council as part of the overall budget approval process. For improvements considered critical in nature addressing a high-risk situation, where prudence demands an immediate response, a recommendation should be made to Council to consider a supplemental appropriation so that the improvement could be made sooner. For low impact improvements, Council could require alternative funding arrangements such as specifying a neighborhood HOA provide some of all of the funding required to make an improvement. In all cases, the City should only fund projects that will have a positive and measurable impact on improving neighborhood safety as it relates to traffic calming.

## 5.0 Non-Intrusive Traffic Calming Measures

Non-intrusive traffic calming measures are most effective at increasing motorist's awareness of their surroundings, and have been shown to yield a drop in vehicle travel speeds of up to several miles per hour in the correct application. Non-intrusive measures however, generally do not result in a notable drop in traffic volume, though the more physical alterations could discourage a motorist from travel on a treated street. Non-intrusive measures may be most effective when implemented in combination e.g. establishing a neighborhood yard sign "Speed Watch" program concurrent with the introduction of new pavement striping.

The cost of non-intrusive measures vary widely and can range from a few hundred dollars to tens of thousands or more for complex modifications to roadway geometry. Details regarding the approved non-intrusive traffic calming measures utilized within the City of Delaware are found in Appendix A.



A note about the use of Stop signs – The use of Stop signs is not a recognized nor approved means to manage neighborhood speeding though it may seem like an obvious approach to "slow" motorists down. The reality is that unwarranted Stop signs can increase risk and safety concerns in areas where they have been placed, as motorists quickly realize the minimal chance of encountering side street traffic and end up "rolling through" an intersection. The result is a diminished respect for Stop signs. Improper installations have actually been shown to result in an increase in vehicle speed both ahead of and following a Stop sign installation. Appendix E describes the only permitted applications for multi-way Stop sign applications under very limited conditions.

## 6.0 Intrusive/Barrier Traffic Calming Measures

Intrusive barriers are most effective in diverting traffic away from any given street regardless of trip origin or destination, by directing motorists toward adjacent streets or alternative routes. These type of traffic calming measures may be helpful in addressing changes to traffic volumes that were not originally anticipated or otherwise previously present. In some cases the volume of traffic on a street exceeds that which can be associated just from the neighborhood. This often presents conflict as residents feel that they have certain rights to the management of the level of traffic using the public right of way fronting their respective properties, in contrast with the permissible use by non-resident motorists on the same street. In general, the implementation of intrusive barriers should be reserved to address safety issues such as high accident rates, continuous congestion, and intersection delay. See Appendix B for specific details of the Intrusive traffic calming measures utilized within the City of Delaware.



## 7.0 Recommended Applications of Traffic Calming Measures

The following table provides recommendations as to the use of certain traffic calming measures on local and collector streets as a function of 85% speed. Not all traffic calming measures are suitable for both local streets and collector roadways. Only those measures indicated with an 'X' are approved for the specified condition.

Recommended Application of Traffic Calming Measures						
Traffic Calming Measure	Local Street			Collector Street		
	85 <sup>th</sup> % Over Posted Limit			85 <sup>th</sup> % Over Posted Limit ADT>1500		
	0-5 MPH	6-10 MPH	11+ MPH	0-5 MPH	6-10 MPH	11+ MPH
Police Enforcement		X	X		X	X
Public Encouragement	X	X	X	X	X	X
Yard Sign Campaign	X	X	X	X	X	X
Enhanced Crosswalks		X	X	X	X	X
Pavement Striping		X	X	X	X	X
Speed Feedback Signs		X	X		X	X
Intersection Bump-outs		X	X		X	X
Curb Bump-outs			X			X
Chicanes			X			X
Median Islands			X			X
Chokers			X			X
Roundabouts			X			X
Speed Bumps			X			
Raised Intersections			X			
Time of Day Restrictions						X
One-Way Streets			X	Generally the application of 'Intrusive' traffic calming measures that restrict the use of a public road planned as a collector servicing local and regional traffic is not recommended		
Diverter Islands			X			
Turn Restrictions			X			

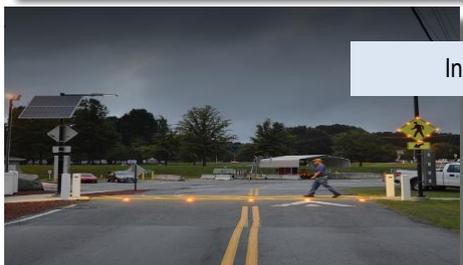
## 8.0 Non-Compliant Traffic Calming Measures (Not Permitted in Delaware)



Non-compliant crosswalk markings



Non-compliant crosswalk markings



In-pavement lighting



Non-compliant symbols/wording

Speed Limit

## Appendix A – Non-Intrusive Traffic Calming Measures

### Neighborhood Yard Signs

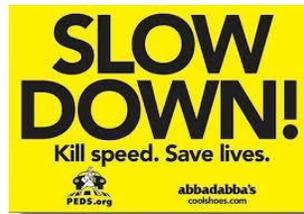
Yard signs are temporary plastic signs in the front yards of community residents, which serve as a vivid reminder to drive 25 mph within neighborhoods. The sign is connected with metal stakes, similar to an advertisement sign or political candidate’s sign, and is placed on private property at the discretion of the property owner. These signs may not be installed within the right-of-way of the adjacent street because they are not compliant with the Ohio Manual of Uniform Traffic Control Devices (OMUTCD), which regulates the types and designs of signs installed above or adjacent to all roads within the State of Ohio.

#### Advantages:

- Can be effective in reducing speeding by community residents. These signs are most effective when a community is supportive and promotes the need for speed reduction through other community educational efforts.
- Inexpensive to manufacture

#### Disadvantages:

- Impact may be reduced over time unless regularly reinforced. Moving the signs periodically may cause them to be continually noticed.



### Dynamic Speed Feedback Signs

On occasion, local communities have sought to resolve their traffic speed issues and traffic diversion issues through the use of artificially reduced speed limits. Section 4511.12 of the Ohio Revised Code (ORC) establishes statutory speed limits and prescribes how those speed limits may be altered when an engineering study determines that they do not fit the road and traffic conditions.

Speed limit signs in and of themselves are rarely effective in reducing travel speeds and they should not be used as a standalone device. Experience has shown that drivers tend to travel at the speed that is most comfortable, based on the surrounding roadway environment. Speed limit signs may be installed to reinforce existing speed limits or to supplement other traffic calming devices. Speed limits set at levels less than those expected by drivers eventually lead to increased disregard of the signed speed limit.



Dynamic speed feedback signs provide a real-time display of a driver's vehicular speed at a particular location where speeding has been documented to be a problem. These signs are used in conjunction with a regulatory speed limit sign to give drivers an immediate confirmation of their actual speed in comparison to the legal speed limit. The dynamic speed feedback signs serve to supplement regular enforcement of speed limits alerting drivers to specific driving behavior. Although residential streets carry the lowest volume of traffic and are subject to the fewest accidents, they are often the subject of the most complaints regarding neighborhood speeding. Residents observe vehicles being driven at speeds perceived as "too fast" and conclude the need for increased local speed enforcement or for the installation of all Way Stop Signs along the route. In many cases, the speeds perceived as excessive by residents while standing in their yards are the same that they operate their vehicles at while driving.

#### Advantages:

- Studies have shown these signs produce 10-20% reductions in speeding violations, along with an increase in compliance with the posted speed limit.
- Can be cost effective when compared with the construction of physical traffic calming measures to reduce speed.

#### Disadvantages:

- Expensive initial cost with continuous maintenance and repair costs.
- Impact may be reduced over time unless regularly enforced by local police.

### **Pavement Striping**

Pavement striping means of controlling speed includes measures to effectively narrow the travel lanes to encourage lower speeds, to emphasize pedestrian crossings or to supplement signing regulations (such as existing stop signs). Striping which can be used in traffic calming includes centerlines, edge lines, crosswalks and stop bars. Pavement striping options can vary depending on the type of striping being used; therefore, the application of each type of striping treatment is as follows:



**Centerline Striping:** Centerline striping is primarily used for residential streets without existing centerlines. In many cases, a centerline stripe can be effective in channeling traffic and thereby reducing speeds. There are also other specialized striping techniques that can be used to draw attention to lane markings, such as the addition of reflective pavement markers where appropriate.



**Edge Line Striping:** Edge line striping is also effective in residential areas to narrow the lanes and/or provide additional delineation for other uses. Reducing the lane width has the potential for reducing speed by creating a narrower traffic lane. The area between the edge of the road and the lane marking can often be used for parking or as a bike lane, depending on the resulting shoulder width.



**Enhanced Crosswalks:** At high volume pedestrian crossings, striped crosswalks might be appropriate to channelize pedestrians and notify motorists of pedestrians crossing the street. Crosswalks alone may not provide the desired level of protection or call sufficient attention to a pedestrian to allow them to safely cross the street. Depending on the need, there are a variety of crosswalk options that may be used at intersections to identify the safest place to cross. These includes enhanced diagonal ladder-style striping and possibly the use of textured pavements to increase the visibility by the motorist and encourage slowing down.



**Advantages:**

- Centerline striping can be effective in reducing sideswipe accidents, as it channelizes traffic in its own lane.
- Centerline striping can be combined with edge lines to create narrower travel lanes, which subsequently help to slow traffic.
- Edge line striping may increase bicycle and pedestrian safety by moving vehicular traffic closer to the centerline providing more shoulder space for bicycles and pedestrians.
- Crosswalks provide a visible pedestrian crossing, increasing pedestrian awareness and safety.

**Disadvantages:**

- Periodic maintenance of striping.
- Striping can lose its effectiveness in reducing speed over time as regular users of the street become more comfortable with the physical space they have available to operate.
- Crosswalks used without other traffic control devices may lure pedestrians into a false sense of security.
- Appearance of the road with paint striping may cause residents to feel that the road is a higher classification than a local residential street.
- Potential loss of on-street parking in order to provide 10 foot minimum lane width for vehicular traffic which doesn't leave adequate width for an 8 foot wide parking aisle on both sides of the street.

**Choker Islands**

A choker narrows the travel lanes of a road by bringing the existing curbs closer to the centerline of the road. The typical two-lane choker is 20-foot wide (curt-to-curb) at its most narrow point. Chokers should extend toward the centerline beyond any parking lanes. While the typical curb to curb width of a two-lane curb extension is significantly less than most streets, there is sufficient width for vehicles to pass each other. As a result, speed reductions will be modest.

The length of a choker can vary depending on the location of driveways and curbside parking. By bringing the curbs closer together, chokers may also present a favorable location to install a mid-block crosswalk (either raised or level with the roadway) because crossing distances are reduced, motor vehicle speeds are lower, and the combination of design elements will draw greater visual attention to the crossing location.



Chokers can be created by either curb extensions or edge islands. Edge islands are less aesthetic but leave existing drainage channels open. They also make it possible to provide bicycle bypass lanes on streets without curbside parking. If motor vehicle volumes are large, chokers can be hazardous to bicyclists, who get squeezed by passing motorists. In such cases the bicycle bypass lanes should be considered.

#### Advantages:

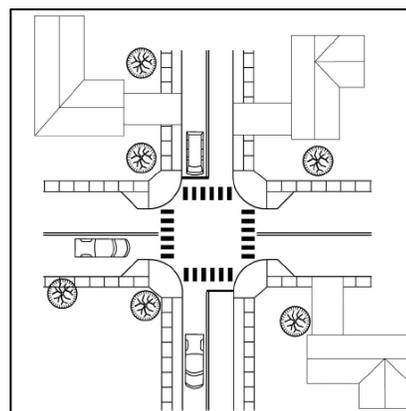
- Reduced speeds in area of choker.
- Minimal impact to driving comfort.
- Where provided, shorter crossing distances for pedestrians.
- Protects adjacent on-street parking spaces.
- Provides landscaping opportunity.
- Can accommodate emergency vehicles.

#### Disadvantages:

- Only a modest reduction in vehicle speeds can be expected, unless chokers are used in conjunction with other speed reduction measures.
- Loss of some on-street parking spaces.

#### **Corner Bump-Outs**

Corner extensions are chokers installed at intersections. Reduced curb radii can reduce speeds on approaches that are not stop controlled and decrease pedestrian crossing distances. Operational analyses should always be performed when corner extensions are constructed to ensure that the intersection will operate acceptably with respect to queues and delays.



### Advantages:

- Reduces speeds through the intersection area.
- Shorter crossing distances for pedestrians.
- Provides landscaping opportunity.
- Can accommodate emergency vehicles for through movements.

### Disadvantages:

- Loss of on-street parking spaces.
- Potentially high cost, if there are significant utility and drainage impacts.
- Forces bicyclists into travel lanes at intersections.
- Can make right turns by large vehicles more difficult.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.

### **Median Islands (Center Island Narrowing)**

Center island narrowing is achieved by placing an island in the centerline of the roadway at the entry point to a neighborhood or midblock which narrows the lane width on either side of the island. The visual appearance of the narrowed lanes will encourage drivers to slow down. In addition to slowing traffic, center island narrowing provides opportunities to provide a pedestrian refuge area (if at a pedestrian crossing location), landscaping, or installation of entrance features or gateway signs. To be most effective, the islands should be raised islands. Median treatments often incorporate textured pavements on the island itself, particularly for median islands without raised concrete islands, where textured pavements are essential in helping draw attention to the island.



### Advantages:

- Reduced speeds.
- Shorter crossing distances for pedestrians.
- If sufficiently wide enough (6-foot minimum), islands can provide a refuge area for pedestrians in the middle of the roadway.
- Provides a visual break in the streetscape and reduces the wide open appearance.
- Provides landscaping opportunity.
- Creates visual cues to drivers at entrance of a residential neighborhood.
- Little impact on emergency vehicles.

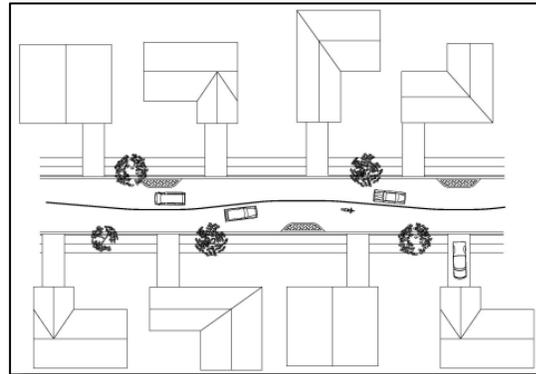


### Disadvantages:

- Only modest speed reduction can be expected from standalone installations.
- Loss of on-street parking spaces.
- May force bicyclists into travel lanes at lane narrowing points.
- May impact driveways.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.

### **Chicanes**

Chicanes are a series of curb extensions or narrowing of the roadway that alternate from one side of the street to the other, forming an S-shaped and curvilinear roadway alignment. The purpose of a chicane is to introduce horizontal curvature to the road, breaking up the “runway effect” of wide, straight streets.



### Advantages:

- Speed reductions.
- Accommodates large vehicles and has little effect on emergency response times.
- Provides a visual break in the streetscape and reduces the wide open appearance of the street.
- Provides landscaping opportunities.

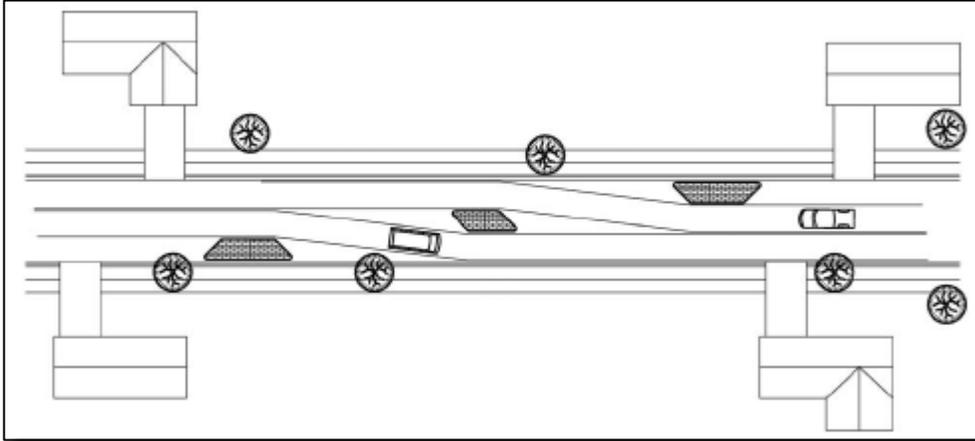
### Disadvantages:

- Loss of on-street parking spaces.
- Bicyclists have less space to occupy the road through the narrowed portions.
- Some aggressive/careless drivers may view chicanes as an “obstacle course”, leading to sharp cornering, braking and acceleration to negotiate the islands and curb extensions.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.

## Lateral Shifts

A lateral shift is a variation of the typical chicane. It has the same dimensions and details as the typical chicane, but because the roadway alignment shifts only one, has a crossing approximately 5 mph higher than a chicane of the same dimensions.

The typical lateral shift separates opposing traffic by means of a center island. Without a center island, some drivers may cross the centerline to minimize the deflection of their travel path. With the center island, drivers cannot veer into the opposing lane as easily, thus improving the safety and effectiveness of the later shift.



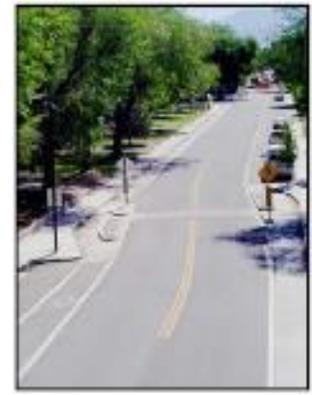
### Advantages:

- Feasible method of reducing vehicle speeds on higher classified collector roads.
- Accommodates larger vehicles and has negligible effect on emergency response times.
- Provides visual break in the streetscape and reduces the wide open appearance of the street.
- Lane shifts discourage high speeds by forcing horizontal deflection.
- Provides landscaping opportunities.



### Disadvantages:

- Loss of on-street parking spaces.
- Narrows pavement surface requiring consideration for providing space bicycles.
- Curb extensions can become expensive if drainage system adjustments are required.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow remov

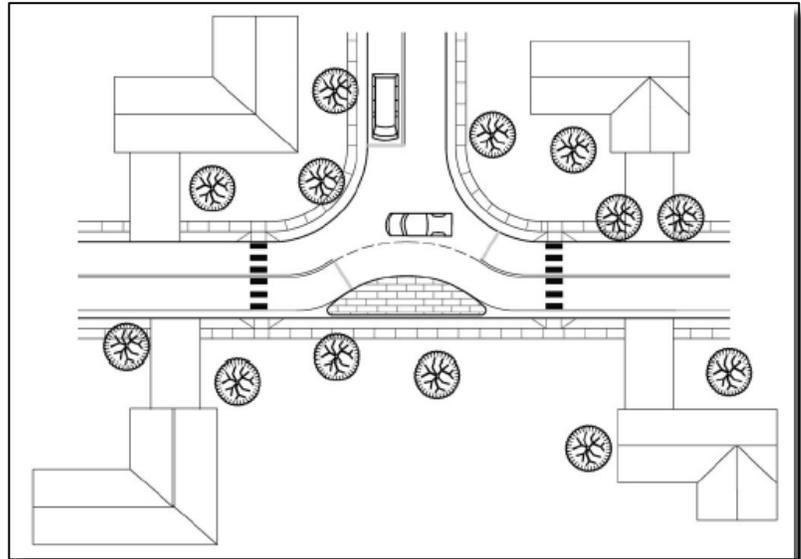


## Realigned Intersections

Realigned intersections create changes in the horizontal alignment at the approaches to T-intersections. Curbed islands are used to convert the straight approaches of the through street into a curving street within the intersection. Realigned intersections may provide conditions where warrants are met for additional traffic controls (i.e. all-way stop, etc.).

### Advantages:

- Reduced speeds.
- Shorter crossing distances for pedestrians.
- Accommodates large vehicles and has negligible effect on emergency response times.
- Reduces straight line of sight and enhances visual breaks in the streetscape.
- Provides landscaping opportunities.



### Disadvantages:

- Loss of on-street parking spaces.
- Narrows pavement surface requiring consideration for providing space bicycles.
- Curb extensions can become expensive if drainage system adjustments are required.
- May create congestion and increase delay on the major street during the peak periods.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.



## Roundabouts

Roundabouts are becoming more accepted as an intersection design that can often address capacity and safety issues in a more effective manner than installing a traffic signal or all way stop condition. Depending on the traffic operational issue and size of the intersecting roads, roundabouts can be designed in three general sizes: full roundabouts, mini-roundabouts and neighborhood traffic circles.

Full roundabouts are primarily found on higher functional classification roads such as collectors and arterials. They are the largest size and are designed to handle higher volumes and speeds. The full roundabout is typically sized to accommodate trucks and buses circulating around the central island and the central island is non-traversable. Full roundabouts generally do not fit within the footprint of residential collector and local roads, therefore, the City of Delaware reserves their use for the larger, higher classified roads and are not installed as a traffic calming measure.

Mini-roundabouts and neighborhood traffic circles are small roundabouts with traversable central islands and are appropriate as a traffic calming measure to solve certain traffic calming issues. While they are similar in design, neighborhood traffic circles are smaller and, therefore, are slightly different in the way vehicles operate through them. The Federal Highway Administration's (FHWA) report [Mini-Roundabouts](#) defines the difference between mini-roundabouts and neighborhood traffic circles as follows:

*Mini-roundabouts are distinguished from neighborhood traffic circles primarily by their traversable islands and yield control on approaches, which allows them to function as other roundabouts do. Neighborhood traffic circles are typically built at the intersections of local streets for reasons of traffic calming and/or aesthetics. They typically are operated as two-way stop-controlled intersections and frequently do not include raised neighborhood traffic circles, left-turning vehicles must turn in front of the central island, potentially conflicting with other circulating traffic.*

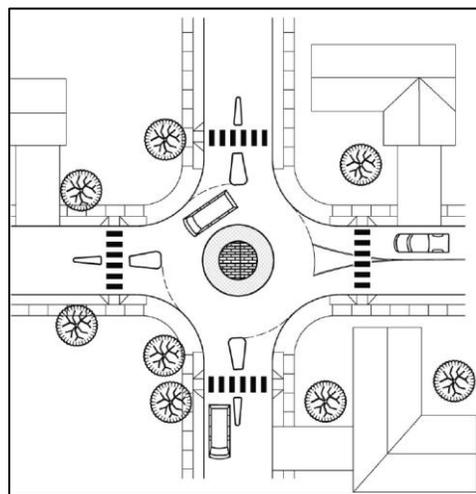
Mini-roundabouts are typically intended for use on residential streets with operating speeds of 30 mph or less. Mini-roundabouts, with yield cross speeds of 20 mph or less, typically require only minor modification to existing intersections. Depending on the width of the intersection and the diameter of the circular island, large vehicles (emergency vehicles and buses) may not be able to negotiate the turn around the central island. In order to facilitate those vehicles, mini-roundabouts are typically designed to include mountable concrete aprons, and with a fully traversable raised central island, so that large vehicles may be permitted to turn left over the circular island rather than going around it.



