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AGENDA

Regular Council Meeting

7:00 PM July 11, 2022

Council Members:

**Andy Teater
Omar Tarazi
Les Carrier
Tina Cottone
Peggy Hale
Pete Marsh
Cynthia Vermillion**

**President
Vice President**

**Michelle Crandall, City Manager
Diane (Dee) Werbrich, Clerk of Council**

City Hall, Council Chambers • 3800 Municipal Way, Hilliard, OH 43026



Hilliard City Council established the following five broad Strategic Focus Areas to guide the vision of the City. Under each of these Focus Areas is one significant goal to be prioritized during 2021-2022.

Strategic Focus Area #1 – Excellent, Innovative City Services

- Goal Statement – The City will ensure continued delivery of excellent and innovative services in the years ahead by developing a long-term financial plan focusing on fiscal resilience and sustainability.

Strategic Focus Area #2 – Family-friendly, Engaged Community

- Goal Statement – The City will focus on transparency, public trust and resident involvement by developing and implementing a community engagement and communications plan.

Strategic Focus Area #3 – Distinct, Well-Planned Community

- Goal Statement – The City is committed to implementing a strategy that includes public infrastructure maintenance and delivery of City services that support residents as they maintain properties in our older neighborhoods.

Strategic Focus Area #4 – Quality Commercial Development

- Goal Statement – The City will create and implement an economic development plan focused on the attraction, retention, growth and creation of businesses and jobs that provide a strong tax base and quality development.

Strategic Focus Area #5 – Valued Cultural and Recreational Amenities & Programs

- Goal Statement – The City will meet the community's needs for indoor recreational, health and wellness amenities and programming by engaging strategic partners to plan and build a new community center.



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I. Invocation and Pledge of Allegiance

Invocation – Mr. Marsh

The Pledge of Allegiance to the Flag of the United States of America – Ms. Vermillion

II. Roll Call

III. Approval of Minutes

- A. June 27, 2022, Regular Meeting
- B. July 5, 2022, Special Meeting

IV. Commission and Board Reports

Board of Zoning Appeals	Peggy Hale
Destination Hilliard	Cynthia Vermillion
Environmental Sustainability Commission	Pete Marsh
MORPC	City Manager Crandall
Planning & Zoning Commission	Peggy Hale
Public Arts Commission	Omar Tarazi
Recreation and Parks Advisory Commission	Les Carrier/Andy Teater
Shade Tree Commission	Andy Teater
Aging in Place Committee	Tina Cottone
Other Boards/Commissions	President and Vice President

V. Recognition and Special Guests - None

VI. Changes to the Agenda

VII. Consent Agenda - None

VIII. Public Comments (Items not on the Agenda)

Public Notice: Any member of the public addressing Council on items not on this agenda are asked to sign the speaker's sign-in form. Each speaker will contain their comments to **3 minutes** and shall conduct themselves in a professional manner.

IX. Business of the Council

A. Ordinances

Second Readings/Public Hearings

Public Notice: Any member of the public addressing Council on the Public Hearing below are asked to sign the speaker's sign-in form so the Clerk will have accurate information about your name and address. Each speaker will contain their comments to **3 minutes** and shall conduct themselves in a professional manner.

- | | |
|-------|---|
| 22-18 | AMENDING CHAPTERS 1105, 1115, 1121 AND 1141 OF THE CITY'S CODIFIED ORDINANCES TO REGULATE SHORT-TERM RENTAL FACILITIES AND MODIFY REGULATIONS FOR BED AND BREAKFAST INNS. (Postponed on 6/13) |
| 22-20 | APPROPRIATING FUNDS FOR THE CONSTRUCTION OF THE CITY'S RECREATION AND WELLNESS CAMPUS. (Tabled on 6/27) |



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- 22-21 AMENDING SECTION 537.16 AND ENACTING SECTIONS 537.161, 537.162, AND 539.07 OF THE CITY'S CODIFIED ORDINANCES REGARDING THE SALE OR OTHER DISTRIBUTION OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, AND ELECTRONIC SMOKING DEVICES TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE.
- 22-22 APPROPRIATING FUNDS FOR THE HILLIARD DEVELOPMENT CORPORATION'S PURCHASE OF 3978 BROWN PARK DRIVE.
- 22-23 AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT ELECTRIC SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE 4928.20; AND DIRECTING THE FRANKLIN COUNTY BOARD OF ELECTIONS TO SUBMIT THE BALLOT QUESTION TO THE ELECTORS OF THE CITY.