Neighborhood traffic circles have many of the same features of a mini-roundabout, except they are installed in smaller intersections and are designed to avoid modification of an existing intersection. In neighborhood traffic circles most vehicles larger than a passenger car must travel over at least a portion of the central island to make a left turn. Therefore, due to their small size, typically neighborhood traffic circles do not raise any portion of the central island and are installed without diverter islands on the approaches.

#### Advantages:

- Improved safety: a traditional four-legged intersection has 16 potential vehicle/pedestrian conflict points and 16 potential vehicle/vehicle conflict points for a total of 32 conflict points. A mini-roundabout or a neighborhood traffic circle has only 8 potential vehicle/pedestrian conflict points and only 4 potential vehicle/vehicle conflict points for a total of only 12 potential conflict points.
- Reduced speeds.
- Little right-of-way is needed for construction of a mini-roundabout and no right-of-way is required for a neighborhood traffic circle.
- Provides traffic calming and traffic control for two streets simultaneously.
- Lower maintenance cost than traffic signals.
- May reduce cut-through traffic volumes.
- Mini-roundabouts can be implemented at modest cost.



#### Disadvantages:

- Emergency response times may be affected if designed for too low a speed.
- May require additional street lighting.
- Potential loss of on-street parking spaces on intersection approaches.
- The raised island of a mini-roundabout can force bicycles and cars closer together increasing the possibility of conflicts.
- May require curb ramps to be relocated further back along the approaches to the mini-roundabout or neighborhood traffic circle.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.



## Speed Bumps

Speed humps are elongated mounds installed across the pavement. Individual designs may vary slightly, but typically they are approximately 3-4 inches high, parabolic in shape and between 12 and 14 feet in length. The profile of a 3 inch high speed hump is gentle enough to provide a comfortable ride when traversed at a speed of approximately 20-25 mph. At high speeds, it becomes more uncomfortable for motorists to drive over the speed humps. To reduce speeds over a longer distance, a number of speed humps can be installed. ITE's *Guidelines for the Design and Application of Speed Humps and Speed Tables* recommends a spacing of 260-feet to 500-feet for the series of speed humps to be effective.

The guidelines further recommend that "The first speed hump in a series is normally located in a position where it cannot be approached at high speed from either direction. To achieve this objective, it is typically installed within 200 feet or less of a small-radius curve or stop sign, if installed on a street with significant downgrade, at the top of a hill".

### Advantages:

- Speed reduction for vehicles without increasing accident rates.
- Less need for additional enforcement.
- Possible reduction in cut-through traffic.
- Provides visual reinforcement to discourage speeding.
- Durable and long life span.



### Disadvantages:

- Emergency response time may be affected. Approximate delay between 3 and 5 seconds per hump for fire trucks and up to 10 seconds for ambulance with patient.
- Degraded physical driving comfort for auto and truck users.
- Potential increased noise due to vehicle braking and accelerating and the vibration of loose items in truck beds or trailers.
- May impede bicyclists due to the changes in vertical grades.
- Requires a sufficiently long stretch of road to install a series of devices.
- May divert traffic to other streets.
- May result in some motorists speeding up between speed humps.
- Requires additional signage and pavement markings.
- Motorcycles may bypass the speed humps via drainage gutters without slowing.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.

**Note: The City does not currently permit the use of speed bumps on collector streets or primary emergency response routes.**

### **Speed Table/Raised Crosswalk**

Speed tables or raised crosswalks are similar in nature to speed humps. They span the full width of the street like speed humps and contain a level area on top of the hump like speed cushions, often marked with a crosswalk. Typically, they are longer than both speed humps (typically 22 feet long) and have a longer flat section in the middle of the devices.

When a speed table is designated as a crosswalk through the use of striping or pavers, it is known as a raised crosswalk. While a 3-inch height is preferable, raised crosswalks can be higher than a speed hump, to ensure that they are level with the adjacent sidewalk/curb. If mid-block pedestrian crossings are an issue, the use of a raised mid-block crosswalk may be an appropriate treatment to lower vehicle travel speeds where pedestrians enter the street. It should be noted that mid-block pedestrian crossings should only be considered per the guidelines established in the City's "Crosswalk Installation & Enhancement Guide".

#### Advantages:

- Speed reduction for vehicles without increasing accident rates.
- Little need for additional enforcement.
- Possible reduction in cut-through traffic.
- Provides visual reinforcement to discourage speeding.
- Raised crosswalks improve pedestrian safety.
- Relatively low implementation cost.

#### Disadvantages:

- Emergency response time may be affected. Approximate delay between 3 and 5 seconds per hump for fire trucks and up to 10 seconds for ambulance with patient.
- Degraded physical driving comfort for auto and truck users.
- Potential increased noise due to vehicle braking and accelerating and the vibration.
- May impede bicyclists due to vertical grades.
- May divert traffic to other streets.
- Requires additional signage and pavement markings.
- Motorcycles may bypass the speed humps via drainage gutters without slowing.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.



**Note: The City does not currently permit the use of speed tables on collector streets or primary emergency response routes.**

## Raised Intersections

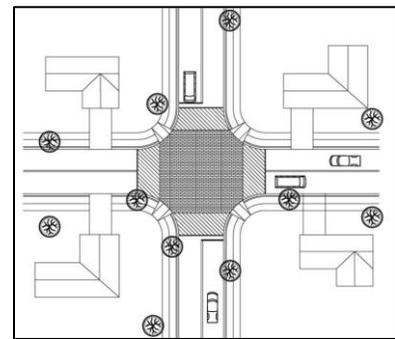
A raised intersection is similar to a raised crosswalk, except that the raised section covers an entire intersection, including crosswalks. Approach ramps are provided on all street approaches, resulting in calming of traffic on both intersecting streets. Raised intersections are especially



applicable in dense urban areas, where installation of speed humps would result in a larger loss of on-street parking than that of the installation of a raised intersection. A typical installation would be at a signal controlled or all-way stop controlled intersection with large volumes of pedestrians. Raised intersections reinforce the stop condition, or in the case of signalized intersections, the need to slow down and watch for pedestrians.

### Advantages:

- Supports speed and accident reduction.
- Reduced need for enforcement.
- Possible reduction in cut-through traffic.
- Visual reinforcement to discourage speeding.
- Minimizes impact to on street parking.
- Raised crosswalks improve pedestrian safety.



### Disadvantages:

- Emergency response time may be affected. Approximate delay between 3 and 5 seconds per hump for fire trucks and up to 10 seconds for ambulance with patient.
- May divert traffic to nearby streets.
- Generally requires a major, costly redesign of storm drainage systems.
- Increased difficulty for turning large vehicles.
- Degraded physical driving comfort.
- Requires additional signage and pavement markings.
- Can require major utility relocations.
- High design and construction costs.
- Potential increased noise due to vehicle braking and accelerating and the vibration of loose items in truck beds or trailers.
- Obstruction to distracted motorist.
- Impede snow removal.

**Note: The City does not currently permit the use of raised islands speed bumps on collector streets or primary emergency response routes.**

## Appendix B – Intrusive Traffic Calming Measures

### Partial Closures

Partial closures are barriers that block travel in one direction for a short distance on otherwise two-way streets. They are also sometimes called partial closures or one-way closures. When two partial closures are placed across from one another at an intersection, the result is a semi-diverter that blocks through movement on a cross street. In some cases, a path can be built behind the measure to accommodate bicycle and pedestrian traffic and separate them from vehicular traffic.

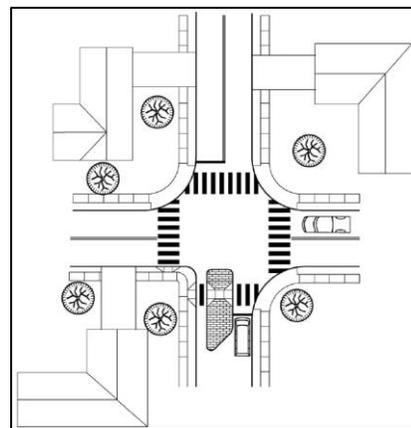


#### Advantages:

- Reduces volumes and cut-through traffic.
- More effective than signing.
- Interrupts straight street sight lines for motorists and narrows the pavement width through the closure island, which may reduce speed in the open direction.
- Reduces crossing distances for pedestrians.
- Provides landscaping opportunity.

#### Disadvantages:

- Restricts residents' access by increasing their travel path and time for some movements.
- Emergency vehicles may have increased response times.
- Traffic is diverted to other streets and potentially to other neighborhoods.
- Potential for wrong-way travel.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.

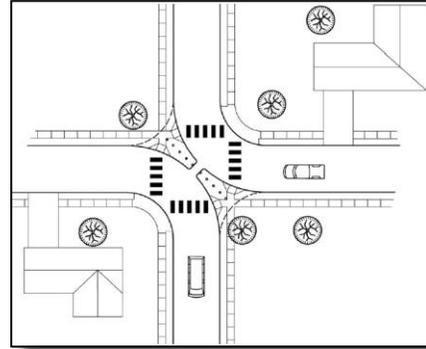


## Diagonal Diverters

Diagonal diverters are barriers placed diagonally across an intersection blocking the through movement. They are also called full diverters and diagonal road closures. Diagonal diverters can have an at-grade pass through that allows bicycles and pedestrians to navigate along the original street alignment. The islands should be signed or landscaped with vertical elements to draw motorists' attention, so that they see the measure on their approach.

### Advantages:

- Reduces volumes and cut-through traffic.
- More effective than signing.
- Interrupts sight lines for motorists with potential for a reduction in speed approaching and through the diversion curve.
- Provides a landscaping opportunity.



### Disadvantages:

- May increase travel distance and time for residents of the street for certain trip patterns.
- Emergency vehicles may have increased response times.
- Traffic is diverted to other streets and potentially to other neighborhoods.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.

## Intersection Barriers

Intersection barriers are raised islands located along the centerline of a street and continuing through an intersection to block the through movement at a cross street. They also prevent cars on the cross street from turning left at the intersection. Intersection barriers are also referred to as intersection diverters or, occasionally, as island diverters. Intersection barriers differ from center islands in that they are intended to force or prevent a turning movement rather than narrow the road like a center island.



Advantages:

- Reduces volumes and cut-through traffic.
- More effective than signing.
- Interrupts straight street sight lines for motorists.
- Eliminates left turn and angle crashes at intersections.

Disadvantages:

- May increase travel distance and time for residents of the street.
- Emergency vehicles may have increased response times.
- Traffic is diverted to other streets and potentially to other neighborhoods.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.

**Forced Turn Islands/Restrictions**

Forced turn islands are raised islands on approaches to an intersection that force a vehicle to turn right at an intersection and block through movements. They are sometimes called forced turn channelization, pork chops or right turn islands.

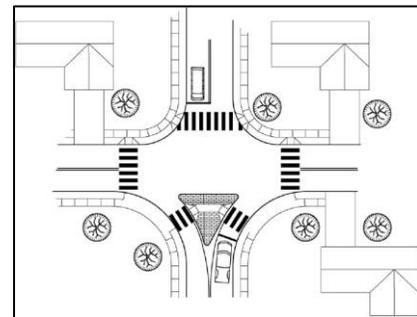


Advantages:

- Reduces volumes and cut-through traffic.
- More effective than signing.
- Interrupts sight lines for motorists.

Disadvantages:

- May increase travel distance and time for residents of the street.
- Emergency vehicles may have increased response times.
- Traffic is diverted to other streets and potentially to other neighborhoods.
- Obstruction to distracted motorist.
- Impact roadway drainage.
- Impede snow removal.



## One-Way Streets

Making a street one-way involves limiting the direction of travel on a street to one direction only through regulation and signing. In many communities, an individual street carries a much larger traffic burden than other streets within the same community. Sometimes a larger traffic volumes on these streets is due to the design of the street layout within the subdivision, or in some cases, it is the result of a particular route being used by traffic attempting to avoid congestion on the surrounding highway system. When these situations occur, often the simplest and easiest solution is to distribute the additional traffic burden to other streets. This can be achieved in some cases by designating the high volume street as a one-way street and then designating a parallel street one-way in the opposite direction.



One-way streets may be used on any classification of street (local, collector or arterial) where traffic engineering studies indicate that operational improvements can be achieved by the implementation of a one-way street system. For use on local roads, as a traffic calming solution, the use of a one-way system is appropriate when the traffic volume on the single street exceeds the highest traffic volumes on any other street within the subdivision by 100% or more and the street is not intentionally designed to serve as the collector road for the subdivision. It is also important for the traffic volumes on the high volume street to be generally balanced in both directions and the geometric design features on the high volume street and the parallel street to be approximately the same. When such conditions exist, community streets may be a candidate for a one-way street system.

It should be noted that some streets within subdivisions are intended to be higher volume collector streets for the community and are thus wider than the standard subdivision street. Generally, these streets also have a limited number of properties with direct driveway access. In subdivisions with this type of higher volume collector street, using a one-way street system to divert traffic to a parallel street, which is narrower and provides driveway access to many more properties, would not be appropriate.

### Advantages:

- One-way streets can reduce the traffic volumes on the higher volume street by 40% to 60%
- One-way streets may discourage cut-through traffic from using subdivision streets to avoid congestion on the adjacent roadway network.
- If supported by the community, a one-way street system is fairly easy to implement.
- A one-way street system is a low cost solution to traffic problems arising from cut-through traffic and high traffic volumes.

### Disadvantages:

- A one-way street system will shift some volume on traffic (to be estimated by an engineering study) to a parallel street, increasing, in some cases significantly, the traffic volumes on that second street.
- Residents on the parallel street may not be willing to share the reduction of the traffic burden on the higher volume street.
- Traffic speeds may increase as traffic volumes decrease on the higher volumes street and motorists no longer need to contend with opposing traffic.
- Increased circulation and travel time will be required for residents with homes along the one-way streets to access their properties.

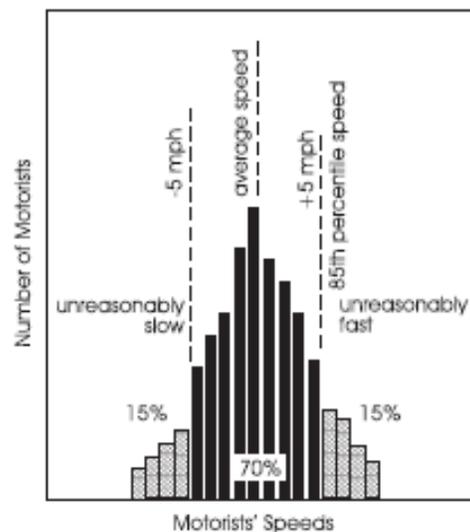


### **Appendix C – 85<sup>th</sup> Percentile Speed**

Determination of 85<sup>th</sup> Percentile Speeds: By definition, the 85% speed is the speed at which 85 percent of all motorists are travelling at or below, or the speed that separates the bottom 85% of vehicle speeds from the top 15%. The 85<sup>th</sup> percentile speed statistic is of particular interest in planning because the 85<sup>th</sup> percentile speed is often located at the upper end of a range of speeds that includes the majority of motorists who select “safe and proper speeds”.

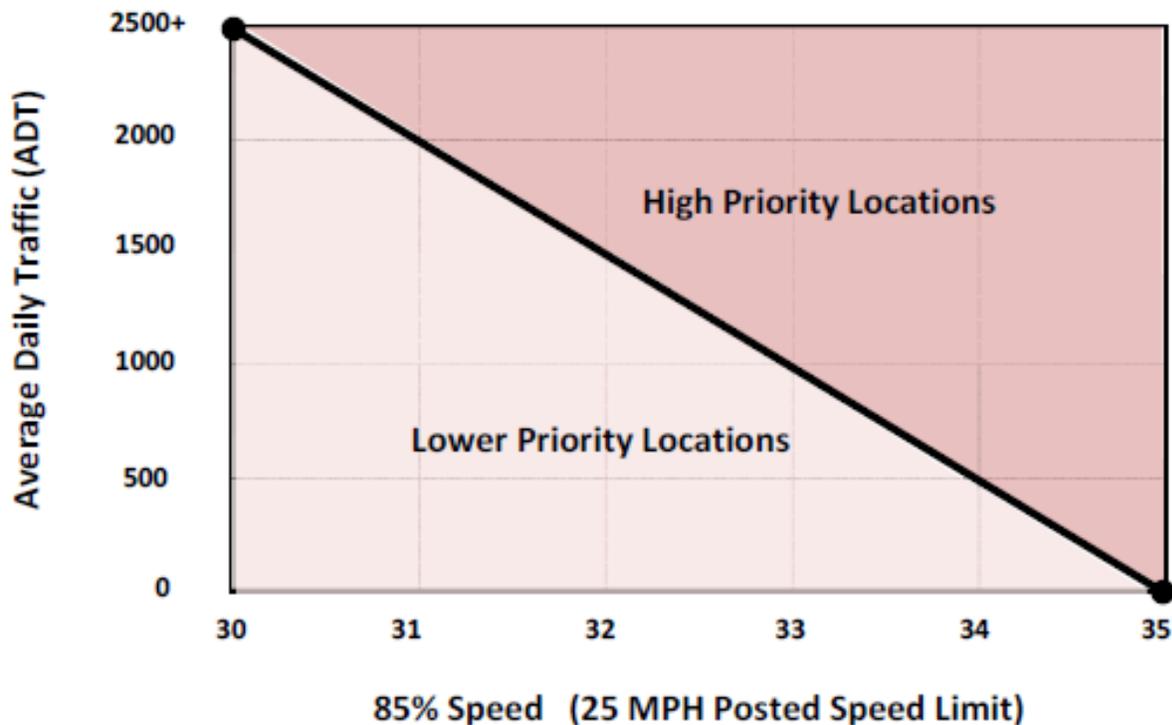
The most widely accepted method by state and local agencies is to set the speed limit at the nearest 5 mph increment to the 85<sup>th</sup> percentile speed. For instance, if the 85<sup>th</sup> percentile speed were measured at 27 mph, then the speed limit on the road would typically be set at 25 mph.

Studies have shown that crash rates are lowest around the 85<sup>th</sup> percentile speed. Drivers traveling significantly faster or slower than this speed are at greater risk of being in an accident. It is not high speeds alone that relate to crash risk, it is the variation of speed within the traffic stream. Other considerations such as accidents and real dangers not perceivable by drivers may suggest a need for a lower speed limit. Since speed limits are generally set using the 85<sup>th</sup> percentile speed, it is expected that 15 percent of the vehicles will exceed the speed limit on a regular basis.



**Typical distribution of driver speed**

## Appendix D – Criteria for Installation of Dynamic Speed Feedback Signs



- 85<sup>th</sup> Percentile Speed shall be greater than 30 MPH on a street with posted speed limit of 25 MPH.
- Limited to one (1) set of DSFS units per street and locations to be determined by City.
- Street within a School Zone that contains school flashers and where the 85<sup>th</sup> percentile speed is greater than 5 mph over the school zone posted speed limit during restricted hours. The signs would only be permitted to be active while the school zone flashers are in operation.
- Streets where crash data suggests that frequent and reoccurring accidents can be clearly linked to excessive vehicle speed may be considered.
- City may periodically re-evaluate the vehicle speeds on streets with DSFS to determine if the presence of the units remains effective; and may relocate the unit to an alternate location to improve efficacy.
- All recommended installations are subject to the availability of funding.

## **Appendix E – Multi-Way Stop Sign Policy**

Multi-way stop signs are intersection controls established for certain operating conditions. As with speed limits, drivers must recognize the need for the controls or they will eventually begin to ignore the control that they deem unnecessary. In the case of stop signs, that would mean disregarding the sign and potentially posing a risk to another motorist or pedestrian. Studies on the use of stop signs as a standalone, non-construction, traffic calming solution for speed control, indicate that drivers will actually exceed speed limits between signs to make up for lost time if they feel that the stop signs serve no other purpose than to slow traffic down.

### **Where Multi-way Stop Control can be Useful**

The OMUTCD states “Multi-way stop control can be useful as a safety measure at intersections if certain traffic conditions exist. Safety concerns associated with multi-way stops includes pedestrians, bicyclists and all road users expecting other road users to stop. Multi-way stop control is used where the volume of traffic on the intersecting roads is approximately equal.”

### **Criteria for Warranted Multi-Way Stop Control**

Section 2B.07 of the OMUTCD gives criteria for a multiway stop sign installation. The following is from the OMUTCD:

The decision to install multiway stop control should be based on an engineering study.

The following criteria should be considered in the engineering study for a multiway STOP sign installation:

- a. Where traffic control signals are justified, the multiway stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the installation of the traffic control signal.
- b. Five or more reported crashes in a 12-month period that are susceptible to correction by a multiway stop installation. Such crashes include right-turn and left-turn collisions as well as right-angle collisions.
- c. Minimum volumes:
  1. The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages at least 300 vehicles per hour for any 8 hours of an average day, and
  2. The combined vehicular, pedestrian, and bicycle volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 units per hour for the same 8 hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the highest hour, but
  3. If the 85th-percentile approach speed of the major-street traffic exceeds 40 mph, the minimum vehicular volume warrants are 70 percent of the above values.

- d. Where no single criterion is satisfied, but where Criteria B, C.1, and C.2 are all satisfied to 80 percent of the minimum values. Criterion C.3 is excluded from this condition.

Option:

Other criteria that may be considered in an engineering study include:

- a. The need to control left-turn conflicts;
- b. The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes;
- c. Locations where a road user, after stopping, cannot see conflicting traffic and is not able to safely negotiate the intersection unless conflicting cross traffic is also required to stop; and
- d. An intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multiway stop control would improve traffic operational characteristics of the intersection.

### **Location Evaluation Procedures and Considerations**

On occasion, local communities have sought to resolve their traffic speed and traffic diversion issues through the use of multi-way stop signs. Numerous studies conducted by transportation agencies and universities have consistently shown the use of this method as standalone, non-constructive solution for traffic calming are counterproductive. Based on past research and the resulting national and state policies, the City of Delaware will not create safety hazards along City maintained roads by installing unwarranted multi-way stop signs as a standalone traffic calming solution unless the following policy requirements are met per Resolution No. 03-79:

- a. Request for additional stop sign be presented to the City in writing from the neighborhood group or appointed representative.
- b. A signed petition be presented demonstrating neighborhood support for additional stop signs by at least 75% of property owner with property fronting the affected streets for a distance of at least five-hundred feet in all directions of the intersection.
- c. The intersection being considered is located on streets defined as residential, low-volume local streets with a traffic county of less than 2000 vehicles per day.
- d. A current speed study indicates the recorded 85<sup>th</sup> percentile speed be at least 5 mph in excess of the posted speed limit.
- e. A thorough evaluation of the intersection by the Public Works Director/City Engineer, Fire Chief, Police Chief, and City Attorney find no specific reason to prohibit the installation of the additional stop sign.
- f. That the City retains the ability to remove the additional stop sign if any unforeseen negative impacts to traffic or public safety result from the installation.
- g. Favorable recommendation of the requested stop sign by the Parking and Safety Committee and approval by City Council, or by approval of City Council by a vote of at least five members in favor of the requested installation if not being favorably recommended by the Parking and Safety Committee.

Advantages:

- Provide orderly traffic flow.
- Reduce the severity and frequency of right angle and left turn crashes.
- Relatively inexpensive and quick to implement.

Disadvantages:

- Potential for increased speeds between controlled intersections.
- Some other types of crashes could increase.
- Increases delay to all legs of the intersection.
- Works best with only single lane approaches.
- Total intersection capacity is limited.
- Can interrupt the progressive flow of traffic on a route causing increased delay and stopping.