First Readings

- 22-25 AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED DEVELOPMENT AGREEMENT WITH EPCON CARR FARMS, LLC.

B. Resolutions

- 22-R-55 VACATING A PORTION OF A SANITARY SEWER EASEMENT GRANTED TO THE CITY OF HILLIARD BY GREENWICH INVESTORS HICKORY CHASE, LLC.
- 22-R-56 AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICE AGREEMENT (PSA) WITH CARPENTER MARTY TRANSPORTATION, INC. TO PROVIDE GENERAL ENGINEERING SERVICES AND AUTHORIZING AN EXPENDITURE.
- 22-R-57 AUTHORIZING THE CITY MANAGER TO PURCHASE ONE (1) SPRINTER CARGO VAN AS IDENTIFIED IN CIP F-6 FROM MERCEDES BENZ OF FORT MITCHELL; AND AUTHORIZING THE EXPENDITURE OF FUNDS.

X. President's Communication

XI. Staff Reports

XII. City Manager Updates

XIII. Items for Council Discussion

Adjournment



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INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Joseph Chon, Cornerstone Christian Fellowship, gave the invocation.
Mr. Marsh led The Pledge of Allegiance to the Flag of the United States of America.

ROLL CALL

Attendee Name:	Title:	Status:
Andy Teater	President	Present
Omar Tarazi	Vice President	Present
Les Carrier	Councilman	Present
Tina Cottone	Councilwoman	Excused
Peggy Hale	Councilwoman	Present
Pete Marsh	Councilman	Present
Cynthia Vermillion	Councilwoman	Present

Staff Members Present: City Manager Michelle Crandall, Law Director Phil Hartmann, Assistant City Manager Dan Ralley, Deputy Finance Director Greg Tantari, Police Chief Mike Woods, Operations Director Larry Lester, Community Relations Director David Ball, Recreation and Parks Director Ed Merritt, Planning Administrator Carson Combs and Clerk of Council Diane Werbrich

Others Present: Don McCarthy, President, McCarthy Consulting (Owners Rep)

APPROVAL OF MINUTES

President Teater asked if there were any changes or corrections to the June 13, 2022, Special and Regular meeting minutes. Hearing none, the minutes were approved as submitted.

STATUS:	Accepted
AYES:	Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED:	Tina Cottone

COMMISSION AND BOARD REPORTS

Board of Zoning Appeals - No report.

Destination Hilliard - No report.

Environmental Sustainability Commission - No report.

Mid-Ohio Regional Planning Commission (MORPC) - Ms. Crandall announced their next meeting will be August 11, 2022.

Planning and Zoning - No report.

Public Arts - No report.

Recreation and Parks Advisory Commission - Mr. Carrier reported the Commission had a lively and constructive meeting with some good feedback on the Rectangular Field Policy.

Shade Tree Commission - No report.

Minutes Acceptance: Minutes of Jun 27, 2022 7:00 PM (Approval of Minutes)



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Other Boards/Commissions - Mr. Marsh reported the Aging In Place Committee has had three meetings and are meeting bi-weekly. They are having presentations from other cities on what they are doing for their aging residents.

RECOGNITION AND SPECIAL GUESTS- NONE**CHANGES TO THE AGENDA**

Ms. Vermillion, seconded by Mr. Marsh, moved to amend the agenda to add Ordinance 22-23 to the agenda by Voice Vote.

Mr. Carrier asked if this legislation is added for first reading tonight, can it be amended. Mr. Hartmann replied that it can be amended.

MOVER:	Cynthia Vermillion
SECONDER:	Pete Marsh
AYES:	Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED:	Tina Cottone

CONSENT AGENDA - NONE**PUBLIC COMMENTS (ITEMS NOT ON THE AGENDA)**

Mr. Cory Paul, 995 E. Broad Street, Columbus, encouraged everyone to attend the blood drive on June 29-30 from 7:00 a.m. to 7:00 p.m. at the McCoy Center.

Latricia Barker, 4677 Prestige Lane, spoke on the Amazon construction and the water outages.

Denise David, 4679 Prestige Lane, water outages.

Annette Lieb, 4610 Prestige Lane, water outages.

Michael McCloud, 3608 Dockside Court, Davidson Road Utilities. Mr. Carrier asked when the City of Columbus does these types of projects, do they have a project manager assigned from start to finish. Mr. McCloud replied that in addition to a project manager, they have inspectors on site that oversee the projects.

Mr. Ralley stated that this has been a frustrating process and experience for the City staff and can only imagine that it has been tenfold that for the residents who have experienced these outages. He explained there have been two water main hits, one that occurred in March, which necessitated a couple of different outages for the repair of that water line and then one that occurred last week very near the railroad track on Davidson Road. The most recent one was more than 15 feet in the ground and undermined the railroad crossing, which necessitated the road closure. Mr. Ralley reported that staff met with Gutknecht Construction to discuss the situation and a way forward to significantly lessen the chance of something happening in the future. The following steps will be taken: 1) authorize those representatives to have direct access to the City's GIS system to look at the drawings staff looks at when utilities are marked. This will allow for a double check of the OUPS markings for water, sewer, storm water and street lighting, 2) they will be potholing all utilities that they are crossing. This is something they have been doing, but the City is going to ask for photographic evidence that this is being done. Mr. Ralley stated one of the residents mentioned some of the restoration work that needs to occur on conduit sticking up out of the ground and the representatives reported they are seeing some project shortages with the composite containers they use to put the fiber optic conduit into. Where there are holes, they will fill them with sand and when the supplies are received, they will replace the sand with the boxes. Mr. Ralley explained these are responsibilities that ultimately the contractors bear through the right-of-way process. There is a full-time staff member who oversees that process and goes into the field to ensure that restoration occurs.

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The City, like many other communities in Central Ohio, is seeing an enormous amount of activity in this area. Over the past year and three months, 750 different right-of-way permits have been pulled for various work in the City. Many of these are not for a single location, but a long stretch of roadway. He stated City crews have been diligently trying to mark utilities and meet contractors on site to discuss things. Mr. Ralley said that he hopes some of these additional steps will help prevent these issues in the future. He reported the City is anticipating a repair to the railroad crossing by the City of Columbus through a private contract in the first part of this week. He noted a contractor was there today painting a petroleum line that goes through this rail corridor as well as adding to the complexity of the repair in addition to its depth. The City is anticipating the private contractor to do that repair Tuesday or Wednesday, then the railroad will place the crossing gate and then the road can be reopened.