## FACT SHEET

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AGENDA ITEM NO: 9

DATE: 07/08/2019

ORDINANCE NO:

RESOLUTION NO: 19-31

READING: FIRST

PUBLIC HEARING: NO

---

TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: William L. Ferrigno, P.E., Public Works Director/City Engineer

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

A RESOLUTION APPROVING A TRAFFIC CALMING PROGRAM FOR WEST HULL DRIVE.

**BACKGROUND:**

City staff has been working with representatives of the Ravines at Stratford aka W Hull Drive neighborhood, in regards to concerns over traffic volume and vehicle speeding. Data collected indicates daily traffic volumes range from 2500 to 2900 vehicles per day, which is on the high side compared to other neighborhood residential collectors in Delaware. Data also revealed the vehicles are generally operating at 85<sup>th</sup> percentile speeds of 29-30 mph, which is considered a minor speeding issue, similar to what is typical to many city streets.

It was discussed that only intrusive measures i.e. those that restrict access to/from W Hull Drive from the adjacent intersections and/or the Delaware Community Plaza north entrance, will yield reductions in traffic volumes. The City is not inclined at this moment to approve traffic calming measures that limit public access to a public collector roadway designed and operating as intended. Instead, the City has agreed to introduce traffic pavement markings that may serve to increase motorist awareness of the intersection of Hull Drive with Hull Court, as well to provide a heightened perception of risk in an attempt to reduce vehicle speed. It is anticipated that the markings will not have any impact on reducing vehicle volumes, but may result in a minor reduction in vehicle speeds by 2-3 mph.

**REASON WHY LEGISLATION IS NEEDED:**

To journalize the conclusion of the W Hull Drive neighborhood discussion and subsequent action by City Council.

**COMMITTEE RECOMMENDATION:**

Parking & Safety Committee recommended advancement of the W Hull Drive discussion and any decision to introduce traffic calming measures to full council.

**FISCAL IMPACT(S):**

The cost of the proposed striping work is currently estimated at \$7000.00

**POLICY CHANGES:**

The work is being performed as a pilot study initiative to investigate the effectiveness of adding pavement “narrowing” striping as a means to slow vehicular traffic in a residential area.

**PRESENTER(S):**

William L. Ferrigno, P.E., Public Works Director/City Engineer

**RECOMMENDATION:**

Approval

**ATTACHMENT(S)**

Proposed Striping Exhibit

RESOLUTION NO.19-31

A RESOLUTION APPROVING A TRAFFIC CALMING PILOT PROGRAM FOR WEST HULL DRIVE.

WHEREAS, residents of West Hull Drive have requested City Council address the number and speed of vehicles driving on West Hull Drive; and

WHEREAS, staff has conducted multiple traffic studies and researched potential solutions; and

WHEREAS, pavement striping and marking is a potential way to reduce motorist speed; and

WHEREAS, installing striping and markings on West Hull Drive will allow the City to test whether this method of speed control should be attempted in other areas of the City; and

WHEREAS, in the Traffic Calming Guide for Neighborhood Streets adopted in 2019, pavement Striping is a recommended Traffic Calming Measure on local and collector streets in certain circumstances; and

WHEREAS, the cost of this pilot program will be paid by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DELAWARE, OHIO THAT:

SECTION 1. City Council approves the use of striping and markings on West Hull Drive as a 12 month pilot program to reduce speed, after which a report on its effectiveness will be provided to City Council.

SECTION 2. That this resolution shall take effect and be in force immediately after its passage.

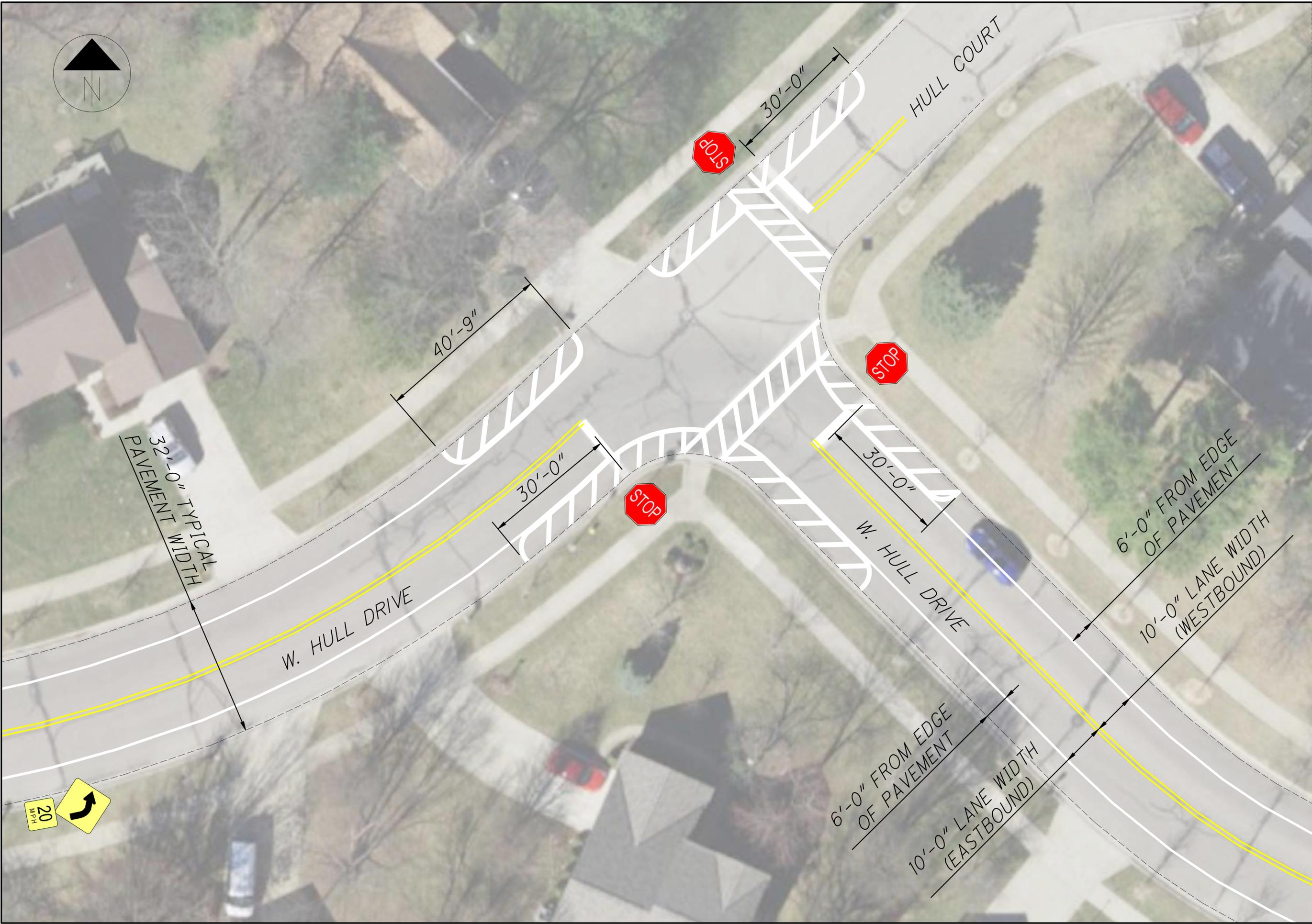
PASSED: \_\_\_\_\_, 2019

YEAS \_\_\_ NAYS \_\_\_  
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ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

\\LESERVER\CITY SHARE\ENGINEERING\DEPARTMENT\TRANSPORTATION PROJECTS\HIGHWAY PROJECTS\HULL DRIVE (USP GROUP) ACCESS MODIFICATIONS\PROJECT PLANS & EXHIBITS\HULL DRIVE STRIPING\STRIPING EXHIBIT FOR PUBLIC.DWG - 5/29/2019 5:56:18 PM



NO.	DATE	REVISIONS DESCRIPTION	APPROVED

W. HULL DRIVE TRAFFIC CALMING

W. HULL DRIVE & HULL CT. INTERSECTION



DATE ISSUED:  
05/29/2019

SHEET  
1 OF 1



## FACT SHEET

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AGENDA ITEM NO: 10

DATE: 7/08/2019

ORDINANCE NO: 19-38

RESOLUTION NO:

READING: FIRST

PUBLIC HEARING: NO

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: Sean Hughes, Economic Development Director

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE DECLARING THE IMPROVEMENT TO CERTAIN PARCELS IN THE CITY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC 5709.40(B); PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED; AND AUTHORIZING SCHOOL COMPENSATION PAYMENT.

**BACKGROUND:**

We are requesting Council to allow parcels in Exhibit A to be exempted from taxation through a Tax Increment Finance ordinance with service payments to be made by property owners in lieu of property taxes. Service payments equaling the amount of property taxes received by the schools if unabated would be distributed to the schools and an amount equal to non-school property taxes would be made to Delaware County Treasurer to be provided to the City of Delaware. These funds would be used for future necessary improvements to the Point Project or other related public infrastructure projects along SR36/37 on the east side of Delaware.

This TIF follows all criteria set forth in attached ORDINANCE NO. 05-55 – an ordinance adopting the Tax Increment Financing (TIF) District principles for the City of Delaware:

- The TIF proceeds are used for a public purpose i.e. needed improvements to The Point.

- The boundaries of the proposed TIF will not impact future opportunities to utilize other parcels for further improvements.
- The road improvements will be completed within the 30 years of the proposed TIF.
- Improvements funded by the TIF benefit the entire community.
- Improvements are accessible with sidewalks and ADA ramps.
- This is a non-school TIF, and, therefore, does not negatively impact the school district.
- Other agencies supported by property tax revenues were considered, but due to the nature of the TIF ONLY being for improvements and not for baseline tax values, the TIF revenues have little impact.
- The City is the recipient of the TIF revenues and will be using them for public infrastructure projects, such as the The Point or East Central Corridor.

**REASON WHY LEGISLATION IS NEEDED:**

Under ORC 5709.40(B) it is required to pass an ordinance, after proper required school notifications, to allow funds for parcels under Tax Increment Finance to be redistributed for necessary public improvements that would be needed for development project to move forward.

**COMMITTEE RECOMMENDATION:**

N/A

**FISCAL IMPACT(S):**

FUND SOURCES: Service payments made in lieu of property taxes by property owners in the TIF. This non-school TIF should generate an estimated \$42,429 per year or an estimated \$1,272,868.74 after 30 years.

BUDGETED: N/A

DEPARTMENTS IMPACTED: Economic Development, Public Works, Finance

**POLICY CHANGES:**

N/A

**PRESENTER(S):**

Sean Hughes, Economic Development Director

**RECOMMENDATION:**

Approval after second reading

**ATTACHMENT(S)**

TIF School Notification Letters  
TIF Ordinance

Exhibit A – Identification and Map of the Parcels  
Exhibit B – Public Infrastructure Improvements

ORDINANCE NO. 19-38

DECLARING THE IMPROVEMENT TO CERTAIN PARCELS IN THE CITY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC 5709.40(B); PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED; AND AUTHORIZING SCHOOL COMPENSATION PAYMENTS.

WHEREAS, Ohio Revised Code (“ORC”) 5709.40, 5709.42, and 5709.43 (collectively, the “TIF Act”) authorize this Council, by ordinance, to declare the improvement to parcels of real property located within the City to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, establish a municipal public improvement tax increment equivalent fund for the deposit of those service payments, and specify the purposes for which money in that fund will be expended; and

WHEREAS, the City desires to implement a tax increment financing program on the Parcels (as defined in Section 1) pursuant to the TIF Act to enable the City to make public infrastructure improvements that will directly benefit the Parcels; and

WHEREAS, notice of this proposed ordinance has been delivered to the Board of Education of the Delaware City School District (the “Delaware City School District”) and the Delaware Area Career Center (the “Delaware Area Career Center”) in accordance with and within the time periods prescribed in ORC 5709.40 and 5709.83; and

NOW, THEREFORE, BE IT ORDAINED by The Council of The City of Delaware, State of Ohio, that:

SECTION 1. Parcels. The real property subject to this ordinance is identified and depicted on Exhibit A (as currently or subsequently configured, the “Parcels”, with each individual parcel a “Parcel”).

SECTION 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B (the “Public Infrastructure Improvements”) and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

SECTION 3. Exemption. This Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to

as the “*Improvement*” as defined in ORC 5709.40(A)) is hereby declared to be a public purpose and will be exempt from taxation for a period commencing on the date an Improvement to that Parcel first appears on the tax list and duplicate were it not for the exemption granted by this ordinance and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act. .

SECTION 4. Service Payments. As provided in ORC 5709.42, the owner of each Parcel is hereby required to make service payments in lieu of taxes with respect to the Improvement allocable to each Parcel to the Delaware County Treasurer on or before the final dates for payment of real property taxes. The service payments in lieu of taxes will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and collected against that Improvement if it were not exempt from taxation pursuant to Section 3, including any penalties and interest (collectively, the “*Service Payments*”). The Service Payments, and any other payments with respect to each Improvement that are received in connection with the reduction required by ORC 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “*Property Tax Rollback Payments*”), will be deposited and distributed in accordance with Section 6.

SECTION 5. TIF Fund. This Council establishes, pursuant to and in accordance with the provisions of ORC 5709.43, the Seattle House TIF Municipal Public Improvement Tax Increment Equivalent Fund (the “*TIF Fund*”), into which the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels will be deposited. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Act and this ordinance (as it may be amended). The TIF Fund will remain in existence so long as the Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with ORC 5709.43.

SECTION 6. Distributions; Payment of Costs. Pursuant to the TIF Act, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments as follows:

a. To each of the Delaware City School District and the Delaware Area Career Center an amount equal to the amount the school districts would otherwise receive as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each

Parcel if the Improvement had not been exempt from taxation pursuant to this ordinance.

b. To the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements.

All distributions required under this Section are requested to be made at the same time and in the same manner as real property tax distributions. The City shall make any distributions to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the City Manager, the Director of Finance, the City Attorney, the Economic Development Coordinator, the Clerk of Council, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Development Service Agency and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the City Manager, the Director of Finance, the City Attorney, the Economic Development Coordinator, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance.

SECTION 8. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC 121.22.

SECTION 9. Effective Date. This ordinance is effective on the earliest date permitted by law.

VOTE ON RULE SUSPENSION:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

PASSED: \_\_\_\_\_, 2019

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

CERTIFICATE

I, Elaine McCloskey, Council Clerk, City of Delaware, Ohio do hereby certify the foregoing to be a true and correct copy of Ordinance No. 19-\_\_\_\_ as passed by Council of said City on the \_\_\_\_ day of \_\_\_\_\_ and as recorded in the Record of Proceedings of said Council.

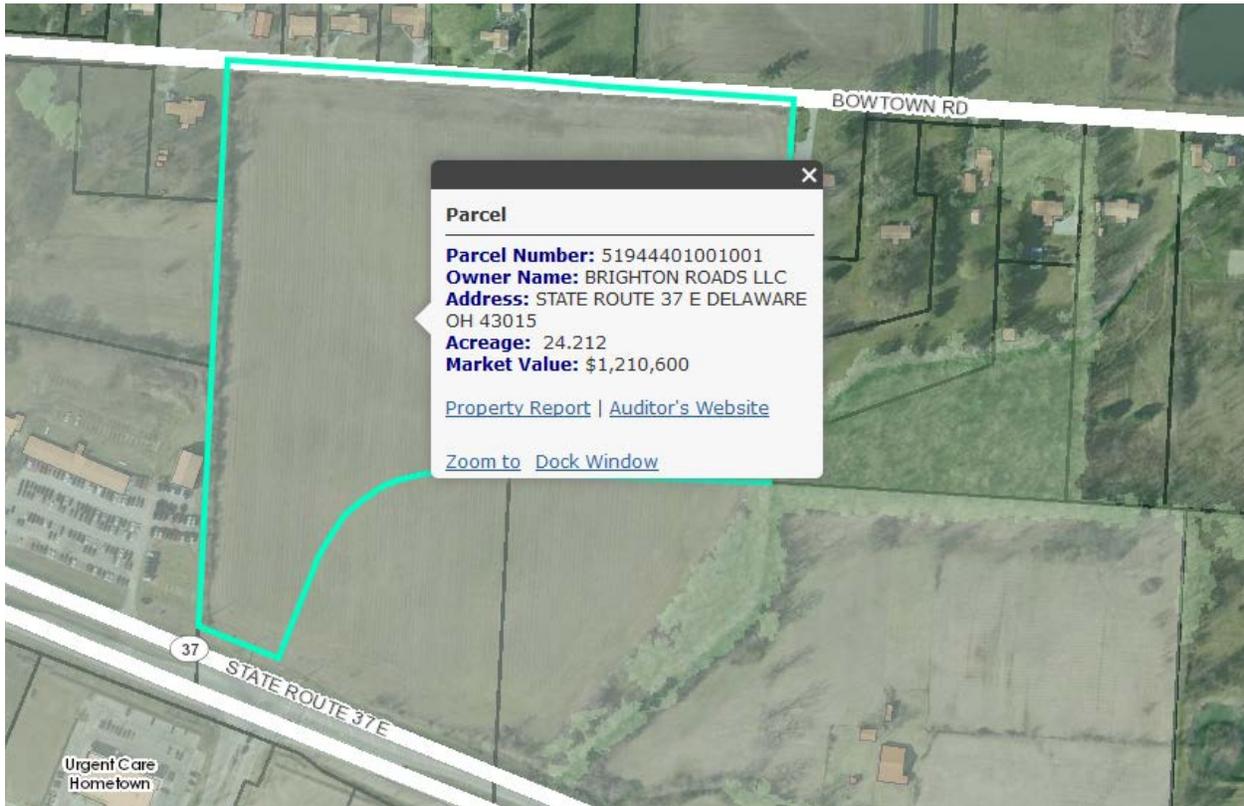
\_\_\_\_\_  
Elaine McCloskey, Council Clerk

Filed with Mayor: \_\_\_\_\_

Published: \_\_\_\_\_

EXHIBIT A  
IDENTIFICATION AND MAP OF THE PARCELS

The following map specifically identifies and depicts the Parcels (outlined in green) and constitutes part of this Exhibit A.



**EXHIBIT B**  
**PUBLIC INFRASTRUCTURE IMPROVEMENTS**

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under ORC 5709.40(A)(8) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto, to the East William Street/East Central Avenue intersection and US 36/State Route 37.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto necessary or convenient for the improvements described in “Roadways” above.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the necessary or convenient for the improvements described in “Roadways” above .
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto associated with improvements described in “Roadways” above.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities necessary or convenient for the improvements described in “Roadways” above, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition necessary or convenient for the improvements described in “Roadways” above, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.

- **Bikeways.** Construction, reconstruction, extension, improving, widening, or grading bikeways that are part of the City’s bikeway network.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, necessary or convenient for the roadway improvements described in “Roadways” above.
- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) necessary to accomplish any of the foregoing improvements .
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.



April 10, 2019

To: Board of Education of the Delaware Area Career Center  
1610 SR 521  
Delaware, Ohio 43015

Subject: Notice of Ohio Revised Code Section 5709.40(B)  
Proposed Tax Increment Financing for Seattle House TIF

This letter constitutes notice to the Board of Education of the Delaware City School District of the intent of the City of Delaware, Ohio, to declare certain improvements to be a public purpose under Ohio Revised Code Section 5709.40(B). The following information is provided pursuant to Ohio Revised Code Sections 5709.40 and 5709.83:

Description of Parcels to be Exempted: See Exhibit A of the attached proposed TIF Ordinance.

Estimate of the True Value in Money of the Improvements: \$21,342,292.

Period for Which the Improvement to Each Parcel Will be Exempted from Taxation: The improvements to each parcel will be exempted for a period commencing on the date an improvement to the parcel appears on the tax list and duplicate and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Ohio Revised Code Sections 5709.40 and 5709.42, and all as further described in the attached TIF ordinance.

Percentage of the Improvement to each Parcel to be Exempted: 100%. The TIF ordinance provides that the School District will receive, at the same time and in the same manner as real property tax payments, all amounts it would otherwise receive as real property tax payments from the improvement to each parcel absent the exemption granted pursuant to the proposed TIF ordinance. Therefore, Ohio Revised Code Section 5709.40(D) does not require the School District's prior approval of the TIF ordinance.

City Council intends to take final action on the proposed TIF Ordinance on: June 09, 2019.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean K. Hughes".

By:  
Sean K. Hughes,  
Economic Development Director

Received by:

A handwritten signature in black ink, appearing to read "Marybeth J. Superior".

Title: \_\_\_\_\_, Delaware Area Career Center

Date: 4/11, 2019

Attachment: Proposed TIF Ordinance



April 10, 2019

To: Board of Education of the Delaware City School District  
74 W. William Street  
Delaware, Ohio 43015

Subject: Notice of Ohio Revised Code Section 5709.40(B)  
Proposed Tax Increment Financing for Seattle House TIF

This letter constitutes notice to the Board of Education of the Delaware City School District of the intent of the City of Delaware, Ohio, to declare certain improvements to be a public purpose under Ohio Revised Code Section 5709.40(B). The following information is provided pursuant to Ohio Revised Code Sections 5709.40 and 5709.83:

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Percentage of the Improvement to each Parcel to be Exempted: 100%. The TIF ordinance provides that the School District will receive, at the same time and in the same manner as real property tax payments, all amounts it would otherwise receive as real property tax payments from the improvement to each parcel absent the exemption granted pursuant to the proposed TIF ordinance. Therefore, Ohio Revised Code Section 5709.40(D) does not require the School District's prior approval of the TIF ordinance.

City Council intends to take final action on the proposed TIF Ordinance on: June 09, 2019.

Sincerely,  
  
By:  
Sean K. Hughes,  
Economic Development Director

Received by:

Title: \_\_\_\_\_, Delaware City School District  
Date: May 17, 2019  
Attachment: Proposed TIF Ordinance

ORDINANCE NO. 05-55

AN ORDINANCE ADOPTING THE TAX-INCREMENT FINANCING (TIF) DISTRICT PRINCIPLES FOR THE CITY OF DELAWARE, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Delaware has established the tax-increment financing district principles, and

NOW THEREFORE, Be it ordained by the City Council of the City of Delaware, State of Ohio:

SECTION 1. That the Tax-Increment Financing District Principles (attached) be adopted.

SECTION 2. Emergency Clause. That in order to provide for the usual daily operation of the various departments of the municipal government and to provide for the public peace, safety, health and welfare, this ordinance is hereby declared to be an emergency measure and shall take effect and be in full force effective immediately upon its passage.

VOTE ON RULES SUSPENSION:

YEAS 7 NAYS 0  
ABSTAIN 0

VOTE ON EMERGENCY CLAUSE:

YEAS 7 NAYS 0  
ABSTAIN 0

PASSED: 6/13, 2005

YEAS 7 NAYS 0  
ABSTAIN 0

ATTEST: Cindy Rucio  
CITY CLERK

Windele Wheeler  
MAYOR

## **TAX-INCREMENT FINANCING DISTRICT PRINCIPLES**

Tax-Increment Financing (TIF) Districts will be considered by the City of Delaware case-by-case. Certain guiding principles will be observed in their consideration.

The Districts will be used to fund the city's portion of an infrastructure improvement and may be used to assist with private sector funding only under special circumstances.

Generally, the City supports four types of TIF Districts:

- Those to support job creation/retention,
- Those to support the creation of affordable housing,
- Those to finance area-wide improvements in growth areas, and
- Those to finance improvements to enhance a proposed project.

### **All categories**

The following principles will be used to evaluate TIF Districts in all categories:

- TIF proceeds will support only activities that serve a public purpose.
- Boundaries of a TIF District must be carefully drawn so as not to affect TIF capacity in other nearby areas with future potential for TIF Districts.
- Improvements to be supported by TIF proceeds must be complete during the period in which TIF revenues are collected.
- Improvements funded by TIF proceeds should be accessible to and benefit the broader community in addition to specific developments.
- Public improvements funded by TIF proceeds must be publicly accessible by public streets with sidewalks and ADA ramps.
- TIF Districts will be structured to minimize effects on school districts.
- Other agencies supported by property tax revenues will also be considered.
- Consideration should be given to requiring that the party proposing the TIF District pay an annual administrative fee to offset city administrative costs associated with TIF Districts.

### **Job Creation**

In addition to the principles applied in all categories, the following principles will be used to evaluate TIF Districts proposed to support job creation/retention:

- A TIF District may be warranted for projects with clearly quantifiable job creation and new income tax revenue.
- A TIF District may be warranted in cases where TIF and associated projects can serve as a stabilizing force leading to neighborhood job creation.

- A TIF District may be warranted where infrastructure costs are extraordinary due to unusually high site costs, project size, or extra impact on surrounding areas.
- Tax abatement should be discouraged when TIF is used.

### **Affordable housing**

In addition to the principles applied in all categories, the following principles will be used to evaluate TIF Districts proposed to support the creation of affordable housing:

- For qualifying projects (perhaps those that qualify for other forms of city assistance such as housing assistance or tax abatement or other qualifying criteria), TIF proceeds may be used to support facilities or services that would otherwise be the developer's responsibility, such as requirements of the Thoroughfare Plan or parkland dedication ordinance, commitments made in a limitation text, development agreement, or other city requirements.

### **Area wide improvements**

In addition to the principles applied in all categories, the following principles will be used to evaluate TIF Districts proposed to finance area wide improvements in growth areas:

- The project must be located in a Priority Growth Area (PGA) as recommended in the Comp Plan, or a supportable expansion of a designated PGA.
- TIF proceeds should support infrastructure needs of all types in the area including key roadways, parks, recreation facilities, safety facilities, particularly those endorsed by adopted area plans or other publicly adopted documents.
- Developers will continue to fund those roadway and facility requirements that are normally their responsibility, such as requirements of the Thoroughfare Plan or parkland dedication ordinance, commitments contained in a limitation text or development agreement, or other city requirements.
- When a TIF District is created in a growth area future development will be required to join existing TIF Districts or create new ones if the needed infrastructure identified in the plan remains inadequate.

### **Project enhancements**

In addition to the principles applied in all categories, the following principles will be used to evaluate TIF Districts proposed to finance improvements to enhance the proposed project:

- TIF proceeds may be used to support roadways, facilities or services that would otherwise be the developer's responsibility, such as requirements of the Thoroughfare Plan or parkland dedication ordinance, commitments made in a limitation test, development agreement, or other

city requirements. It is intended to apply a TIF in cases where extraordinary circumstances exist. This could include but not be limited to, the following factors:

- Clean-up of brownfield site
- Mitigate excessive costs of development where project would not happen unless assistance is provided.
- Infrastructure costs are extraordinary due to unusually high site costs, project size, or extra impact on surrounding areas.



## FACT SHEET

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AGENDA ITEM NO: 11

DATE: 07/08/2019

ORDINANCE NO: 19-39

RESOLUTION NO:

READING: FIRST

PUBLIC HEARING: NO

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE SUPPLEMENTING THE 2019 APPROPRIATIONS ORDINANCE IN THE AMOUNT OF \$10,000 AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT TO PARTICIPATE IN A REGIONAL HOUSING STRATEGY.

**BACKGROUND:**

The City was invited by the Mid-Ohio Regional Planning Commission to participate in a Regional Housing Strategy. Please see attached background information about the initiative from William Murdock, Executive Director of MORPC and a supporting memo from Dave Efland, Planning and Community Development Director

**REASON WHY LEGISLATION IS NEEDED:**

Legislation is required to establish the necessary funding to participate in the regional housing strategy as described.

**COMMITTEE RECOMMENDATION:**

N/A

**FISCAL IMPACT(S):**

\$10,000 Appropriation

**POLICY CHANGES:**

**PRESENTER(S):**

R. Thomas Homan, City Manager

William Murdock, MORPC, Executive Director and Kersten Carr, MORPC, Director of Planning and Sustainability Department will be present for any additional questions.

**RECOMMENDATION:**

Approval after first or second reading

**ATTACHMENT(S)**

Invitation Letter from MORPC

Memo from Dave Efland

ORDINANCE NO. 19-39

AN ORDINANCE SUPPLEMENTING THE 2019 APPROPRIATIONS ORDINANCE IN THE AMOUNT OF \$10,000 AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT TO PARTICIPATE IN A REGIONAL HOUSING STRATEGY.

WHEREAS, the City of Delaware has been invited to participate in a Regional Housing Strategy; and

WHEREAS, the Mid-Oho Regional Planning Commission will be the lead on this project and has requested a financial contribution of \$10,000 from the City; and

WHEREAS, the City would be a part of the project’s advisory council; and

WHEREAS, participation in this regional initiative can help inform the City’s Comprehensive Plan update.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That there is hereby appropriated from the unencumbered balance of the General Fund, \$10,000 increasing the following account:

General Administration/Professional Services:	
(101-0032-5230)	\$10,000

SECTION 2. That the city manager is hereby authorized to enter into necessary agreements with MORPC.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

VOTE ON RULE SUSPENSION:

YEAS\_\_\_NAYS\_\_\_  
ABSTAIN \_\_\_

PASSED: \_\_\_\_\_, 2019

YEAS\_\_\_\_ NAYS\_\_\_\_  
ABSTAIN \_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR



MID-OHIO REGIONAL  
**MORPC**  
PLANNING COMMISSION

111 Liberty Street, Suite 100  
Columbus, Ohio 43215  
morpc.org

T. 614. 228.2663  
TTY. 1.800.750.0750  
info@morpc.org

May 24, 2019

Tom Homan, City Manager  
City of Delaware  
1 S. Sandusky St.  
Delaware, OH 43015

Subject: Regional Housing Strategy

Dear Mr. Homan:

As discussed, this letter serves as your formal invitation for the City of Delaware to partner in the Regional Housing Strategy with a contribution of \$10,000. The Mid-Ohio Regional Planning Commission (MORPC) will be the lead on this important strategy.

This housing strategy will result in investment and policy recommendations for communities to support mixed income neighborhoods and regional growth. Its main goal is to foster a housing market where every household with a full-time wage earner can obtain housing in the private market and to effectively supplement the market where we cannot achieve that goal.

As a funding partner, we would like for you, or a representative from the city, to be part of the project's advisory council and help steer the project.

We greatly appreciate your continued commitment to the betterment of our region, and to improving the lives of all your residents.

If you have any questions, please do not hesitate to contact Jennifer Noll at [jnoll@morpc.org](mailto:jnoll@morpc.org) or me at [wmurdock@morpc.org](mailto:wmurdock@morpc.org).

Kind Regards,

William Murdock  
Executive Director

William Murdock, AICP  
Executive Director

Rory McGuiness  
Chair

Karen J. Angelou  
Vice Chair

Erik J. Janas  
Secretary

## Central Ohio Housing Strategy Scope of Work

The past decade has been one of historic growth for Central Ohio, and that growth is expected to continue for the foreseeable future, with MORPC projecting the region to be home to 3 million residents by 2050. Not only is the region growing; it is changing. Increases in both the young adult (Millennial) and 65 and older (Baby Boomer) populations are shifting housing preferences. Furthermore, the highly competitive real estate market and a persistently high poverty rate have led to more vulnerable groups struggling to find safe and decent housing in neighborhoods of choice.

As a result, MORPC, the City of Columbus, and other project partners are coordinating a housing strategy for the region that develops investment and policy recommendations for communities to support mixed income neighborhoods and regional growth. The goal of the Project Partners is to foster a housing market where every household with a full-time wage earner can obtain housing in the private market, and to effectively supplement the market where we cannot achieve that goal.

The scope of work includes the following:

### 1. Existing Conditions

Over the years, several studies conducted by various entities have arrived at the same conclusion: The 7-county Central Ohio lacks sufficient housing to meet the market demands of our growing population. This task will review and summarize these reports and augment where there are gaps in the analyses or outdated information. *MORPC plans to lead this task with some consultant support. Please state if/how your team could support this work.*

- a. Review and synthesize (where necessary) prior studies of the Columbus, Franklin County and Central Ohio housing markets. Prior work includes, but is not limited to, studies by Franklin County, the Affordable Housing Alliance of Central Ohio, the Building Industry Association of Central Ohio, the Rose Fellowship, and the City of Columbus Incentives Study. *This will be a high-level literature review, resulting in a summary report.*
- b. Identify data gaps necessary to develop regional recommendations. *This may include quality of housing stock; location of housing compared to employment; subsidized & public housing data; more detailed cost burden analysis; racial inequity; and non-housing affordability factors (e.g. transportation, energy, etc.)*
- c. Identify structural impediments to housing development. *This may include a permitting and zoning policy analysis as well as interviews/focus groups with developers to better understand impediments to both market-rate and affordable housing.*
- d. Review and analyze current availability of public and private dollars to support affordable housing development.
- e. Compile a stand-alone report of existing conditions and projected needed housing by household income level through the year 2050 (summarizing tasks 1a through 1d).

### 2. Investment Strategies & Policies

With a deeper understanding of existing conditions in housing stock and the housing market, the region can take an inclusive and innovative approach to addressing any unmet needs. This task will explore novel and scalable methods to jumpstart regional housing development. In some cases, best practices from around the country may serve as replicable templates. In others, a new approach will be needed. This task will identify locations where investment strategies and policies have been most effective and summarize

the steps to implementation. A local assessment will determine where opportunities may exist to strengthen existing strategies. *MORPC plans to assist with some of the research, but will rely on the consultant team's expertise for this task.*

- a. Research national policy and funding models that address inclusive, economically sustainable regional housing development. *This includes identifying up to five (5) regions similar to Central Ohio's housing market and economy to study as a best practice and preparing a summary of each.*
- b. Research local and regional strategies around funding and regulations that address housing needs, either currently in place or under consideration. *This would supplement any findings from task 1a.*
- c. Identify innovative and scalable investment strategies that could help "move the market."

### **3. Recommendations**

To effectively move the needle on a regional housing strategy will require a comprehensive and multi-pronged approach involving the public, private, and philanthropic sectors. While new housing may be necessary to accommodate growth, so too will retrofitting and rehabilitating existing homes to serve current residents. In this task, specific recommendations addressing policy and regulations, finance, and cooperation will be proposed and prioritized – necessary steps to guide the region toward a shared vision. These recommendations should align with previous insight2050 findings for more compact, walkable environments and with the most recent insight2050 Corridor Concepts results around focused development along corridors served by transit. *MORPC will rely heavily on consultant expertise for this task. In addition, these recommendations should be vetted with partners on an iterative basis rather than waiting for a report for partners to react to.*

- a. Develop a housing investment allocation portfolio. This would include investment strategies for local governments and other partners, including non-profits, financial institutions, private entities, and the philanthropic sector, and highlight areas where additional funding streams need to be developed.
- b. Develop recommendations for regulatory policies for local governments.
- c. Develop housing priorities, including the development of new homes, rehabilitation of existing properties, and maintenance and retrofitting of homes.

### **4. Tracking Progress**

Measurable indicators provide a quantifiable and objective approach to evaluation. The tasks outlined here will establish indicators, benchmark baseline conditions, and set targets for each indicator to help the region track its progress toward its stated goal of fostering a housing market where every household with a full-time wage earner can obtain housing. *MORPC plans to lead this task to ensure sustainability and metrics tracking in the future. Please note if/how your team could support this work.*

- a. Develop key metrics, and identify data, to monitor and gauge the on-going health of the housing market. There may be opportunities to customize metrics for individual communities on an add-on basis. *Key metrics will be identified in tasks 1 and 2 and will be confirmed once recommendations have been developed.*
- b. Establish targets to assist the City, counties, and suburban communities in achieving the recommendations. *Key metrics will be identified in tasks 1 and 2 and will be confirmed once recommendations have been developed.*

## **5. Community Engagement**

An advisory committee will be formed to guide the study and its recommendations. Stakeholders will be engaged throughout the process to lend expertise and to help communicate the complexities and nuances of the regional housing landscape. *MORPC plans to lead this task. The consultant team is expected to support MORPC in facilitating the advisory committee, in stakeholder and resident engagement, and in developing the messaging around the project.*

- a. Facilitate an advisory committee to help guide the plan development.
- b. Engage with stakeholders, including Franklin County, the MORPC Board of Commissioners, the Central Ohio Mayors and Managers Association, the Affordable Housing Alliance, the Building Industry Association, the Apartments Association, key financial institutions, Columbus Partnership, and others.
- c. Develop other engagement strategies as needed, including messaging and communications around the project.

## **6. Final Report**

Visually appealing final Report to summarize all findings and deliverables, along with an executive summary that can be shared with non-technical audiences. *The consultant team will lead this task with significant support from MORPC.*



## MEMORANDUM

TO: R. Thomas Homan, City Manager

FROM: David M. Efland, AICP, Director of Planning & Community Development

DATE: 07/02/2019

RE: MORPC Regional Housing Strategy

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As requested, I am providing an opinion as to City involvement in the MORPC Regional Housing Strategy Study. It is important for us to be an active part of this study. As we examine these issues in our current Comprehensive Plan process, the timing is good and will help supplement the more local information we are generating in our process. Importantly, being part of the MORPC Study will place housing within a regional context. Additionally, my understanding is that MORPC and the City of Columbus are engaging in this process and for us to have an active seat at the table will help ensure that a truly regional view is represented, including data collection. Our active participation may lead to solutions and possible financial incentives in the future to augment implementation if the City chooses to do so. The City, via our Comprehensive Plan process, will still have the opportunity to consider any recommendations in a local context that may result from this regional study. We can then decide if we wish to include any of the Study recommendations into our local planning and policy efforts. Therefore, I would recommend that we participate and have a seat at the Study table if at all financially possible.



## FACT SHEET

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AGENDA ITEM NO: 12

DATE: 07/08/2019

ORDINANCE NO: 19-40

RESOLUTION NO:

READING: FIRST

PUBLIC HEARING: NO

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: Dean Stelzer, Finance Director

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$12,510,000 FOR THE PURPOSE OF PAYING THE COSTS OF REFUNDING BONDS PREVIOUSLY ISSUED BY THE CITY FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING THE CITY'S SOUTHEAST HIGHLAND SEWER AREA BY CONSTRUCTING AND INSTALLING SEWER LINES, INCLUDING THE ACQUISITION OF INTERESTS IN REAL ESTATE, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

**BACKGROUND:**

See attached memo.

**REASON WHY LEGISLATION IS NEEDED:**

**COMMITTEE RECOMMENDATION:**

Finance Committee, approval

**FISCAL IMPACT(S):**

Will generate approximately \$1,800,000 in net present value savings over the next 19 years from debt payments for the Southeast Highland Sewer.

**POLICY CHANGES:**

**PRESENTER(S):**

Dean Stelzer, Finance Director

**RECOMMENDATION:**

Approval

**ATTACHMENT(S):**

Memo



## MEMORANDUM

**TO:** City Council  
**FROM:** Dean Stelzer, Finance Director  
**DATE:** July 3, 2019  
**RE:** Bond Legislation

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The agenda for the July 8, 2019 City Council meeting includes ordinances authorizing the issuance of long-term debt.

**Ordinance 19-40** provides for the issuance of 15 year bonds to refinance bonds originally issued in 2009 to build the Southeast Highland Sewer project. The original borrowing was for \$15,150,000 over 28 years maturing in 2037. Current annual debt service on the original bonds would average \$997,823 per year for 19 more years. By refinancing the outstanding amount over the same remaining 19 years, we will be able to reduce are annual debt service payment from the current \$997,823 to \$862,458. After deducting issuance costs, the refinancing of these bonds will save the City approximately \$1,800,000 in total over the next 19 years.

**Ordinance 19-41** provides for the issuance of up to \$2,500,000 of new debt to finance the improvements made to the Annex Building and building improvements to be made to City Hall. The \$2.5 million amount is a not to exceed amount. We do not have a cost figure yet for the City Hall improvements. The actual amount borrowed may be less than the \$2.5 million amount in the legislation. The improvements to the Annex Building and to City Hall were included in the 2019-2023 CIP approved by City Council last year. The amount borrowed will be paid back over the next 15 years using the \$78,000 annual lease payments from Co-Hatch, about \$35,000 per year in impact fee money, and the remaining \$60k to \$75k to come from City funds.

**Ordinance 19-42** provides for the issuance of up to \$1,500,000 of new debt to finance the acquisition of various software application systems. This software acquisition and financing were included in the 2019-2023 adopted capital improvement plan. The bonds will be paid back over 5 years.

These financings were discussed with the Finance Committee at their June 17, 2019 meeting. Although there is no strict timeline for issuance of the debt, the current interest rate environment

is very favorable and issuing the bonds sooner than later reduces the chance that interest rates go up. Approving with the first reading enables us to move forward on issuing the debt. Going to a 2nd and 3<sup>rd</sup> reading merely pushes the issuance date back by 2 or 4 weeks.

ORDINANCE NO. 19-40

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$12,510,000 FOR THE PURPOSE OF PAYING THE COSTS OF REFUNDING BONDS PREVIOUSLY ISSUED BY THE CITY FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING THE CITY'S SOUTHEAST HIGHLAND SEWER AREA BY CONSTRUCTING AND INSTALLING SEWER LINES, INCLUDING THE ACQUISITION OF INTERESTS IN REAL ESTATE, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 09-80 passed October 26, 2009, as amended by Ordinance No. 09-90 passed November 23, 2009 (collectively, the "*2009 Bond Ordinance*"), bonds in the aggregate principal amount of \$15,150,000, dated December 9, 2009 (the "*2009 Bonds*"), were issued for the purpose described in Section 2; and

WHEREAS, this City Council finds and determines that it will be in the City's best interest to issue general obligation bonds in accordance with Chapter 133 of the Ohio Revised Code in the maximum principal amount of \$12,510,000 (the "*Bonds*") in order to refund at a lower rate of interest all or a portion of the outstanding 2009 Bonds (collectively, the "*Outstanding 2009 Bonds*"), which Outstanding 2009 Bonds are subject to prior redemption at the option of the City at a redemption price of 100% of par plus any accrued interest to their redemption date, and to pay any expenses relating to that refunding and the issuance of the Bonds; and

WHEREAS, this City Council has requested that the Director of Finance, as fiscal officer of this City, certify the estimated life or period of usefulness of the Improvement described in Section 2 and the maximum maturity of the Bonds described in Section 2; and

WHEREAS, the Director of Finance has certified to this City Council that the estimated life or period of usefulness of the Improvement is at least five (5) years and that the maximum maturity of the Bonds is December 1, 2049;

NOW, THEREFORE, BE IT ORDAINED by The Council of The City of Delaware, State of Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

"*Authorized Denominations*" means the denomination of \$5,000 or any integral multiple in excess thereof.

“*Bond Proceedings*” means, collectively, this Ordinance, the Certificate of Award, the Continuing Disclosure Agreement, the Escrow Agreement, the Purchase Agreement, the Registrar Agreement and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

“*Bond Register*” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“*Bond Registrar*” means a bank or trust company authorized to do business in the State of Ohio and designated by the Director of Finance in the Certificate of Award pursuant to Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Registrar Agreement and until a successor Bond Registrar shall have become such pursuant to the provisions of the Registrar Agreement and, thereafter, “*Bond Registrar*” shall mean the successor Bond Registrar.

“*Bonds*” means, collectively, the Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

“*Book entry form*” or “*book entry system*” means a form or system under which (a) the ownership of beneficial interests in the Bonds and the principal of and interest and any premium on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form are issued by the City and payable only to a Depository or its nominee as registered owner, with the certificates deposited with and “immobilized” in the custody of the Depository or its designated agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Bonds and that principal and interest.

“*Certificate of Award*” means the certificate authorized by Section 6, to be executed by the Director of Finance, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“*City Attorney*” means the City Attorney of the City or any person serving in an interim or acting capacity with respect to that office.

“*City Clerk*” means the City Clerk of the City or any person serving in an interim or acting capacity with respect to that office.

“*City Manager*” means the City Manager of the City or any person serving in an interim or acting capacity with respect to that office.

“*Closing Date*” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Bonds in accordance with the Rule, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 9(c).

“Depository” means any securities depository that is a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Bonds or the principal of and interest and any premium on the Bonds, and to effect transfers of the Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Director of Finance” means the Director of Finance of the City or any person serving in an interim or acting capacity with respect to that office.

“Escrow Agreement” means the Escrow Agreement between the City and the Escrow Trustee, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 10.

“Escrow Fund” means the City of Delaware, Ohio – Series 2019 Refunding Escrow Fund created pursuant to Section 10 and in accordance with the Escrow Agreement.

“Escrow Trustee” means a bank or trust company authorized to do business in the State of Ohio and designated by the Director of Finance in the Certificate of Award pursuant to Section 10 as the initial escrow trustee for the Refunded Bonds under the Escrow Agreement and until a successor Escrow Trustee shall have become such pursuant to the provisions of the Escrow Agreement and, thereafter, “Escrow Trustee” shall mean the successor Escrow Trustee.

“*Financing Costs*” shall have the meaning given in Section 133.01 of the Ohio Revised Code.

“*Interest Payment Dates*” means, unless otherwise specified in the Certificate of Award, June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

“*Mandatory Redemption Date*” shall have the meaning set forth in Section 3(b).

“*Mandatory Sinking Fund Redemption Requirements*” shall have the meaning set forth in Section 3(e)(i).

“*Original Purchaser*” means the purchaser of the Bonds specified in the Certificate of Award.

“*Participant*” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

“*Principal Payment Dates*” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years as determined necessary by the Director of Finance in the Certificate of Award, *provided* that the first Principal Payment Date shall occur no later than the earliest maturity date of the Refunded Bonds, and *provided further* that in no case shall the final Principal Payment Date exceed the maximum maturity limitation referred to in the preambles hereto, all of which determinations shall be made by the Director of Finance in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“*Purchase Agreement*” means the Bond Purchase Agreement between the City and the Original Purchaser, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 6.

“*Redemption Date*” means the date designated by the Director of Finance in the Certificate of Award as the earliest practicable date on which the Refunded Bonds shall be redeemed in accordance with Section 10, *provided* that such Redemption Date shall be no later than ninety (90) days following the Closing Date.

“*Refunded Bonds*” means, collectively, the principal maturities of the Outstanding 2009 Bonds to be determined by the Director of Finance in the Certificate of Award as the maturities the refunding of which will be in the best interest of and financially advantageous to the City.

“*Registrar Agreement*” means the Bond Registrar Agreement between the City and the Bond Registrar, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 4.