Mr. Carrier asked how the dollar damages the residents mentioned are being handled, communicated and supported. Mr. Ralley reported Gutknecht Construction, the vendor, voluntarily paid for Service Master to go to three or four homes that experienced flooding due to the water main leak. Mr. Carrier then asked what kind of after action review is the City doing, is someone going to look at what everyone did and learn from it or are the new things going to solve it. Mr. Ralley replied these have come out of a series of internal meetings. He noted when this type of work takes place, not only is it complex but a lot of different people are involved and they are using the best technology to locate the utilities but there are places where a better job could be done. Mr. Ralley reported they are trying to sync what is seen in the field on the drawings with the information that is readily available on GIS, which is constantly being updated according to what the crews are seeing in the field. Mr. Carrier asked what kind of company could be hired to do an independent review. There is the City of Columbus, Hilliard utilities, the vendor and different lines (AT&T, gas, water, sewer and storm), so who could study what happened over the last three months and can the City glean something from an independent view to give policies and procedures that may not be in place. Mr. Ralley replied an internal review is taking place and he anticipates that Council may, in the coming months, see some changes to the City's right-of-way ordinances. Mr. Carrier mentioned that one of the neighbors talked to the contractor marking the petroleum line today who informed him that Davidson Road is going to be closed for a very long time. He asked if Mr. Ralley has any information on that. Mr. Ralley replied that is different than what he is hearing and they do not know the exact timeline, obviously the railroad has to do their work after the water main is repaired. In talking with the railroad on Friday, they understand the general timeline and are prepared to come back after the water line is repaired. Mr. Carrier stated the railroad arm is what is causing the road to be closed. Mr. Ralley agreed and said they want to be able to run trains through there safely and at a fairly normal speed and with the absence of a railroad crossing arm, it is an uncontrolled signal for not only cars, but bicycles and walkers.

Ms. Vermillion asked with the money the residents have spent on broken meters, repairing plumbing issues, etc. is there any recourse the City can seek on their behalf with Amazon or the contractor so they can get reimbursed. Mr. Hartmann replied they will need to review the contracts to determine if there is recourse that the City could pursue on their behalf and he will get back to her on that. Ms. Vermillion asked how communication with affected residents will improve in the future. Mr. Ralley replied that is a challenge and noted he was on site the morning after the water main was hit and noted the incident happened approximately 6:00 p.m. or 7:00 p.m. and was reported to the City. He added he spoke on the phone to a few of the residents who addressed Council this evening. Mr. Ralley stated that the first four hours there was a lot of communication with many different parties including the City of Columbus, the railroad and Darby Glen. It is a challenge in every municipality to get in touch with a sub-division's residents because typically a municipality does not have phone numbers or email addresses for a subdivision that is experiencing an issue, but this is something the City can look into because there are technologies available that some communities use for emergency alerts but it is not always as nuanced as a given subdivision and are limited to residents who provide their contact information. Ms. Vermillion asked if calling a meeting would have been helpful. Mr. Ralley replied that some referenced an internal communication system that exists within the Tremont Club and believes Mr. Paul Lambert manages that organization. He said he should have reached out to Mr. Lambert that morning to let him know what information the City knew and did not know. He and Mr. Lambert discussed communication last week and making that communication two way so they feel free to contact the City as well. Mr. Lambert kindly



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offered to disseminate the information to the residents. Ms. Vermillion asked about the mud entering the storm sewers and she believes some residents have had sediment in their water. Mr. Ralley replied those are two separate issues. One is with the domestic water system and it is not uncommon after an outage for rust and sediment to be seen in the tap water and typically it is recommended to run the water for a period of time and if that sediment and rust makes it into a hot water heater, there is a mechanism to drain the hot water heater. He noted that he cannot speak to the meters being damaged and sounds like a pressure related issue. Mr. Ralley reported the City is doing inspections of the catch basins, which are designed to catch sediment at the bottom of them. One of the inspections the City is doing as part of monitoring the project has been to ensure they have the barriers in places where they need to prevent some of those materials making it into the storm drain. They are cleaning the streets regularly/daily and visually checking the inside of the catch basins to ensure material is not building up and making it into the storm sewer. Ms. Vermillion mentioned that when the City is looking into the reimbursement issue, they should consider individuals who had to drain their hot water heater because some may have had to call a plumber to do that work. She asked that the City take a global look at everything the residents have had to go through.

Vice President Tarazi asked if the water lines were marked accurately and were hit four times or were they not marked accurately and they made a mistake because they were following inaccurate plans. Mr. Hartmann interrupted and stated that some of this information may get into litigation and they should avoid getting into liability questions. He stated the City's insurance carrier has been notified and they have asked the City to refrain from getting into these types of questions. Vice President Tarazi asked Mr. Hartmann to get back to Council because it goes into who is responsible for all of this.