“*Regulations*” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

“*Rule*” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“*SEC*” means the Securities and Exchange Commission.

“*Serial Bonds*” means those Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“*Term Bonds*” means those Bonds designated as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose; Application of Proceeds. This Council determines that it is necessary and in the best interest of the City to issue bonds of this City in the maximum principal amount of \$12,510,000 (the “*Bonds*”) for the purpose of paying the costs of refunding bonds previously issued by the City for the purpose of paying the costs of improving the City’s Southeast Highland sewer area by constructing and installing sewer lines, including the acquisition of interests in real estate, together with all necessary appurtenances thereto (the “*Improvement*”). The Bonds shall be issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The aggregate principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 2 and shall be issued in an amount determined by the Director of Finance in the Certificate of Award to be the aggregate principal amount of Bonds required to be issued at this time for the purpose stated in this Section 2, taking into account the costs of refunding the Refunded Bonds, other City monies available for the purpose, the estimates of the Financing Costs and the interest rates on the Bonds. The Refunded Bonds shall be determined by the Director of Finance in the

Certificate of Award as the maturities of the Outstanding 2009 Bonds the refunding of which will be in the best interest of and financially advantageous to the City.

The proceeds from the sale of the Bonds received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of any municipal advisor, paying agent, escrow trustee, verification consultant and rating agency, any fees or premiums relating to municipal bond insurance or other security arrangements determined necessary by the Director of Finance, and all other Financing Costs and costs incurred incidental to those purposes. The Certificate of Award and the Purchase Agreement may authorize the Original Purchaser to withhold certain proceeds from the purchase price of the Bonds to provide for the payment of Financing Costs related to the Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium (after payment of any Financing Costs identified in the Certificate of Award, and in the Purchase Agreement and/or the Registrar Agreement) shall be used to pay costs of refunding the Refunded Bonds and/or be paid into the Bond Retirement Fund, with such determination being made by the Director of Finance in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financially advantageous to the City. Any portion of those proceeds received by the City representing accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, *provided* that their dated date shall not be more than sixty (60) days prior to the Closing Date.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year (computed on the basis of a 360-day year consisting of twelve 30-day months) as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in principal amounts as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

Consistent with the foregoing and in accordance with the determination of the best interest of and financially advantageous to the City, the Director of Finance shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date and (ii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a “*Mandatory Redemption Date*”) and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such as to demonstrate a net present value savings to the City due to the refunding of the Refunded Bonds, after taking into account all expenses related to that refunding and the issuance of the Bonds.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the designated corporate trust office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register at the close of business on the 15<sup>th</sup> day of the calendar month next preceding that Interest Payment Date. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system, principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Director of Finance, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund redemption requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts being referred to as the “*Mandatory Sinking Fund Redemption Requirements*”).

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45<sup>th</sup> day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Director of Finance, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Director of Finance, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement,

for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in integral multiples of \$5,000, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Director of Finance in the Certificate of Award; *provided* that the redemption price for any optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity (and interest rate within a maturity if applicable) to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Director of Finance to the Bond Registrar, given upon the direction of the City by passage of an ordinance or adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and interest rate within a maturity if applicable) of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable) are to be redeemed, the selection of Bonds of that

maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as if it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the \$5,000 unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15<sup>th</sup> day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Sections 3(d) and

5, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds; *provided* that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, *provided* that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance, shall be numbered as determined by the Director of Finance in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The Director of Finance is hereby authorized to designate in the Certificate of Award a bank or trust company authorized to do business in the State of Ohio to act as the initial Bond Registrar. The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement between the City and the Bond Registrar, in substantially the form as is now on file with the City Clerk. The Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Registrar Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of

expenses incurred pursuant to the Registrar Agreement, except to the extent paid or reimbursed pursuant to the Certificate of Award, and the Purchase Agreement and/or the Registrar Agreement, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its designated corporate trust office. Subject to the provisions of Sections 3(d) and 9(c), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 5. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated corporate trust office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the

unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15<sup>th</sup> day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Director of Finance determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section 5.

The Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity, and, if applicable, each interest rate within a maturity, and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository or its designated agent for that purpose, which may be the Bond Registrar; (ii) the beneficial owners of Bonds in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Director of Finance may attempt

to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form and Authorized Denominations to be authenticated by the Bond Registrar and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the Director of Finance determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Sale of the Bonds to the Original Purchaser. The Director of Finance is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Director of Finance in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Director of Finance with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance and the Purchase Agreement. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Ohio Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Director of Finance shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Purchase Agreement between the City and the Original Purchaser, in substantially the form as is now on file with the City Clerk, providing for the sale to, and the purchase by, the Original Purchaser of the Bonds. The Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be

conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

The Mayor, the City Manager, the Director of Finance, the City Attorney, the City Clerk and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The actions of the Mayor, the City Manager, the Director of Finance, the City Attorney, the City Clerk and other City officials, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

Section 7. Provision for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

In each year to the extent net revenues from the municipal sewer utility are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such net revenues so available and appropriated.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Bonds.

Section 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties with respect to the Bonds, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments with respect to the Bonds, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds. The Director of Finance or any other officer of the City having responsibility for issuance of the Bonds is specifically authorized to designate the Bonds as "qualified tax-exempt obligations" if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Each covenant made in this Section with respect to the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Bonds (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Bonds from gross income for

federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Bonds.

Section 9. Official Statement, Rating, Bond Insurance, Continuing Disclosure and Financing Costs.

(a) Primary Offering Disclosure -- Official Statement. The City Manager and the Director of Finance are each authorized and directed, on behalf of the City and in their official capacities, to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, a disclosure document in the form of an official statement relating to the original issuance of the Bonds in substantially the form as is now on file with the City Clerk, (ii) determine, and to certify or otherwise represent, when the official statement is to be “deemed final” (except for permitted omissions) by the City as of its date or is a final official statement for purposes of paragraph (b) of the Rule, (iii) use and distribute, or authorize the use and distribution of those official statements and any supplements thereto in connection with the original issuance of the Bonds, and (iv) complete and sign those official statements and any supplements thereto as so approved, together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of those official statements and any supplements, as they may deem necessary or appropriate.

(b) Application for Rating or Bond Insurance. If, in the judgment of the Director of Finance, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies, or (ii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Bonds, is in the best interest of and financially advantageous to this City, the Director of Finance is authorized to prepare and submit those applications, to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, except to the extent otherwise paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Director of Finance is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the Director of Finance determines to be necessary in connection with the obtaining of that bond insurance.

(c) Agreement to Provide Continuing Disclosure. For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in

such manner as may be required for purposes of the Rule. The City Manager and the Director of Finance are each authorized and directed to complete, sign and deliver the Continuing Disclosure Agreement, in the name and on behalf of the City, in substantially the form as is now on file with the City Clerk. The Continuing Disclosure Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Continuing Disclosure Agreement or amendments thereto.

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its Continuing Disclosure Agreement, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the Director of Finance shall consult with and obtain legal advice from, as appropriate, the City Attorney and bond or other qualified independent special counsel selected by the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any such legal advice in determining whether a filing should be made. The performance by the City of its Continuing Disclosure Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

(d) Financing Costs. The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds, to the extent not paid by the Original Purchaser and/or the Bond Registrar in accordance with the Certificate of Award, the Purchase Agreement and/or the Registrar Agreement, is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 10. Call for Redemption; Escrow Trustee; Escrow Agreement; Escrow Fund. To provide for the payment of the principal of and interest on the Refunded Bonds, the Director of Finance is hereby authorized to designate in the Certificate of Award a bank or trust company authorized to do business in the State of Ohio to act as the Escrow Trustee. The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Escrow Agreement between the City and the Escrow Trustee, in substantially the form as is now on file with the City Clerk. The Escrow Fund provided for in the Escrow Agreement is hereby created. The Escrow Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Escrow Agreement or amendments thereto. The Director of Finance shall

provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Escrow Agreement, except to the extent paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

Acting pursuant to the 2009 Bond Ordinance which authorized the 2009 Bonds, the Refunded Bonds, as determined by the Director of Finance in the Certificate of Award to be refunded and called for redemption, are hereby called for redemption on the earliest practicable date as set forth in the Certificate of Award (the "*Redemption Date*") at the required redemption price of the principal amount thereof, and the Director of Finance is hereby authorized and directed to cause those Refunded Bonds to be called for redemption on the Redemption Date and arrange for the notice of redemption to be given in accordance with the applicable provisions of the 2009 Bond Ordinance.

For informational purposes, a certified copy of this Ordinance shall be sent by the Director of Finance to the current bond registrar for the Refunded Bonds.

In order to provide for the payment of (a) the interest on the Refunded Bonds on each interest payment date following the Closing Date and through the Redemption Date, (b) the principal and mandatory sinking fund payments (if any in each case) of the Refunded Bonds maturing on or prior to the Redemption Date, and (c) the principal of the Refunded Bonds to be called for redemption on the Redemption Date, the City covenants and agrees with the Escrow Trustee and with the owners of the Refunded Bonds that the City will take, and will cause the Escrow Trustee to take, all steps required by the terms of the Escrow Agreement to carry out such payments. The City will provide from the proceeds of the Bonds and other available funds in accordance with this Ordinance, moneys and investments sufficient to pay in full (a) the interest on the Refunded Bonds on each interest payment date following the Closing Date and through the Redemption Date, (b) the principal and mandatory sinking fund payments (if any in each case) of the Refunded Bonds maturing on or prior to the Redemption Date, and (c) the principal of the Refunded Bonds to be called for redemption on the Redemption Date. The City covenants and agrees with the Escrow Trustee and with the owners of the Refunded Bonds that the City will take, and will cause the Escrow Trustee to take, all steps required by the terms of this Ordinance, Section 133.34 of the Ohio Revised Code, and the Escrow Agreement to carry out such payments so that the Refunded Bonds are not deemed to be outstanding.

There shall be delivered to the Escrow Trustee for the Escrow Fund proceeds to be received from the sale of the Bonds and other available funds which shall be held in cash, or, if and to the extent determined by the Director

of Finance to be financially advantageous to the City, invested in United States Treasury Obligations ("*Treasury Securities*"), State and Local Government Series ("*SLG Securities*") or other direct obligations of, or obligations guaranteed as to both principal and interest by, the United States of America as defined in Section 133.34 of the Ohio Revised Code (direct obligations and guaranteed obligations together with the SLG Securities, collectively, the "*Securities*").

The moneys in the Escrow Fund which shall be held in cash and Securities (if any) may, if and to the extent determined by the Director of Finance to be financially advantageous to the City, be certified by an independent public accounting firm of national reputation in a written report (the "*Verification Report*") to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any moneys in the Escrow Fund to be held in cash as contemplated by the Verification Report, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, to cause the Refunded Bonds to be deemed to be not outstanding as provided for in Section 133.34 of the Ohio Revised Code. The balance of the proceeds to be received from the sale of the Bonds, less any amount thereof contemplated by the Verification Report to be held in cash in the Escrow Fund and less any amount otherwise provided for herein, shall be used for the payment of costs related to the refunding and the issuance of the Bonds. The Director of Finance is hereby authorized to retain and designate in the Certificate of Award an independent public accounting firm of national reputation to prepare and deliver the Verification Report.

At the direction of the Director of Finance, the Escrow Trustee or the Original Purchaser is authorized to apply and subscribe for SLG Securities on behalf of the City. Further, if the Director of Finance determines that it would be in the best interest of and financially advantageous to the City to purchase Treasury Securities for deposit into the Escrow Fund, the Director of Finance or any other officer of the City, on behalf of the City and in their official capacity, may purchase and deliver such obligations, engage the services of a municipal advisor, bidding agent or similar entity for the purpose of facilitating the bidding, purchase and delivery of such obligations for, and any related structuring of, the Escrow Fund, execute such instruments as are deemed necessary to engage such services for such purpose, and provide further for the payment of the cost of obtaining such services, except to the extent paid by the Original Purchaser in accordance with the Purchase Agreement, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

Any such moneys, and Securities (if any), in addition thereto contemplated by the Verification Report to be held in cash, shall be held by the

Escrow Trustee in trust and committed irrevocably to the payment of the principal of and interest on the Refunded Bonds.

Section 11. Bond Counsel. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the City Clerk. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Director of Finance is authorized and directed, to the extent they are not paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 12. Municipal Advisor. The services of Rockmill Financial Consulting, LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. The Director of Finance is authorized and directed, to the extent they are not paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 13. Certification and Delivery of Ordinance and Certificate of Award. The City Clerk is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and an executed copy of the Certificate of Award to the County Auditor of the County of Delaware, Ohio.

Section 14. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance, the Certificate of Award and other authorizing provisions of law.

Section 15. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 16. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds, which is necessary to enable the City to take advantage of favorable interest rates and realize a savings in interest costs by refunding the Refunded Bonds and to coordinate the sale of the Bonds with other bonds of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

VOTE ON RULE SUSPENSION:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

VOTE ON EMERGENCY CLAUSE:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

PASSED: \_\_\_\_\_, 2019

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

**SUPPLEMENTAL  
FISCAL OFFICER'S CERTIFICATE**

To the City Council of the City of Delaware, Ohio:

As fiscal officer of the City of Delaware, Ohio, and supplementing the certificate of October 26, 2009, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$12,510,000 (the "*Bonds*"), to be issued for the purpose of paying the costs of refunding bonds previously issued by the City for the purpose of paying the costs of improving the City's Southeast Highland sewer area by constructing and installing sewer lines, including the acquisition of interests in real estate, together with all necessary appurtenances thereto (the "*Improvement*"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.
  
2. The maximum maturity of the Bonds, calculated in accordance with Sections 133.20 and 133.34 of the Ohio Revised Code, is December 1, 2049. This certification takes into consideration the certificate of October 26, 2009 and the maximum maturity of 40 years stated therein which was based upon the 40-year estimate of the average life or period of usefulness of the Improvement.

Dated: July 8, 2019

  
\_\_\_\_\_  
Director of Finance  
City of Delaware, Ohio



## FACT SHEET

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AGENDA ITEM NO: 13

DATE: 07/08/2019

ORDINANCE NO: 19-41

RESOLUTION NO:

READING: FIRST

PUBLIC HEARING: NO

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: Dean Stelzer, Finance Director

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$2,500,000 FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING AND RENOVATING CITY HALL AND A RELATED ANNEX BUILDING AND OTHERWISE IMPROVING THE SITE THEREFOR, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

**BACKGROUND:**

See attached memo.

**REASON WHY LEGISLATION IS NEEDED:**

To finance building improvements made to the Annex Building and building improvements to be made to City Hall.

**COMMITTEE RECOMMENDATION:**

Finance Committee, approval

**FISCAL IMPACT(S):**

This debt will be paid back over 15 years as included in the City's current Capital Improvement Plan.

**POLICY CHANGES:**

**PRESENTER(S):**

Dean Stelzer

**RECOMMENDATION:**

Approval

**ATTACHMENT(S):**

Memo



## MEMORANDUM

**TO:** City Council  
**FROM:** Dean Stelzer, Finance Director  
**DATE:** July 3, 2019  
**RE:** Bond Legislation

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The agenda for the July 8, 2019 City Council meeting includes ordinances authorizing the issuance of long-term debt.

**Ordinance 19-40** provides for the issuance of 15 year bonds to refinance bonds originally issued in 2009 to build the Southeast Highland Sewer project. The original borrowing was for \$15,150,000 over 28 years maturing in 2037. Current annual debt service on the original bonds would average \$997,823 per year for 19 more years. By refinancing the outstanding amount over the same remaining 19 years, we will be able to reduce are annual debt service payment from the current \$997,823 to \$862,458. After deducting issuance costs, the refinancing of these bonds will save the City approximately \$1,800,000 in total over the next 19 years.

**Ordinance 19-41** provides for the issuance of up to \$2,500,000 of new debt to finance the improvements made to the Annex Building and building improvements to be made to City Hall. The \$2.5 million amount is a not to exceed amount. We do not have a cost figure yet for the City Hall improvements. The actual amount borrowed may be less than the \$2.5 million amount in the legislation. The improvements to the Annex Building and to City Hall were included in the 2019-2023 CIP approved by City Council last year. The amount borrowed will be paid back over the next 15 years using the \$78,000 annual lease payments from Co-Hatch, about \$35,000 per year in impact fee money, and the remaining \$60k to \$75k to come from City funds.

**Ordinance 19-42** provides for the issuance of up to \$1,500,000 of new debt to finance the acquisition of various software application systems. This software acquisition and financing were included in the 2019-2023 adopted capital improvement plan. The bonds will be paid back over 5 years.

These financings were discussed with the Finance Committee at their June 17, 2019 meeting. Although there is no strict timeline for issuance of the debt, the current interest rate environment

is very favorable and issuing the bonds sooner than later reduces the chance that interest rates go up. Approving with the first reading enables us to move forward on issuing the debt. Going to a 2nd and 3<sup>rd</sup> reading merely pushes the issuance date back by 2 or 4 weeks.

ORDINANCE NO. 19-41

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$2,500,000 FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING AND RENOVATING CITY HALL AND A RELATED ANNEX BUILDING AND OTHERWISE IMPROVING THE SITE THEREFOR, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, this City Council has requested that the Director of Finance, as fiscal officer of this City, certify the estimated life or period of usefulness of the Improvement described in Section 2 and the maximum maturity of the Bonds described in Section 2; and

WHEREAS, the Director of Finance has certified to this City Council that the estimated life or period of usefulness of the Improvement is at least five (5) years and that the maximum maturity of the Bonds is fifteen (15) years;

NOW, THEREFORE, BE IT ORDAINED by The Council of The City of Delaware, State of Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

“*Authorized Denominations*” means the denomination of \$5,000 or any integral multiple in excess thereof.

“*Bond Proceedings*” means, collectively, this Ordinance, the Certificate of Award, the Continuing Disclosure Agreement, the Purchase Agreement, the Registrar Agreement and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

“*Bond Register*” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“*Bond Registrar*” means a bank or trust company authorized to do business in the State of Ohio and designated by the Director of Finance in the Certificate of Award pursuant to Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Registrar Agreement and until a successor Bond Registrar shall have become such pursuant to the provisions of the Registrar Agreement and, thereafter, “*Bond Registrar*” shall mean the successor Bond Registrar.

“*Bonds*” means, collectively, the Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

“*Book entry form*” or “*book entry system*” means a form or system under which (a) the ownership of beneficial interests in the Bonds and the principal of and interest and any premium on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form are issued by the City and payable only to a Depository or its nominee as registered owner, with the certificates deposited with and “immobilized” in the custody of the Depository or its designated agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Bonds and that principal and interest.

“*Certificate of Award*” means the certificate authorized by Section 6, to be executed by the Director of Finance, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“*City Attorney*” means the City Attorney of the City or any person serving in an interim or acting capacity with respect to that office.

“*City Clerk*” means the City Clerk of the City or any person serving in an interim or acting capacity with respect to that office.

“*City Manager*” means the City Manager of the City or any person serving in an interim or acting capacity with respect to that office.

“*Closing Date*” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“*Code*” means the Internal Revenue Code of 1986, as amended, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“*Continuing Disclosure Agreement*” means the Continuing Disclosure Agreement which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Bonds in accordance with the Rule, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 9(c).

“*Depository*” means any securities depository that is a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Bonds or the principal of and interest and any premium on the Bonds, and to effect transfers of the Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“*Director of Finance*” means the Director of Finance of the City or any person serving in an interim or acting capacity with respect to that office.

“*Financing Costs*” shall have the meaning given in Section 133.01 of the Ohio Revised Code.

“*Interest Payment Dates*” means, unless otherwise specified in the Certificate of Award, June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

“*Mandatory Redemption Date*” shall have the meaning set forth in Section 3(b).

“*Mandatory Sinking Fund Redemption Requirements*” shall have the meaning set forth in Section 3(e)(i).

“*Original Purchaser*” means the purchaser of the Bonds specified in the Certificate of Award.

“*Participant*” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

“*Principal Payment Dates*” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years from and including 2020 to and including 2034; *provided* that the first Principal Payment Date may be advanced up to one year and the last Principal Payment Date may be advanced by such number of years as determined by the Director of Finance, and *provided further* that in no case shall the final Principal Payment Date exceed the maximum maturity limitation referred to in the preambles hereto, all of which determinations shall be made by the Director of Finance in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“*Purchase Agreement*” means the Bond Purchase Agreement between the City and the Original Purchaser, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 6.

“*Registrar Agreement*” means the Bond Registrar Agreement between the City and the Bond Registrar, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 4.

“*Regulations*” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

“*Rule*” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“*SEC*” means the Securities and Exchange Commission.

“*Serial Bonds*” means those Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“*Term Bonds*” means those Bonds designated as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose; Application of Proceeds. This Council determines that it is necessary and in the best interest of the City to issue bonds of this City in the maximum principal amount of \$2,500,000 (the “*Bonds*”) for the purpose of paying the costs of improving and renovating City Hall and a related annex building and otherwise improving the site therefor, together with all necessary appurtenances thereto (the “*Improvement*”). The Bonds shall be issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The aggregate principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 2 and shall be issued in an amount determined by the Director of Finance in the Certificate of Award to be the aggregate principal amount of Bonds required to be issued at this time for the purpose stated in this Section 2, taking into account the costs of the Improvement, the estimates of the Financing Costs and the interest rates on the Bonds.

The proceeds from the sale of the Bonds received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of any municipal advisor, paying agent and rating agency, any fees or premiums relating to municipal bond insurance or other security arrangements determined necessary by the Director of Finance, and all other Financing Costs and costs incurred incidental to those purposes. The Certificate of Award and the Purchase Agreement may authorize the Original Purchaser to withhold certain proceeds from the purchase price of the Bonds to provide for the payment of Financing Costs related to the Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium (after payment of any Financing Costs identified in the Certificate of Award, and in the Purchase Agreement and/or the Registrar Agreement) or accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, *provided* that their dated date shall not be more than sixty (60) days prior to the Closing Date.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year (computed on the basis of a 360-day year consisting of twelve 30-day months) as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in principal amounts as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

Consistent with the foregoing and in accordance with the determination of the best interest of and financially advantageous to the City, the Director of

Finance shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date and (ii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a “*Mandatory Redemption Date*”) and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds, and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year. The net interest cost for the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity or Mandatory Sinking Fund Redemption Requirements of those principal amounts of Bonds shall not exceed 6.00%.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the designated corporate trust office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register at the close of business on the 15<sup>th</sup> day of the calendar month next preceding that Interest Payment Date. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system, principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Director of Finance, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to

mandatory sinking fund redemption requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts being referred to as the “*Mandatory Sinking Fund Redemption Requirements*”).

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45<sup>th</sup> day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Director of Finance, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Director of Finance, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100%

of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in integral multiples of \$5,000, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Director of Finance in the Certificate of Award; *provided* that the redemption price for any optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity (and interest rate within a maturity if applicable) to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Director of Finance to the Bond Registrar, given upon the direction of the City by passage of an ordinance or adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and interest rate within a maturity if applicable) of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable) are to be redeemed, the selection of Bonds of that maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as if it were a

separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the \$5,000 unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15<sup>th</sup> day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Sections 3(d) and 5, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that

date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds; *provided* that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, *provided* that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance, shall be numbered as determined by the Director of Finance in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The Director of Finance is hereby authorized to designate in the Certificate of Award a bank or trust company authorized to do business in the State of Ohio to act as the initial Bond Registrar. The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement between the City and the Bond Registrar, in substantially the form as is now on file with the City Clerk. The Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Registrar Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement, except to the extent paid or reimbursed pursuant to the Certificate of Award, and the Purchase Agreement and/or the Registrar Agreement, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its designated corporate trust office. Subject to the provisions of Sections 3(d) and 9(c), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 5. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated corporate trust office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall

authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15<sup>th</sup> day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Director of Finance determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section 5.

The Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity, and, if applicable, each interest rate within a maturity, and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository or its designated agent for that purpose, which may be the Bond Registrar; (ii) the beneficial owners of Bonds in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form and Authorized Denominations to be authenticated by the Bond Registrar and delivered to the assigns of the

Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the Director of Finance determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Sale of the Bonds to the Original Purchaser. The Director of Finance is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Director of Finance in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Director of Finance with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance and the Purchase Agreement. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Ohio Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Director of Finance shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Purchase Agreement between the City and the Original Purchaser, in substantially the form as is now on file with the City Clerk, providing for the sale to, and the purchase by, the Original Purchaser of the Bonds. The Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

The Mayor, the City Manager, the Director of Finance, the City Attorney, the City Clerk and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

The actions of the Mayor, the City Manager, the Director of Finance, the City Attorney, the City Clerk and other City officials, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

Section 7. Provision for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

Section 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without

limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties with respect to the Bonds, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments with respect to the Bonds, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds. The Director of Finance or any other officer of the City having responsibility for issuance of the Bonds is specifically authorized to designate the Bonds as “qualified tax-exempt obligations” if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Section 9. Official Statement, Rating, Bond Insurance, Continuing Disclosure and Financing Costs.

(a) Primary Offering Disclosure -- Official Statement. The City Manager and the Director of Finance are each authorized and directed, on behalf of the City and in their official capacities, to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, a disclosure document in the form of an official statement relating to the original issuance of the Bonds in substantially the form as is now on file with the City Clerk, (ii) determine, and to certify or otherwise represent, when the official statement is to be “deemed final” (except for permitted omissions) by the City as of its date or is a final official statement for purposes of paragraph (b) of the Rule, (iii) use and distribute, or authorize the use and distribution of those official statements and any supplements thereto in connection with the original issuance of the Bonds, and (iv) complete and sign those official statements and any supplements thereto as so approved, together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of those official statements and any supplements, as they may deem necessary or appropriate.

(b) Application for Rating or Bond Insurance. If, in the judgment of the Director of Finance, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies, or (ii) a policy of

insurance from a company or companies to better assure the payment of principal of and interest on the Bonds, is in the best interest of and financially advantageous to this City, the Director of Finance is authorized to prepare and submit those applications, to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, except to the extent otherwise paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Director of Finance is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the Director of Finance determines to be necessary in connection with the obtaining of that bond insurance.

(c) Agreement to Provide Continuing Disclosure. For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in such manner as may be required for purposes of the Rule. The City Manager and the Director of Finance are each authorized and directed to complete, sign and deliver the Continuing Disclosure Agreement, in the name and on behalf of the City, in substantially the form as is now on file with the City Clerk. The Continuing Disclosure Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Continuing Disclosure Agreement or amendments thereto.

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its Continuing Disclosure Agreement, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the Director of Finance shall consult with and obtain legal advice from, as appropriate, the City Attorney and bond or other qualified independent special counsel selected by the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any such legal advice in determining whether a filing should be made. The performance by the City of its Continuing Disclosure Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

(d) Financing Costs. The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds, to the extent not paid by the Original Purchaser and/or the Bond Registrar in accordance with the Certificate of Award, the Purchase Agreement and/or the Registrar Agreement,

is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 10. Bond Counsel. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the City Clerk. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Director of Finance is authorized and directed, to the extent they are not paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 11. Municipal Advisor. The services of Rockmill Financial Consulting, LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. The Director of Finance is authorized and directed, to the extent they are not paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds

of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 12. Certification and Delivery of Ordinance and Certificate of Award. The City Clerk is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and an executed copy of the Certificate of Award to the County Auditor of the County of Delaware, Ohio.

Section 13. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance, the Certificate of Award and other authorizing provisions of law.

Section 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 15. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds, which is necessary to enable the City to timely enter into contracts for the construction of the Improvement and to coordinate the sale of the Bonds with other bonds of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

VOTE ON RULE SUSPENSION:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

VOTE ON EMERGENCY CLAUSE:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

PASSED: \_\_\_\_\_, 2019

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

## FISCAL OFFICER'S CERTIFICATE

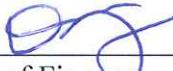
To the City Council of the City of Delaware, Ohio:

As fiscal officer of the City of Delaware, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$2,500,000 (the "*Bonds*"), to be issued for the purpose of paying the costs of improving and renovating City Hall and a related annex building and otherwise improving the site therefor, together with all necessary appurtenances thereto (the "*Improvement*"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.

2. The maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Ohio Revised Code, is fifteen (15) years. If and to the extent a portion of the proceeds of the Bonds may be determined to be allocated to a class or classes having a maximum maturity of less than fifteen (15) years but in excess of five (5) years, then the maximum maturity of the Bonds would still be fifteen (15) years by reason of a sufficient portion of the proceeds of the Bonds allocated to a class or classes having a maximum maturity or an estimated period of usefulness in excess of fifteen (15) years.

Dated: July 8, 2019

  
\_\_\_\_\_  
Director of Finance  
City of Delaware, Ohio



## FACT SHEET

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AGENDA ITEM NO: 14

DATE: 07/08/2019

ORDINANCE NO: 19-42

RESOLUTION NO:

READING: FIRST

PUBLIC HEARING: NO

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: Dean Stelzer, Finance Director

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,500,000 FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING AND INSTALLING A SOFTWARE SYSTEM FOR USE BY VARIOUS CITY DEPARTMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

**BACKGROUND:**

See attached memo

**REASON WHY LEGISLATION IS NEEDED:**

To enable the City to move forward with software acquisition and implementation.

**COMMITTEE RECOMMENDATION:**

Finance Committee, approval

**FISCAL IMPACT(S):**

This debt will be paid back over 5 years as included in the City's current Capital Improvement Plan.

**POLICY CHANGES:**

**PRESENTER(S):**

Dean Stelzer, Finance Director

**RECOMMENDATION:**

Approval

**ATTACHMENT(S):**

Memo



## MEMORANDUM

**TO:** City Council  
**FROM:** Dean Stelzer, Finance Director  
**DATE:** July 3, 2019  
**RE:** Bond Legislation

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The agenda for the July 8, 2019 City Council meeting includes ordinances authorizing the issuance of long-term debt.

**Ordinance 19-40** provides for the issuance of 15 year bonds to refinance bonds originally issued in 2009 to build the Southeast Highland Sewer project. The original borrowing was for \$15,150,000 over 28 years maturing in 2037. Current annual debt service on the original bonds would average \$997,823 per year for 19 more years. By refinancing the outstanding amount over the same remaining 19 years, we will be able to reduce are annual debt service payment from the current \$997,823 to \$862,458. After deducting issuance costs, the refinancing of these bonds will save the City approximately \$1,800,000 in total over the next 19 years.

**Ordinance 19-41** provides for the issuance of up to \$2,500,000 of new debt to finance the improvements made to the Annex Building and building improvements to be made to City Hall. The \$2.5 million amount is a not to exceed amount. We do not have a cost figure yet for the City Hall improvements. The actual amount borrowed may be less than the \$2.5 million amount in the legislation. The improvements to the Annex Building and to City Hall were included in the 2019-2023 CIP approved by City Council last year. The amount borrowed will be paid back over the next 15 years using the \$78,000 annual lease payments from Co-Hatch, about \$35,000 per year in impact fee money, and the remaining \$60k to \$75k to come from City funds.

**Ordinance 19-42** provides for the issuance of up to \$1,500,000 of new debt to finance the acquisition of various software application systems. This software acquisition and financing were included in the 2019-2023 adopted capital improvement plan. The bonds will be paid back over 5 years.

These financings were discussed with the Finance Committee at their June 17, 2019 meeting. Although there is no strict timeline for issuance of the debt, the current interest rate environment

is very favorable and issuing the bonds sooner than later reduces the chance that interest rates go up. Approving with the first reading enables us to move forward on issuing the debt. Going to a 2nd and 3<sup>rd</sup> reading merely pushes the issuance date back by 2 or 4 weeks.

ORDINANCE NO. 19-42

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,500,000 FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING AND INSTALLING A SOFTWARE SYSTEM FOR USE BY VARIOUS CITY DEPARTMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, this City Council has requested that the Director of Finance, as fiscal officer of this City, certify the estimated life or period of usefulness of the Improvement described in Section 2 and the maximum maturity of the Bonds described in Section 2; and

WHEREAS, the Director of Finance has certified to this City Council that the estimated life or period of usefulness of the Improvement is at least five (5) years and that the maximum maturity of the Bonds is five (5) years;

NOW, THEREFORE, BE IT ORDAINED by The Council of The City of Delaware, State of Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

“*Authorized Denominations*” means the denomination of \$5,000 or any integral multiple in excess thereof.

“*Bond Proceedings*” means, collectively, this Ordinance, the Certificate of Award, the Continuing Disclosure Agreement, the Purchase Agreement, the Registrar Agreement and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds.

“*Bond Register*” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

“*Bond Registrar*” means a bank or trust company authorized to do business in the State of Ohio and designated by the Director of Finance in the Certificate of Award pursuant to Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Registrar Agreement and until a successor Bond Registrar shall have become such pursuant to the provisions of the Registrar Agreement and, thereafter, “*Bond Registrar*” shall mean the successor Bond Registrar.

“*Bonds*” means, collectively, the Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

“*Book entry form*” or “*book entry system*” means a form or system under which (a) the ownership of beneficial interests in the Bonds and the principal of and interest and any premium on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form are issued by the City and payable only to a Depository or its nominee as registered owner, with the certificates deposited with and “immobilized” in the custody of the Depository or its designated agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Bonds and that principal and interest.

“*Certificate of Award*” means the certificate authorized by Section 6, to be executed by the Director of Finance, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“*City Attorney*” means the City Attorney of the City or any person serving in an interim or acting capacity with respect to that office.

“*City Clerk*” means the City Clerk of the City or any person serving in an interim or acting capacity with respect to that office.

“*City Manager*” means the City Manager of the City or any person serving in an interim or acting capacity with respect to that office.

“*Closing Date*” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“*Code*” means the Internal Revenue Code of 1986, as amended, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“*Continuing Disclosure Agreement*” means the Continuing Disclosure Agreement which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Bonds in accordance with the Rule, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 9(c).

“*Depository*” means any securities depository that is a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Bonds or the principal of and interest and any premium on the Bonds, and to effect transfers of the Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“*Director of Finance*” means the Director of Finance of the City or any person serving in an interim or acting capacity with respect to that office.

“*Financing Costs*” shall have the meaning given in Section 133.01 of the Ohio Revised Code.

“*Interest Payment Dates*” means, unless otherwise specified in the Certificate of Award, June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

“*Mandatory Redemption Date*” shall have the meaning set forth in Section 3(b).

“*Mandatory Sinking Fund Redemption Requirements*” shall have the meaning set forth in Section 3(e)(i).

“*Original Purchaser*” means the purchaser of the Bonds specified in the Certificate of Award.

“*Participant*” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

“*Principal Payment Dates*” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years from and including 2020 to and including 2024; *provided* that the first Principal Payment Date may be advanced up to one year and the last Principal Payment Date may be advanced by such number of years as determined by the Director of Finance, and *provided further* that in no case shall the final Principal Payment Date exceed the maximum maturity limitation referred to in the preambles hereto, all of which determinations shall be made by the Director of Finance in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“*Purchase Agreement*” means the Bond Purchase Agreement between the City and the Original Purchaser, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 6.

“*Registrar Agreement*” means the Bond Registrar Agreement between the City and the Bond Registrar, as it may be modified from the form on file with the City Clerk and executed by the City Manager and the Director of Finance, all in accordance with Section 4.

“*Regulations*” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

“*Rule*” means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934.

“*SEC*” means the Securities and Exchange Commission.

“*Serial Bonds*” means those Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“*Term Bonds*” means those Bonds designated as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose; Application of Proceeds. This Council determines that it is necessary and in the best interest of the City to issue bonds of this City in the maximum principal amount of \$1,500,000 (the “*Bonds*”) for the purpose of paying the costs of acquiring and installing a software system for use by various City departments, together with all necessary appurtenances thereto (the “*Improvement*”). The Bonds shall be issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The aggregate principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 2 and shall be issued in an amount determined by the Director of Finance in the Certificate of Award to be the aggregate principal amount of Bonds required to be issued at this time for the purpose stated in this Section 2, taking into account the costs of the Improvement, the estimates of the Financing Costs and the interest rates on the Bonds.

The proceeds from the sale of the Bonds received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper

fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of any municipal advisor, paying agent and rating agency, any fees or premiums relating to municipal bond insurance or other security arrangements determined necessary by the Director of Finance, and all other Financing Costs and costs incurred incidental to those purposes. The Certificate of Award and the Purchase Agreement may authorize the Original Purchaser to withhold certain proceeds from the purchase price of the Bonds to provide for the payment of Financing Costs related to the Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium (after payment of any Financing Costs identified in the Certificate of Award, and in the Purchase Agreement and/or the Registrar Agreement) or accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, *provided* that their dated date shall not be more than sixty (60) days prior to the Closing Date.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year (computed on the basis of a 360-day year consisting of twelve 30-day months) as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in principal amounts as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

Consistent with the foregoing and in accordance with the determination of the best interest of and financially advantageous to the City, the Director of Finance shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Date or

Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date and (ii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a “*Mandatory Redemption Date*”) and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds, and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year. The net interest cost for the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity or Mandatory Sinking Fund Redemption Requirements of those principal amounts of Bonds shall not exceed 6.00%.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the designated corporate trust office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register at the close of business on the 15<sup>th</sup> day of the calendar month next preceding that Interest Payment Date. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system, principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Director of Finance, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund redemption requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the

redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts being referred to as the “*Mandatory Sinking Fund Redemption Requirements*”).

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45<sup>th</sup> day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Director of Finance, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Director of Finance, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding

mandatory redemption obligations), as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in integral multiples of \$5,000, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Director of Finance in the Certificate of Award; *provided* that the redemption price for any optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity (and interest rate within a maturity if applicable) to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Director of Finance to the Bond Registrar, given upon the direction of the City by passage of an ordinance or adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and interest rate within a maturity if applicable) of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable) are to be redeemed, the selection of Bonds of that maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in amounts of \$5,000 or any integral multiple thereof, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then outstanding, each \$5,000 unit of principal thereof shall be treated as if it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of principal amount

represented by a Bond are to be called for redemption, then, upon notice of redemption of a \$5,000 unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the \$5,000 unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15<sup>th</sup> day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Sections 3(d) and 5, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and

portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds; *provided* that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, *provided* that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance, shall be numbered as determined by the Director of Finance in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The Director of Finance is hereby authorized to designate in the Certificate of Award a bank or trust company authorized to do business in the State of Ohio to act as the initial Bond Registrar. The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement between the City and the Bond Registrar, in substantially the form as is now on file with the City Clerk. The Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Registrar Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement, except to the extent paid or reimbursed pursuant to the Certificate of Award, and the Purchase Agreement and/or the Registrar Agreement, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the

certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its designated corporate trust office. Subject to the provisions of Sections 3(d) and 9(c), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 5. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated corporate trust office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner,

except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15<sup>th</sup> day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Director of Finance determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section 5.

The Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity, and, if applicable, each interest rate within a maturity, and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository or its designated agent for that purpose, which may be the Bond Registrar; (ii) the beneficial owners of Bonds in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form and Authorized Denominations to be authenticated by the Bond Registrar and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of

printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, that the Director of Finance determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Sale of the Bonds to the Original Purchaser. The Director of Finance is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Director of Finance in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Director of Finance with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance and the Purchase Agreement. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Ohio Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Director of Finance shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Purchase Agreement between the City and the Original Purchaser, in substantially the form as is now on file with the City Clerk, providing for the sale to, and the purchase by, the Original Purchaser of the Bonds. The Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

The Mayor, the City Manager, the Director of Finance, the City Attorney, the City Clerk and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The actions of the Mayor, the City Manager, the Director of Finance, the City

Attorney, the City Clerk and other City officials, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

Section 7. Provision for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

Section 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code,

for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties with respect to the Bonds, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments with respect to the Bonds, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds. The Director of Finance or any other officer of the City having responsibility for issuance of the Bonds is specifically authorized to designate the Bonds as “qualified tax-exempt obligations” if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Section 9. Official Statement, Rating, Bond Insurance, Continuing Disclosure and Financing Costs.

(a) Primary Offering Disclosure -- Official Statement. The City Manager and the Director of Finance are each authorized and directed, on behalf of the City and in their official capacities, to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, a disclosure document in the form of an official statement relating to the original issuance of the Bonds in substantially the form as is now on file with the City Clerk, (ii) determine, and to certify or otherwise represent, when the official statement is to be “deemed final” (except for permitted omissions) by the City as of its date or is a final official statement for purposes of paragraph (b) of the Rule, (iii) use and distribute, or authorize the use and distribution of those official statements and any supplements thereto in connection with the original issuance of the Bonds, and (iv) complete and sign those official statements and any supplements thereto as so approved, together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of those official statements and any supplements, as they may deem necessary or appropriate.

(b) Application for Rating or Bond Insurance. If, in the judgment of the Director of Finance, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies, or (ii) a policy of insurance from a company or companies to better assure the payment of

principal of and interest on the Bonds, is in the best interest of and financially advantageous to this City, the Director of Finance is authorized to prepare and submit those applications, to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, except to the extent otherwise paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Director of Finance is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the Director of Finance determines to be necessary in connection with the obtaining of that bond insurance.

(c) Agreement to Provide Continuing Disclosure. For the benefit of the holders and beneficial owners from time to time of the Bonds, the City agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in such manner as may be required for purposes of the Rule. The City Manager and the Director of Finance are each authorized and directed to complete, sign and deliver the Continuing Disclosure Agreement, in the name and on behalf of the City, in substantially the form as is now on file with the City Clerk. The Continuing Disclosure Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Continuing Disclosure Agreement or amendments thereto.

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its Continuing Disclosure Agreement, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the Director of Finance shall consult with and obtain legal advice from, as appropriate, the City Attorney and bond or other qualified independent special counsel selected by the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any such legal advice in determining whether a filing should be made. The performance by the City of its Continuing Disclosure Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

(d) Financing Costs. The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds, to the extent not paid by the Original Purchaser and/or the Bond Registrar in accordance with the Certificate of Award, the Purchase Agreement and/or the Registrar Agreement, is authorized and approved, and the Director of Finance is authorized to

provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 10. Bond Counsel. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the City Clerk. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Director of Finance is authorized and directed, to the extent they are not paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 11. Municipal Advisor. The services of Rockmill Financial Consulting, LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. The Director of Finance is authorized and directed, to the extent they are not paid or reimbursed pursuant to the Purchase Agreement and/or the Registrar Agreement, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds

of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 12. Certification and Delivery of Ordinance and Certificate of Award. The City Clerk is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and an executed copy of the Certificate of Award to the County Auditor of the County of Delaware, Ohio.

Section 13. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance, the Certificate of Award and other authorizing provisions of law.

Section 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 15. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds, which is necessary to enable the City to timely enter into contracts for the construction of the Improvement and to coordinate the sale of the Bonds with other bonds of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

VOTE ON RULE SUSPENSION:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

VOTE ON EMERGENCY CLAUSE:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

PASSED: \_\_\_\_\_, 2019

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
ABSTAIN \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

## FISCAL OFFICER'S CERTIFICATE

To the City Council of the City of Delaware, Ohio:

As fiscal officer of the City of Delaware, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$1,500,000 (the "*Bonds*"), to be issued for the purpose of paying the costs of acquiring and installing a software system for use by various City departments, together with all necessary appurtenances thereto (the "*Improvement*"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.
2. The maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is five (5) years.

Dated: July 8, 2019

  
\_\_\_\_\_  
Director of Finance  
City of Delaware, Ohio



## **DISCUSSION ITEM A:**

# **YMCA Contract Agreement for Recreation Services**



## MEMORANDUM

TO: Mayor Riggle and Members of City Council

FROM: R. Thomas Homan, City Manager 

DATE: July 3, 2019

RE: Contract Agreement for Recreation Services between the City and YMCA

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This discussion item was placed the agenda at the request of Councilman Hellinger and concerns the enclosed agreement between the City and Central Ohio YMCA, in which the YMCA provides recreation services to the City.

Representatives from the YMCA, including recently appointed President/CEO, Tony Collins, will be on hand to address Council and answer questions.

**From:** [Jenny Artemus](#)  
**To:** [Elaine McCloskey](#)  
**Subject:** Concerns about YMCA programs  
**Date:** Monday, June 24, 2019 5:02:22 PM

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**\*\*\*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.\*\*\***

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----- Forwarded message -----

**From:** Jenny Artemus <[jennyartemus97@gmail.com](mailto:jennyartemus97@gmail.com)>  
**Date:** Mon, Jun 24, 2019, 4:58 PM  
**Subject:** Concerns about YMCA programs  
**To:** <[emcclosky@delawareohio.net](mailto:emcclosky@delawareohio.net)>

To whom it may concern,

I have been experiencing personally and through others frustration at how the Y is running recreational programs for the city of Delaware.

As a 12U softball coach it has been extremely difficult to stay competitive with county teams for numerous reasons. Rob Morris has brought our concerns to you, but we need change to happen sooner than later to save the softball program. There are too many Delaware kids who are choosing to play for the county league over the Y for many reasons and mostly I am hearing that lack of communication and lack of proactively getting teams made earlier in order to have more practices and practices throughout the season. What sport only practices before the season and not during? The Y also will not give us use of their batting cages except for a decent fee when these cages are sitting empty, yet we are a Y program.

Then there is the issue of the Y no longer having a competitive swim team. In a town of this size and numbers so strong for a competitive swim team, I cannot understand why this program has been halted.

Lastly, Mingo pool. It has been understaffed and not properly run since it opened. We arrived there on Sunday, June 23rd at 1:43 p.m., and the pool opened at 1:00 p.m. that day, and the sign that said it was at capacity was out front. They let a few of us in, but many others were turned away. Members and season pass holders are being told they cannot go to their car to get something as they won't be allowed back in due to capacity. There were 5 lifeguards on duty and numerous empty lifeguard chairs.

As a taxpayer that was happy to have a YMCA come to this town, I have found that since the city combined city rec services with the Y, it has not been successful for the taxpayers. Perhaps it was successful for the city council, but I'm sure you can ask your constituents and they would have a lot to say about rec services, and Mingo pool. At what point does council step in to try and help? How do we, as city residents and tax payers keep the services we once had? And keep them at the top notch service in which we once had?

Thank you for your time and consideration and I look forward to hearing your resolutions and seeing them happen for the residents of Delaware city.