Mr. Carrier stated that he can assure Mr. Ralley that there was never any preventive barriers on or around the catch basin for the storm water the entire time they were digging for the conduit lines and asked who is responsible for that. Mr. Ralley replied the City is responsible for ensuring those are in place where they are needed and that has occurred in some instances and noted you may see workers with shovels removing materials off the roadways periodically. Mr. Carrier reported that he witnessed them power washing it down the drain near the Tremont Club. He asked Council to consider an action review of the whole thing and noted that litigation will do some of that but there are a lot of pieces to the puzzle that Council does not know the answer to. President Teater thanked Mr. Ralley and stated that hopefully some of these positive actions help as the City moves forward with this big project. He also thanked the residents who attended and spoke this evening.

BUSINESS OF THE COUNCIL

A. Ordinances

SECOND READINGS/PUBLIC HEARINGS

22-19 APPROPRIATING FUNDS FOR THE HILLIARD EXPRESS PROGRAM AS A REQUIREMENT OF THE 5310 TRANSPORTATION GRANT RECEIVED BY THE CITY.

No one in attendance spoke for or against Ordinance 22-19 during the second reading/public hearing.

Mr. Merritt explained that this ordinance appropriates additional funds for the Hilliard Express Program as a requirement of a 5310 grant the City received from MORPC in the amount of \$64,695.00.

Mr. Carrier asked how many people are currently using the Express Program. Mr. Merritt replied that information is in the packet. Mr. Carrier stated that it looks like there are 30-40 people using this service. Ms. Vermillion reported that unique riders from one week are not necessarily the same unique riders for the next week. Mr. Carrier asked how many people is the City serving with this program. Ms. Crandall replied that there have been 380 unique riders since the program began.

STATUS: Adopted (6-0)
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone
President Teater announced 22-19 passed and will take effect at the earliest time allowable by law.

22-20 APPROPRIATING FUNDS FOR THE CONSTRUCTION OF THE CITY'S RECREATION AND WELLNESS CAMPUS.

Ms. Cara Boettner, 5316 Sutter Home, requested Council reconsider a 50 meter pool.

Ms. Vermillion thanked Ms. Boettner for addressing Council and understands her heart felt advocacy and passion. She wished the City had the money right now to do a 50 meter pool, which costs approximately an extra \$20 million, but believes it is something that could be talked about for the future possibly in a different location.

Ms. Crandall explained that this legislation appropriates \$40 million of the \$85 million in bond funding for anticipated guaranteed maximum price packages, which will need to be executed prior to the end of the year. She noted staff has been working with Mr. McCarthy to estimate the funding needed and, as Mr. McCarthy mentioned, there will likely be two GNPs before the end of the year. This appropriates the funding to allow those GNPs to come forward for Council approval and take effect immediately.

Vice President Tarazi stated that if Council approves this today, the City is not spending the money today and staff would have to bring back a resolution to spend the money. That resolution would take four votes to pass and be effective the same day. Ms. Crandall agreed and stated that as the City appropriates money for the Operating Budget or the CIP, this is the same process. The contracts or GNPs would then be brought back to Council for approval. Vice President Tarazi stated that if it was not done this way and if there was an emergency, Council could just vote on something as an emergency which would accomplish the same thing except that it would require five votes to pass. Ms. Crandall replied the City knows they have to bring these two packages forward and this is to appropriate the funds so that the funds are available and the City can act quickly when those packages are brought forward. They are not emergencies and are planned ahead of time knowing that there is a long lead time on certain materials. There is a short turnaround time and as Mr. McCarthy mentioned there might be a GNP package that is good for seven or ten days and Council needs to act quickly on those. She reiterated it is not an emergency because they are planned. Vice President Tarazi stated that they could be passed by emergency. Ms. Crandall replied Council would have to pass them on the first reading and also forego the 30-day waiting period. She explained that Council would have to appropriate the funding and the GNP then waive the second reading and 30-day waiting period at the same time, which is fiscally irresponsible. Mr. Hartmann clarified that it takes five votes, but only one dissent to pass by emergency. President Teater commented that Council has consistently told Administration that they do not want things passed by emergency unless it absolutely has to be passed by emergency and cannot imagine shifting that during this project.