Jenny Artemus

## MANAGEMENT AGREEMENT

This Management Agreement (the "Agreement") is made and entered into on the 5th day of June, 2018, by and between the CITY OF DELAWARE, OHIO, an Ohio political subdivision (hereinafter the "City"), and THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF CENTRAL OHIO (hereinafter "YMCA"), an Ohio nonprofit corporation.

### WITNESSETH:

WHEREAS, the City is currently operating a Parks and Recreation Department which is comprised of a separate "Parks" division ("Parks Division") and a separate "Recreation" division ("Recreation Division"); and

WHEREAS, the City believes that it will be in the best interest of the City and its residents to have YMCA provide certain management services with respect to the Recreation Division of the Delaware Parks and Recreation Department, as more specifically set forth herein, inasmuch as YMCA has a demonstrated capability in (a) the provision of professional management of recreation programs and facilities and (b) the operation of quality recreational programming; and

WHEREAS, YMCA has and will benefit from the provision of such management services to the City inasmuch as the provision to the City and the surrounding community is complimentary to the organizational mission and objectives of the YMCA; and

WHEREAS, the City desires to engage YMCA to provide management services to the Recreation Division, and YMCA desires to accept such engagement, on the terms and subject to the provisions hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the City and YMCA do hereby agree as follows:

#### 1. ENGAGEMENT OF YMCA

(a) Engagement to Perform Management Services. Upon the terms hereinafter set forth, the City hereby engages YMCA to perform the Management Services (as hereinafter defined), and YMCA hereby accepts such engagement and agrees to perform such Management Services with diligence. For purposes hereof, the term Management Services shall mean (i) the provision of administrative services with respect to the operation of the Recreation Division, including but not limited to, management of the Recreation Division, hiring and supervising staff and employees, scheduling and coordinating recreation programming and facility leasing, (ii) the operation of the Mingo Park Recreation Center and Administrative Offices and the Jack Florance Aquatic Center, 500

East Lincoln Avenue, Delaware, Ohio (the "Recreation Facilities"), including, but not limited to, provision of janitorial services and Minor Repairs (as hereinafter defined) at the Recreation Facilities, (iii) the operation of recreation programming at the Recreation Facilities and at other City-owned facilities, including but not limited to, soccer fields, ball fields, basketball courts and tennis courts maintained by the Parks Division at the Mingo Park Complex (such other facilities being sometimes herein referred to as the "Parks Facilities") and (iv) In addition, the YMCA will take over the City's role in Harmony in the Park, Safety City, the Halloween Party, Easter Egg Hunt, and Adult and Youth Triathlons, as described below.

(b) Implementation/Operation Plan. Sixty days prior to commencement of this agreement, the YMCA will provide the City with a plan describing the implementation and operation of this agreement.

(c) Exclusions. Expressly excluded from the definition of Management Services shall be (i) the operation of the Parks Division and the maintenance of the Parks Facilities, (ii) the operation of any City-owned golf courses and (iii) the conduct of Major Repairs (as hereinafter defined), (iv) DYAA Youth Soccer, (v) Optimist Tackle Football and Cheerleading, The City agrees that it shall timely and diligently perform the foregoing excluded services throughout the term of this Agreement, so as to maximize the ability of YMCA to perform the Management Services.

(d) Location/employees. It is anticipated that YMCA shall conduct its administrative responsibilities largely from the Delaware Community Center/YMCA located on South Houk Road, Delaware, Ohio and shall staff in part its administrative and programming responsibilities with employees of the Delaware Community Center/YMCA. The YMCA will officially notify the City of personnel contact changes on a regular basis.

## 2. PERFORMANCE OF MANAGEMENT SERVICES BY YMCA

(a) Programs. YMCA shall be responsible for the day-to-day management and operation of the Recreation Division, including but not limited to, the implementation and operation of those programs which the YMCA determines, in the exercise of its commercially reasonable judgment, to be financially and physically feasible to be conducted at the Recreation Facilities and/or the Parks Facilities. All revenues generated by such programming shall be the property of YMCA and any and all costs associated with the programs conducted by YMCA pursuant to the provisions hereof shall be the responsibility of YMCA, excluding, however, the cost of utilities consumed in connection therewith, which costs the City hereby agrees to bear. In connection with the conduct of such programs, YMCA shall be entitled to the sole and exclusive use of the Recreation Facilities during scheduled programs and to the non-exclusive use in common with the general public of the Parks Facilities, on an as-scheduled basis.

(b) Maintenance of Recreation Facilities. Subject to the provisions of Paragraph 5(b) hereof, Daily routine maintenance of the Mingo Facility including JFlo such as cleaning of the facility, lighting, water testing and treating, touch up painting, supplies, minor repairs and adjustments, ceiling tiles, etc... (Chemicals for the pool are the responsibility of the YMCA). The Accreditation Report will be completed prior to the end of 2017. A quarterly inspection will be completed between City and YMCA staff using the reports. . The City will be responsible for all issues outside of those listed above as well as the preventative maintenance.

(c) Alterations or Improvements to the Recreation Facilities. YMCA shall have the right to make minor alterations or improvements to the Recreation Facilities, provided YMCA shall make the same in accordance with all applicable laws and in a good and workmanlike manner. Notwithstanding the foregoing, however, YMCA shall not make alterations or improvements to the Recreation Facilities which are structural in nature without first obtaining the approval from the Advisory Committee and the City, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) Staffing. YMCA shall hire the staff necessary and appropriate to perform the Management Services, as the YMCA shall determine in the exercise of its commercially reasonable judgment. All salaries, benefits and compensation of the staff shall be the responsibility of, and shall be paid by, YMCA. None of such items shall be paid or reimbursed by the City. As set forth in Paragraph 1(c), it is anticipated that some or all of the employees engaged to perform the Management Services may be employees shared with the Delaware Community Center /YMCA operations.

(e) Additional Program Funding. YMCA shall (i) seek program funding with the United Way of Delaware to maximize usage of the Recreation Facilities and programming at the Recreation Facilities and the Park Facilities, (ii) coordinate long-range goals for the operation of the Recreation Division, (iii) seek partners for the development of programs to be held at the Recreation Facilities and the Park Facilities and (iv) generate ideas and programs for revenue and continued operation of the Recreation Division. Program funding obtained from the United Way of Delaware or from other grants shall be the property of YMCA for use in accordance with grant criteria.

(f) At a minimum, the YMCA will provide the programming referenced in Exhibit A. The YMCA may offer additional programming at its discretion.

(g) Facilities will be made available for rental by residents at rates listed in Exhibit B. Facilities will be rented on a first-paid, first-served basis. Current user Angel Dunlap Dancing will continue to be permitted to rent facilities. The City recognizes that the YMCA may require any group renting facilities managed by

the YMCA to purchase liability insurance naming the City and the YMCA as additional insured parties. For special events, the YMCA shall require any group renting facilities managed by the YMCA to purchase liability insurance naming the City and the YMCA as additional insured parties.

(h) The YMCA is responsible for purchasing inventory and equipment necessary for programming offered, including but not limited to balls, concession equipment, and capital equipment such as ball field drags for ball fields. At the start of the agreement, the city will sell existing inventory and equipment to the YMCA at cost following the requirements of Delaware Codified Ordinance Section 108.02.

(i) At the end of each fiscal year, the YMCA and the City will meet to discuss the program report required under Section 4(d) and discuss any proposed changes to the programs and rates. Changes will be memorialized in an amendment to this agreement.

(j) On a biannual basis the City and the YMCA will conduct a customer satisfaction survey on recreation users to determine satisfaction levels and report the findings to the advisory committee and the Parks Advisory Board.

(k) The YMCA is responsible for tracking Mingo Pool visitors and will categorize per the following: 1) YMCA members, 2) Mingo Pool members, 3) Day passes, 4) Group entries. This will allow City and YMCA staff to accurately track visitors. Tracking shall also include revenues associated with each group.

### 3. MANAGEMENT AUTHORITY OF YMCA/ADVISORY COMMITTEE

(a) YMCA shall have all necessary powers of management, with full authority to do all acts not restricted or prohibited herein or by law that are necessary or desirable for the proper performance of the Management Services. Using current and past Recreation Division programming as a model, YMCA shall have the freedom and discretion to perform the Management Services, including but not limited to, the discretion and authority to make all decisions pertaining to personnel, building usage, program design, hours of operation and building/program rules and regulations.

(b) Notwithstanding the foregoing, however, it is understood and agreed that the parties shall establish an "Advisory Committee" to make recommendations to YMCA regarding community needs. The representatives of the Advisory Committee shall include three current members of the Parks and Recreation Advisory Board, an additional two members of City Council, and three representatives appointed by YMCA. In addition, the Parks and Natural Resource Director and City Manager or their designee shall serve as ex-officio members of the "Advisory Committee". YMCA shall establish by-laws, which will be approved by the Committee, pursuant to which the Advisory Committee shall operate. The

sole function of the Advisory Committee shall be to advise YMCA and the City on community interests as they relate to the operation of the Recreation Division and the performance of the Management Services. YMCA shall take into consideration such advice and recommendations.

(c) The City Manager will designate a staff member to serve as a point of contact for the YMCA management agreement and will manage the contract on behalf of the city.

#### 4. ADDITIONAL RESPONSIBILITIES OF YMCA

(a) Compliance with Law. YMCA hereby agrees that, in the performance of its duties hereunder, YMCA shall comply with all applicable laws, ordinances, orders, rules, regulations, and requirements of all federal, state and local government authorities, courts, commissions, bodies, boards and officers.

(b) Non-discrimination. In the hiring of employees for the performance of the services contemplated under this Agreement, YMCA and all persons acting on behalf of YMCA, shall not, by reason of race, creed, religion, sex, handicap, or color, discriminate against any citizen of this State in the employment of labor or workers who are qualified and available to perform the work to which the employment relates. Further, neither YMCA nor any person acting on YMCA's behalf, shall discriminate against or intimidate any employee hired for the performance of the services contemplated hereunder on account of race, creed, religion, sex, handicap, or color.

(c) YMCA's Employees. All personnel employed by YMCA to provide the Management Services shall at all times and for all purposes be solely the employees of YMCA, under the direction and supervision of YMCA. YMCA shall assure that all such personnel have the legal ability to work in the United States. It is understood and agreed that YMCA and its personnel are acting as an independent contractor to the City in the provision of the Management Services hereunder. Neither YMCA nor any of its personnel shall in any event be entitled to participate in, or to receive any benefits from, any of the City's employee benefit or welfare plans.

Further, YMCA shall withhold and/or pay all federal and state income taxes, social security taxes, federal and state unemployment insurance and similar taxes and all other assessments, taxes, contribution or sums payable with respect to YMCA or any of its personnel as a result of or in connection with the Management Services provided hereunder, and YMCA shall file (and shall direct all of its personnel to file) all returns and reports with respect to any of the foregoing. The provisions of this Paragraph 4(c) shall survive the expiration or earlier termination of this Agreement.

(d) Program Reports. On October 1st of each year of this Agreement, YMCA shall prepare and submit a report on the programs operated by YMCA over the past year (hereinafter a "Program Report"). Each Program Report shall set forth the following information relative to the particular fiscal year of YMCA: (i) the number of persons utilizing each Recreation Facility and program provided pursuant hereto, (ii) a summary of the programs and events conducted by YMCA pursuant to the provisions hereof, (iii) a summary of the expenditures and revenues associated with each Recreational Facility and program, (iv) an analysis of the quality of the programs and events conducted by YMCA pursuant to the provisions hereof and (v) a summary of programs that YMCA proposes to conduct for the Recreation Division during the following fiscal year and the proposed rates.

(e) Safety and Protection. In the performance of the Management Services, YMCA shall (i) comply with all applicable provisions of federal, state and local safety laws and building codes in an effort to prevent accidents or injury to employees and to persons participating in the programs of the Recreation Division, (ii) take all legally required precautions for the safety of employees and all persons participating in the programs of the Recreation Division and (iii) emphasize regularly to its employees the need for continual attention to accident-prevention efforts and strategies.

## 5. MAINTENANCE OF RECREATION FACILITIES

(a) Daily routine maintenance of the Mingo Facility including JFlo such as cleaning of the facility, lighting, water testing and treating, touch up painting, supplies, minor repairs and adjustments, ceiling tiles, etc... (Chemicals for the pool are the responsibility of the YMCA). The Accreditation Report will be completed prior to the end of 2018. A quarterly inspection will be completed between City and YMCA staff using the reports.

(b) The City will be responsible for all issues outside of those listed 5(a) as well as the preventative maintenance.

(c) Prior to the start of the 2018 contract, the parties will negotiate the Accreditation Report (Exhibit C- which will be added at the end of 2018) to this agreement, which will detail the responsibilities of the City and the YMCA regarding maintenance.

## 6. REVENUES AND COMPENSATION

(a) As compensation for the Management Services provided by YMCA under this Agreement, and in consideration for YMCA entering into this Agreement, the City acknowledges and agrees that YMCA is hereby entitled to collect and retain all revenues generated from programs conducted by YMCA pursuant to this Agreement. The YMCA is permitted to retain rental revenues

from the the Jack Florance Pool, Hilborn Room and the Bixby Room, Hilborn Room Kitchen.

(b) In addition to the foregoing, the City shall pay to YMCA a management fee (the "Management Fee") of \$ 198,802.00 in 2018 and \$ 203,772.00 in 2019 and \$208,866.00 in 2020 and \$214,089.00 in 2021 and \$219,441.00 in 2022, subject to funding by legislative authority.

The Management Fee shall be payable in quarterly installments on the last business day of each January, April, July and October during the term hereof, commencing on January 1, 2018. Future years' management fees will be negotiated based on the Program Reports submitted by the YMCA.

## 7. TERM AND TERMINATION

(a) The term of this agreement shall commence on January 2, 2018 and shall continue through December 21, 2020, subject to funding by the legislative authority. The city can renew this agreement for two additional one year terms (2021 and 2022) under the fee schedule set forth in Section 6 by providing written notice to the YMCA 30 days prior to the expiration of the contract term.

(b) Breach or Default. If one party to this Agreement breaches, or defaults in performance of, any material term, condition or provision of this Agreement, the other party to this Agreement shall give to the other party written notice of such default. The defaulting party shall thereafter have sixty (60) days within which to cure any such default. Unless and within such sixty (60) day period: (i) such breach or default has been cured; or (ii) a cure thereof has been commenced which, in the reasonable opinion of the party giving the notice, will correct the breach or default so long as such cure is continued with diligence, the party giving such notice shall thereafter have the right to terminate this Agreement upon written notice to the defaulting party, without prejudice to the other rights and remedies available to the non-defaulting party at law or in equity. Notwithstanding the foregoing, YMCA shall have the right to terminate this Agreement upon fifteen (15) days notice if the City fails to timely pay any installment of the Management Fee to YMCA.

(c) Voluntary Termination. Either party to this Agreement shall have the right to terminate this Agreement without cause by giving ninety (90) days prior written notice of termination to the other party. In such event, this Agreement shall thereupon terminate at the end of such one ninety (90) day period and neither party shall thereafter have liability hereunder, except with respect to defaults in existence on the date of termination.

(d) Force Majeure. In the event that further lawful performance of any non-monetary obligation under this Agreement, or any part hereof, by either party

shall be rendered impossible by, or as a consequence of, any law, order or act of any government or political subdivision thereof having jurisdiction over such party, or by acts of public enemies, war, strikes or other labor disturbances, fires, floods, acts of God or any causes of like or different kind beyond the control of either party, said party shall be excused from any such failure to perform to the extent such failure is attributable to such cause or causes, except that the party whose performance has been affected must take all reasonable means to remedy the force majeure occurrence as expeditiously as possible, failing which relief under this Paragraph 7(d) shall not be available to such party. In the event such force majeure occurrence continues unabated for thirty (30) days, then either party shall have the right to terminate this Agreement in accordance with the provisions of Paragraph 7(b) hereof.

(e) Survival of Terms. Upon the expiration or earlier termination of this Agreement, any provisions hereof that expressly or otherwise by their intent are intended to survive beyond such expiration or earlier termination shall survive.

(f) All data collected by the YMCA as part of this contract, including but not limited to participant lists and payment records, are the property of the City. Upon termination of the contract, those materials covering the last 12 months will be provided to the City to ensure a smooth transition.

## 8. LIABILITY AND INDEMNIFICATION

(a) YMCA Liability. YMCA shall be liable for damages which, due to YMCA's negligence or the negligence of YMCA's employees, occur (i) to the Recreation Facilities, or its fixtures, equipment and furnishings, (ii) to tools, equipment, machinery, trade fixtures, or other items provided to YMCA by the City, (iii) to property of other users of the Recreation Facilities, or (iv) to persons for injuries or death, but YMCA shall have no liability for injuries or other damages to any person caused (v) by any disrepair of the Recreation Facilities existing as of the date of this Agreement and indicated in the initial walkthrough of the premises, or arising due to the failure of the City to make Major Repairs or (vi) by any fault (known or unknown, overt or covert) in the design or construction of the Recreation Facilities.

(b) Indemnification by YMCA. YMCA shall hold harmless and indemnify the City from any and all claims for damages to property, injuries or death or other liability arising from (i) YMCA's negligence, or the negligence of YMCA's employees, (ii) claims of persons with whom YMCA contracts, or (iii) claims of unlawful discrimination by YMCA's employees or by applicants for employment with YMCA, including, but not limited to, costs, fees and expenses (including attorneys' fees and expenses) incurred by the City as a result of such claims.

(c) City Liability. The City shall be liable for all damages which YMCA shall incur for damages to property, injuries or death or other liability arising from (i)

the City's negligence or the negligence of the City's employees or (ii) the failure of the City to make Major Repairs, for which YMCA has given the City notice, including, but not limited to costs, fees and expenses (including attorneys' fees and expenses) incurred by the YMCA as a result thereof.

## 9. INSURANCE

(a) YMCA Liability Insurance. YMCA shall at all times during the term of this Agreement keep in force a policy of commercial general liability insurance, which may be through an endorsement on a blanket liability insurance policy. YMCA's insurance shall name the City as an additional insured against any and all damages and liability on account of or arising out of injuries to or the death of persons in the Recreation Facilities or engaged in programming activities conducted by YMCA hereunder, or for property damage, arising out of or relating to YMCA's use of the Recreation Facilities or the Parks Facilities, in the minimum amount of One Million Dollars (\$1,000,000) combined single limit on an occurrence basis (such additional insured's coverage under YMCA's commercial general liability policy to be primary). Said policy shall be issued by an insurer licensed to do business within the state of Ohio which is rated at least A- and VIII in Best's Insurance Reports, or equivalent. In addition to the foregoing, Tenant shall maintain Five Million Dollars (\$5,000,000.00) "umbrella" coverage applicable to the Recreation Facilities and the Parks Facilities. The minimum limits hereinbefore set forth may, at the City's option, be increased by such amounts during the term hereof as the City shall reasonably determine, based upon the periodic analysis of such coverage by an independent insurance consultant. Tenant shall deliver to the City certificates of insurance or duplicate originals of each such policy, naming the City as an additional named insured.

(b) City Property Insurance. Throughout the term hereof, the City shall, at the City's sole cost and expense, provide and maintain or cause to be provided and maintained a property insurance policy insuring all Recreation Facilities from all the hazards and perils normally covered by the Causes of Loss-Special Form. The foregoing property coverage shall be provided in amounts sufficient to provide one hundred percent (100%) of the full replacement cost of all such improvements.

(c) City Liability Insurance. The City shall at all times during the Term of this Agreement, maintain a policy of commercial general liability insurance, which may be through an endorsement on a blanket liability insurance policy. The city's insurance shall name YMCA as an additional insured against any and all damages and liability on account of or arising out of injuries to or the death of persons or for property damage, occurring upon, in or about the Recreation Facilities or the Park Facilities, arising due to the sole act or neglect of the city

or its employees, in the minimum amount of \$1,000,000 (\$1,000,000) combined single limit on an occurrence basis. Said policy shall be issued by an insurer licensed to do business in the state of Ohio which is rated at least A and VIII in Best's Insurance Reports or equivalent. In addition, to the foregoing, the city shall maintain Ten Million Dollars (\$10,000,000) "umbrella" coverage applicable to the Recreation Facilities and Park Facilities. The city shall deliver to YMCA certificates of insurance or duplicate originals of each such policy, naming YMCA as an additional insured to protect the YMCA from the city's sole negligence and not for negligent acts that are solely caused by the YMCA.

(d) Policy Requirements. The policies described in this Paragraph 9 shall: (i) comply with the requirements hereof in form and content; (ii) contain an express waiver of any right of subrogation by the insurance company against the City and YMCA and their respective agents and employees (and any certificate of insurance shall so state); (iii) contain a provision that such policies shall not be canceled and that it shall continue in full force and effect unless at least thirty (30) days prior written notice has been given to the City and YMCA of such cancellation or termination; (iv) not be materially changed without prior notice to the City and YMCA; and (v) be issued by a company with a rating of at least A-, as listed by A.M. Best. If for any reason the Causes of Loss-Special Form is not customarily used in the insurance industry, then the property insurance policy then in effect shall at least provide coverage for the following perils: fire, lightning, windstorm and hail, explosion, smoke, aircraft and vehicles, riot and civil commotion, vandalism and malicious mischief, sprinkler leakage, sinkhole and collapse, and increased costs of construction and demolition due to law, ordinance and inflation.

(e) Worker's Compensation Insurance. Worker's compensation insurance in compliance with State of Ohio Worker's Compensation laws shall be maintained by YMCA, at YMCA's sole cost and expense.

(f) Waiver of Subrogation. The parties release each other, and their respective authorized representatives, from any claims for damage to any person or to property in or on the Recreation Facilities to the extent covered by or required to be covered by the insurance of the parties under this Agreement. The City and YMCA shall each have their insurance policies issued in such form as to waive any right of subrogation which might otherwise exist.

## 10. INTERPRETATIVE PROVISIONS

(a) Binding Agreement. At all times, this Agreement shall inure to the benefit of and constitute a binding obligation of the City, the YMCA, and their respective successors.

(b) Entire Understanding. This Agreement sets forth the entire understanding between the parties concerning the subject matter of this

Agreement, and incorporates all prior and contemporaneous negotiations and understandings.

(c) Independent Parties. This Agreement does not constitute, nor shall it be construed as constituting, a partnership, joint venture or similar business relationship between the City and YMCA. Neither party shall have the right to make representations on behalf of the other party or to obligate or bind the other party in any manner whatsoever, except as may be expressly provided in this Agreement.

(d) No Waiver. No waiver by either party of any default by the other party of any term or provision contained herein shall be deemed to be a waiver of such term or provision unless the waiver is in writing signed by the party to be charged, and no such waiver shall in any event be deemed a waiver of any subsequent default under the same or any other term or provision contained herein.

(e) Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained in this Agreement. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

(f) Headings. The captions and headings in this Agreement shall be solely for convenience of reference and shall in no way define, limit or describe the scope or intent of any provisions, articles or sections of this Agreement.

(g) Governing Law. This Agreement shall be governed and construed by the provisions hereof and in accordance with the laws of the State of Ohio applicable to agreements to be performed in the State of Ohio.

(h) Counterparts. This Agreement may be executed in counterparts, each of which when executed by the parties shall be deemed an original and all of which together shall be deemed the same Agreement.

(i) Modifications. This Agreement may not be changed or terminated orally and may not be assigned by YMCA without the prior written consent of the City.

(j) Specific Performance. In addition to all other rights and remedies provided at law or in equity, each of the parties shall have the right to specific performance of the terms of this Agreement in the event of breach of this Agreement by the other party.

(k) Cooperation. The parties hereto shall cooperate in good faith with each other in the provision of the Management Services during the term of this Agreement.

(l) Notices. Any payment, consent, waiver, notice, demand, request or other instrument required or permitted to be given under this Agreement shall be deemed to have been properly given when delivered in person or sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed:

If to YMCA, to:

The Young Men's Christian Association of Central Ohio  
Attention: Mr. Steve Ives  
40 West Long Street  
Columbus, Ohio 43215

If to the City, to:

City of Delaware  
1 South Sandusky Street,  
Delaware, Ohio 43015  
Attn: City Manager

Either party may change its address for notices by notice in the manner set forth above.

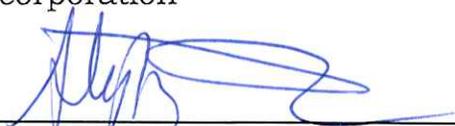
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and to be effective as of the day and year first above written.

City of Delaware, Ohio, an Ohio political  
subdivision

By:  \_\_\_\_\_

Its: City Manager \_\_\_\_\_

The YMCA of Central Ohio, an Ohio not for  
profit corporation

By:  \_\_\_\_\_

Its: CEO \_\_\_\_\_

Approved As To Form:

  
Darren Shulman (Jun 5, 2018)

Darren M. Shulman, City Attorney

<b>EXHIBIT A</b>	
<b>Program/Special Event</b>	<b>Registration Fee</b>
Harmony In The Park	Free
Halloween Party	Free
Easter Egg Hunt	Free
Calls From The North Pole	Free
Healthy Kids Day	Free
Safety Town	\$35
Dave Staley Triathlon	Adult-\$35 Youth-\$25
Pumpkin Run/Walk	5K Run/Walk-\$30 1 Mile Walk-\$20 Kids Sprint-\$5
Daddy-Daughter Dance	\$25/\$10 each additional daughter
Mother-Son Super Hero Party	\$25/\$10 each additional son
Safety Town	\$35
Doggie Dive-In	\$5 pre-registered \$10 day of registration
Youth Fire Camp	\$40
Youth Police Camp	\$40
T-Ball and Coach Pitch	\$40
Mustang League Baseball	\$40
Little League Baseball	\$45
U-10 Softball	\$40
U-12 Softball	\$45
Youth Basketball	\$45
Youth Flag Football	\$34
Youth Soccer	\$40
Youth Golf Lessons (Six Lessons)	\$26
Adult Golf Lessons (Six Lessons)	\$75
Youth Tennis Lessons	\$55
Adult Tennis Lessons	\$80
Stage A, B, 1, 2 & 3 Swimming Lessons	\$40
Stage 4, 5, 6, & Speciality Classes	\$50
Morning Swim Rates	Free with Pool Pass \$3 Daily or \$25 for Morning Swim Season Pass
DARTS Swim Pass	\$50 for Season

EXHIBIT A
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Program/Special Event	Registration Fee
-----------------------	------------------

Jack Florance Pool Daily Pass	Adult-\$6, Ages 3-17-\$4
Jack Florance Pool Season Pass	Family of 2-\$125 Family of 3-\$145 Family of 4-\$165 Family of 5-\$185 Each Additional Person-\$10/per person Youth-\$105 Adult-\$110 Senior (62+)-\$60
Adult Softball	\$375-Summer Season \$275-Fall Season
Adult Soccer	\$50-Individual \$250-Team

**EXHIBIT B**

Jack Florance Pool Rental	1-149 people-\$250/hr 150 + people-\$300/hr
Ball Fields at Smith or Mingo Parks	\$25 for first game, \$5 each additional game. \$100 deposit returned if field is undamaged and clean. \$20/hr for lights
Hilborn and Bixby Rooms	\$20/hr Hilborn Kitchen-Additional \$25/hr Set Up/Tear Down-\$40/per room
Outdoor Picnic Shelter/Gazebo Rentals Weekday (Mon-Thurs)	Single Block- \$20 All Day-\$40
Weekend (Fri-Sat-Sun)	Single Block-\$50 All Day-\$100
Mingo 3 Season/Veterans Spray & Play Shelters Weekday (Mon-Thurs)	Single Block-\$40 All Day-\$80
Weekend (Fri-Sat-Sun)	Single Block-\$70 All Day-\$130



## **DISCUSSION ITEM B:**

# **Suspension of Rules Guidelines**



## MEMORANDUM

TO: Mayor Riggle and Members of City Council  
FROM: R. Thomas Homan, City Manager  
DATE: July 3, 2019  
RE: Discussion of Rule Suspension

This discussion item was placed the agenda at the request of Councilwoman Keller and includes the guidelines passed by Council in Resolution No. 14-18. Below are the comments from Dave Efland, Planning and Community Development Director, regarding this discussion:

*Tom – you asked for some input on the Ordinance Reading policy. There has been a lot of communication on this topic through the years dating from 2014. The last round of changes that resulted in the current policy changed what had traditionally been a one reading process for cases that did not require a public hearing and were administrative acts – plats, plans, and the like. Other cases that required public hearings such as condition use permits and zone changes were a minimum of 2 readings. The change in policy was to indicate that everything would go to at least 2 readings.*

*My thoughts on this remain the same as they were in 2014. With a development process that as virtually everything in development go from Planning Commission to City Council, a development case has been reviewed, read, and heard numerous times before a final Council decision. The public has had at least 2 opportunities for input and typically, under the current policy, 3-4 opportunities.*

*I would continue to recommend that cases involving administrative acts – typically development plans and plats - be eligible for 1 reading. If controversial Council can always decide to take it to more readings to obtain more input and/or information. For cases that are legislative acts – typically annexations, rezoning, and the like but also including the administrative act of Conditional Use Permits – a minimum of 2 readings would be necessary as they require public hearings. However, if the cases is in order and non-controversial, I see no particular reason not to pass the case at the second reading. Council can determine this on a case by case basis and could take additional readings as needed.*

*Additionally, there are a mixture of terms and processes in the current process that do not dove tail with the terms and processes required and I believe this creates some confusion when interpreting them. For example, a 'redevelopment project' but this is not really defined in code or process.*

*I would be happy to draft a revised policy for consideration along the lines of the above, if desired, for consideration by Council.*

RESOLUTION NO. 14-18

A RESOLUTION ADOPTING GUIDELINES FOR READINGS FOR THE CITY OF DELAWARE.

WHEREAS, City Council met and discussed the desire to adopt guidelines for adopting legislation, and

WHEREAS, to provide for ongoing continuity when approving various legislative items that come before City Council, and

WHEREAS, it is the intent of the City Council to follow the Guidelines for Readings, attached hereto, to be adopted formally by City Council.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That the attached Guidelines for Readings document is hereby adopted as a policy of the City of Delaware City Council.

SECTION 2. That this resolution shall take effect and be in force immediately after its passage.

PASSED: May 29, 2014

YEAS 7 NAYS 0  
ABSTAIN 0

ATTEST: Glaine McCoskey  
CITY CLERK

Candace Key Regan  
MAYOR

## Guidelines for Ordinance Readings

1. As a general rule, legislation **amending the Delaware Codified Ordinances, adopting the annual budget, and adjusting City employee compensation**, will proceed to three readings.
2. Except in very rare circumstances, **development projects** will go to at least two readings.
  - a. If no members of the public testify in opposition to the project at the public hearing, Council may vote on the second reading.
  - b. Re-development projects that do not require a public hearing *may* be approved at the first reading.
  - c. In the event that Council has canceled a regularly scheduled meeting that would otherwise have been the second reading, it *may* proceed on the first reading if the applicant shows it will suffer substantial adverse economic impact by waiting.
  - d. Applicants shall be made aware Council might take the legislation to three readings and plan accordingly when preparing their application.
3. Council might suspend the rules on the first reading in the following circumstances:
  - a. **Emergencies/Unexpected** circumstances which prevented staff from putting the item on the agenda earlier.
  - b. **Uncontroversial** items such as legislation accepting grants, entering into intergovernmental agreements, and authorizing routine financial transactions.
  - c. **Time Sensitive** legislation which requires an effective date before another meeting can be scheduled.
  - d. **Economic Incentives Offered Pursuant Pre-Approved Economic Development Incentive Plan (EDIP)**.
4. In the event a motion to suspend the rules is made during the first reading, the public will be given an opportunity to address council prior to the vote on the agenda item.
5. When staff is requesting that Council suspend the rules requiring three readings, staff will indicate why a rule suspension is necessary in its recommendation included in the council packet. When possible, staff will provide insight as to why the item was not placed on the agenda earlier.

# City Council Annual Ethics Review

July 8, 2019

Christopher Ballard- Assistant City  
Attorney / Prosecutor



# The City of Delaware

## There are three sources of ethical considerations:

- Ohio Revised Code / United States Code
  - Criminal penalties
- City of Delaware Ethics Policy & Charter
  - Art. III, Sec. 11, Sec. 12 & Art. VIII, Sec. 52.
- Appearance of Propriety
  - Risk of loss of faith in elected officials

# The City of Delaware

## Requests for political support

- **Question: Can City Employees sign City Council member petitions to run for office?**
- **Answer: There is no law prohibiting signing petitions. However, it can put employees in a difficult position to ask. Our suggestion to council members is not to ask city employees to sign.**
- **Question: Can a City Council Member request campaign help from a city employee?**
  - Help includes going door to door, putting up signs, giving endorsement
- **Answer: While it is not explicitly prohibited, such help can present an appearance of impropriety as outlined by the ICMA Code of Ethics.**



# The City of Delaware

## Political Activity: Contributions

- Can City Council member solicit campaign donations from an employee?
- No. Under ORC 3517.092 “No candidate for an elective office of a political subdivision of the state ... shall solicit a contribution ... from ... an employee of that political subdivision ... whose appointing authority will be the candidate, if elected.” However, a member may accept voluntary, unsolicited, contributions from employees. [R.C. 3501.01(T), 3517.092]

# The City of Delaware

## Ohio's Ethics Law

- The Ohio Ethics Commission was created by the Ohio Ethics Law, enacted on January 1, 1974. The law can be found in R.C. 102, 2921.42, and 2921.43.
- The Ethics Commission oversees all state and local public employees, except legislative and judicial members.
- The Ethics Commission's duties are to:
  - Render advice to public officials to protect against conflicts.
  - Provide education and Information on ethics law prohibitions against conflicts of interest.
  - Administer financial disclosures from state, county, and city officeholders, candidates, and board members.
  - Conduct confidential investigation into allegations of unethical activity and secures remedial response.
  - Assists the General Assembly in the consideration of ethics-related legislation.



# The City of Delaware

## Potential Criminal Liability

- Ethics violations as a public employee can result in criminal prosecution.
- State examples:
  - Interest in a Public Contract (R.C. 2921.42)
  - Bribery (R.C. 2921.02)
  - Theft in Office (R.C. 2921.01(K))
  - Tampering with Records (R.C. 2913.42)
- Federal examples:
  - “Honest services” Fraud, Mail, and Wire Fraud (18 USC 1341, 1343).
  - Hobbs Act (18 USC 1951) (bribery / extortion)
  - Making False Statements (18 USC 1001)



# The City of Delaware

## What is a conflict of interest?

- From the manual: “An actual or potential conflict of interest is when an employee is in a position to influence a decision or have business dealings on behalf of the City that might result in a personal gain for the employee, an employee’s relative(s), or business associate(s).”
- Personal gains can result from situations where an employee, and employee’s relative(s), or business associate(s) receive a kickback, bribe, substantial gift, or special consideration because of a transaction or business dealing involving the City

# The City of Delaware

## Favors, Gifts, Gratuities, and Rewards

- From the manual: “No employee shall **seek, receive, or give** any gratuity (in the form of compensation, entertainment, trips, gifts, favors, or otherwise) of “**significant value**” from or to **those who have or seek business dealings or exchange services with the City of Delaware**. It is expressly prohibited for any employee, in any way, to use their position or influence for private gain for themselves or others.
- This policy mirrors the Ohio Ethics Law.
- Members are required to disclose sources of gifts in their annual disclosure forms.

# The City of Delaware

## What is “Significant Value?”

- What are some examples of gifts that have a substantial value?

Lunch at J. Gumbos  
Summer job for Son  
Squeeze ball  
Trip to Dayton  
Ohio State tickets  
Fancy Dinner  
Signed Photo of Darren  
Cell Phone Screen Cleaner  
Cell Phone

# The City of Delaware

## Favors, Gifts, Gratuities, and Rewards

How much can you accept as a gift?

- A) \$25.00
- B) \$100
- C) \$1,000,000.00
- D) It Depends/This Seems Like a Trick Question

The “Answer”:

- Ohio Revised Code: Substantial Value = no hard line number
  - Bob Evans Rule
- Ethics Policy: \$75 cap
- Depending on who gives the gift, the right answer could be \$0.
- Cumulative throughout the year



# The City of Delaware

## “Improper Influence”

- RC 102.03(D) prohibits members from using or authorizing the use of his office or employment to secure anything of value or the promise of anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to his duties.
- RC 102.03(E) prohibits members from soliciting or accepting anything of value that is of such character as to manifest a substantial and improper influence upon him with respect to his duties. Normal campaign contributions are excluded from this prohibition under RC 102.03(G).
- City ethics policy prohibits members from soliciting or accepting honoraria (see R.C. 102.01(H) & R.C. 102.03(H))

# The City of Delaware

## Art. VIII, Sec. 52 of the City Charter.

- “Neither Council nor any of its members or committees shall direct or request the appointment of any person to, or his/her removal or transfer from, office or employment by the City Manager or by any of his/her subordinates, or in any manner take part or interfere in the appointment, discipline, transfer, or removal of officers and employees in that part of the administrative service of the City for which the City Manager shall be responsible. No member of Council shall intercede for or participate as counsel or attorney for any officer or employee subordinate to the City Manager, in any hearing or investigation having to do with the discipline or removal of such officer or employee, except in hearings before Council. Except for purposes of inquiry, Council and its members shall deal with that portion of the service of the City for which the City Manager is responsible solely through the City Manager. Neither Council nor any member thereof shall give orders to any subordinate of the City Manager except as provided in Article XVIII, [Section 89](#), either publicly or privately, either directly or indirectly.”



# The City of Delaware

## Gifts

- A gift can be accepted if it is clear that the gift is motivated by the giver's family relationship or a personal friendship with you, rather than your position with the City. Per the Ohio Ethics Commission, relevant factors to consider are:
  - The duration and nature of the preexisting private relationship;
  - Whether it has been common for you to exchange gifts before you were elected to City Council;
  - Whether the giver personally bought the gift or bought it with business funds; and,
  - Whether the giver has given similar gifts to other City employees.

# The City of Delaware



## Holiday Gifts: A Preview

Every year Darren sends out an “Ethics and the Holiday Season” email. Here is an advanced preview:

- Do not accept cash or gifts.
- Legal can provide a ‘thanks but I can’t accept it’ letter.
- Exception 1: Food, candy, etc. Put out in common area to share.
- Exception 2: City (not individuals) can accept a gift that can be used by the City, such as office supplies, first aid kit.

# The City of Delaware

## Outside Employment

- City policy prohibits using “City of Delaware,” a Council member’s title, or the City logo in a manner that suggests impropriety, favoritism, or bias by the City or the member. This includes using any of the above to obtain consulting work.
- Example: “As a city councilman, I know how to get things approved by the City. Hire me to be your consultant.”



# The City of Delaware

## Outside Employment – Ohio Ethics Law

It is illegal for a member to:

- Sell goods or services to the City, except through competitive bidding, unless they meet an exception to the law; and,
- Use his or her position to get a public contract or payments from the city.
- Have an interest in the profits of a public contract with the City (criminal charge under R.C. 2921.41)



# The City of Delaware

## Nepotism

- Nepotism is characterized by the Ohio Ethics Commission as *the most commonly violated* provision of the ethics laws.
- Applies to any city employment, whether full-time, part-time, or temporary / seasonal.
- The Ohio ethics laws do not prohibit family members of members from being employed by the City; However,
- It is illegal for a city employee to:
  - Authorize the employment of a family member; or,
  - Use the authority or influence of his or her public position to secure the employment of a family member.
  - A member requesting appointment of a family member would also run afoul of Art. VIII, Sec. 52 of the Charter.

# The City of Delaware

## Definition of “Family Member”

1. Spouse
2. Children / step-children (dependent or not)
3. Siblings
4. Parents
5. Grandparents
6. Grandchildren
7. Any other person related by blood or marriage living in the same household.

# The City of Delaware

## Definition of “Authorizing Employment”

- This means an employee is prohibited from making the final decision about whether a family member should be hired.
- If an employee is the final hiring authority, their family members cannot be employed by the agency they supervise.
- Per our charter, the City Manager has hiring authority. However, the manager reports to city council, so Darren recommends not employing city council family members to err on the side of caution and to avoid the appearance of impropriety.



# The City of Delaware

## Definition of “Securing Employment”

Even though members do not have direct authority over the hiring process, the law prohibits them from discussing, recommending, or otherwise using the prestige of their office, formally or informally, to get a family member a job.



# The City of Delaware

## Anti-Solicitation Policy

- Persons not employed by the City are not permitted to solicit any municipal employee at any time during the workday.
- Employees are not to engage in solicitation on behalf of any cause or organization during work time.
- Employees may not solicit other employees during work times (when either the staff member or the person being solicited is on work time).



# The City of Delaware

## Anti-Solicitation Policy

- Any employee found to be soliciting or distributing literature in violation of this policy will be subject to progressive discipline up to and including discharge.
- “Work time” - when an employee is scheduled and expected to be properly engaged in performing his or her work activities.
- Work areas: all areas of any city facility with the exception of areas designated for non-work use (e.g. a break room)

# The City of Delaware

## Anti-Solicitation Policy

- Examples of prohibited activities **during work time or in work areas:**
  - Raffles
  - Charity drives
  - Trips
  - Sports pools
  - Cosmetics/jewelry sales
  - Bake sales
  - Food vending
  - Procuring membership in any organization
  - E-mail solicitation
  - Commercial or personal business sales
- City sponsored events/activities are permitted (e.g. annual United Way campaign)



# The City of Delaware

## Financial Disclosure Statement Requirements

- Members are required to file a financial disclosure statement with the Ohio Ethics Commission by R.C. 102.022 due to their level of compensation (as well as the City ethics policy). These are not the same as campaign finance disclosures.
- Disclosure statements must be filed no later than April 15 (per our ethics policy, the ORC requires filing by May 15 of each year (R.C. 102.02(A)(4)), along with a \$35.00 filing fee (R.C. 102.02(E)(2))
- Blank disclosure forms and e-filing are available on the Ohio Ethics Commission's website.

# The City of Delaware

## Disclosures Include:

- Sources of income over \$500.00 (per R.C. 102.022(A) due to council's level of compensation);
  - This includes a brief description of the nature of the services for which the income was received, except where confidentiality is protected by law, i.e. clients of attorneys, psychologists, or physicians. It does not require a member whose income is from a “business or profession” to disclose every single item of income that constitutes the gross income of that business or profession;
- Source and amount of income received from any person if the filer knows or has reason to know the person is doing or seeking to do business with filer's public agency;
- All sources of gifts over \$500.00 (pursuant to R.C. 102.022 (B)) Gifts from most family members and inheritance is excluded from the reporting requirements;
- All investments, debtors, and creditors over \$1000;
- Most ownership and leasehold interests in real property;

# The City of Delaware

## Resources

- Darren, as City Attorney, is the city's ethics officer.
  - Can give advice
  - Can issue written opinions
  - Can contact ethics commission for advisory opinions

Ohio Ethics Commission Website:

- [www.ethics.ohio.gov](http://www.ethics.ohio.gov)
- Great resource for past opinions and info sheets.



# The City of Delaware

Resources – formal and informal opinions by the Ohio

## Ethics Commission:

- Formal Advisory Opinions consider situations and hypothetical scenarios that may occur in a variety of jurisdictions and have a broad impact on many public officials and employees. A syllabus is included with the opinion providing a concise summary of the holding of the Commission. These opinions are reviewed and approved by the Commission.
- Informal Advisory Opinions, on the other hand, are based on a specific fact pattern and are issued to an individual person. These opinions do not typically have a broad impact on public officials and employees but do provide additional Commission precedent on various topics.
- Pursuant to R.C. 102.08(B), either type of opinion provides immunity from prosecution, civil lawsuits, and actions for removal from office or employment based on a violation of Ohio's Ethics Laws if the facts in the opinion are true and the advice is followed.



# The City of Delaware

## Ethics Reporting

- Contact the City Attorney to make an ethics complaint.
- Can be anonymous
- Ohio Ethics Commission's Investigative Attorney can be contacted directly at (614) 466-7090.

TO: Mayor Riggle and Members of Council

FROM: R. Thomas Homan, City Manager

SUBJECT: Miscellaneous Matters

DATE: July 3, 2019

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1. **Calendar**

See Attached

2. **Per Section 73 Of The City Charter The City Manager Is To Report Contract Agreements**

See Attached

3. **Meetings**

June 18

Strand Board Meeting

June 20

Education Council at Willis

OCMA Board Meeting

June 22

NOW Watershed Festival

June 24

Rotary

June 26

Meeting with Delaware City Schools Superintendent

June 28

Meeting with Mike Frommer

**CONTRACT APPROVAL - July 8 2019**

<b>VENDOR</b>	<b>EXPLANATION OF AGREEMENT</b>	<b>2019 AMOUNT</b>	<b>DEPARTMENT</b>
National Lime & Stone	Stone for base repair work	N/A	Public Works
MS Consultants	E. Central Engineering Report & Safety Application	\$28,520	Public Works
Brian Mahon	Mahon Purchase Agreement - acquire 0.518 acres of land for right of way for the Glenn Parkway Extension	\$25,978	Public Works
Gannett Flemming Engineers & Architects	The Point Improvements Part 1 Mod.1	\$1,231,630	Public Works
Ohio Public Works Commission	OPWC Pavement Maintenance Program	\$92,231.11	Public Works
Delaware County Sheriff's Office	Delaware County L.E.A.P.	\$0.00	Police
State of Ohio	State Plan of Operation -terms and conditions of excess Dept of Defense property transferred to the Police	\$0.00	Police
State of Ohio, ODNR Div of Wildlife	Fish with a Cop Grant 1	\$0.00	Police
State of Ohio, ODNR Div of Wildlife	Fish with a Cop Grant 2	\$0.00	Police
Delaware County Emergency Communications	Holder of the Record Agreement- allow Delaware County to enter and modify LEADS and NCIC data for the Police	\$0.00	Police
Civica	Civica Authority Tax, Connect with E-file, and Authority DocuScan	\$165,135	Finance
MS Consultants	East Central Engineering Report & Safety Application	\$28,520	Public Works

# July

2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4 City Offices Closed	5	6
7	8 7pm City Council	9 6pm Sister City	10 6:30 pm BZA	11	12	13
14	15	16 6:30 Parks & Rec	17 6:30 Planning	18 6:30 Airport Commission	19	20
21	22 7 pm City Council	23	24 6:30 pm HPC	25 2:00 pm Delaware South NCA	26	27
28	29	30	31			