President Teater asked if this appropriation does not pass tonight, what does that mean. Mr. McCarthy replied that it means it will take longer for the process to work its way through, which was talked about at the earlier session and opens the City up to additional costs and these additional costs would not necessarily be planned for in the initial design of the facility. If a GNP amendment was brought to Council that was ready to go and it did not get approved for 30 or 60 more days, it is possible that those costs go up, in which case, they are then trying to figure out how to save money from that GNP amendment. President Teater clarified that the ordinance appropriates the money and the actual packages will come back to Council for approval. Mr. McCarthy agreed.

Vice President Tarazi stated his concern is at the last Council meeting he said the numbers did not make sense, and four Council members decided to go forward anyways. Council found out afterwards that some of the numbers presented were completely wrong and today Council was presented with the correct



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numbers. He stated that he does not want the same thing to happen when the City is actually spending money, where four Council members get overly excited about doing things when other Council members are raising legitimate concerns, they get ignored, it goes forward and is a mistake afterward. Vice President Tarazi asked for assurances and feels that this project should move forward on five votes or a consensus within Council. He stated if Council is willing to proceed in that way, then he would have no problem voting for this ordinance. Mr. Marsh commented that the desire is for broad consensus of everyone if possible. He mentioned at the last meeting Council voted on the program and some rough numbers were presented that Council knew through the conversation were in the area but not right. He reiterated that is not what they were voting on, Council was voting on the general programming with the recommendation from some very skilled professionals. Mr. Marsh reported that going forward, Council will be reviewing actual numbers from Mr. McCarthy and Ruscilli and those numbers will not be wrong. He pointed out that Mr. McCarthy works for the City and is getting the City maximum building and programming for \$52 million. Mr. Marsh clarified that Mr. McCarthy does not work for Ruscilli and is an advocate for the City every day in this process. He believes that Council needs to have confidence in Mr. McCarthy and his 40+ years of experience, that he knows what he is doing and that if he brings numbers forward in a resolution for Council to vote on, that those numbers will be accurate. Mr. McCarthy agreed and said that when a GNP amendment is brought to Council, it will have gone through bidding, bid review, scope review, preparation of a draft GNP amendment, which he will review and once that process is completed, Ruscilli will sign the GNP amendment, which will then be presented to Council for approval. At that point, there is no guess work or assumptions and is very specific and defined. Vice President Tarazi stated what could have happened with what was presented to Council at the last meeting is that there would have been a \$16 million hole that apparently does not exist. He added Council could have tabled the legislation so that the numbers could have been cleared up and then the legislation could have passed by a greater majority, but it did not go that way. He does not want, moving forward, to roll over Council members just to move forward when there are legitimate concerns being raised. Vice President Tarazi commented that Council should be working harder to bring greater consensus on a project of this size and scale. He stated that if there are legitimate concerns from a significant number of Council members, then that should require a pause. He is concerned that if Council passes this and there is a verbal understanding that Council will try to proceed with a bit more effort towards consensus, then he is fine. Mr. Marsh replied that Council wants to drive consensus on this because Council wants something that everyone is excited and proud of in the end. He believes that Council will receive very accurate information moving forward. Mr. Marsh stated that there may be differences in opinion and that some things may pass 4-3 because of that difference of opinion but he believes the information will be accurate to allow for Council members to make an informed vote.

Ms. Vermillion asked if there was something in the presentation earlier this evening that left Vice President Tarazi unsettled. Vice President Tarazi replied that his issue is that Council should have tabled the programming legislation and voted on it today. He added that with the presentation today, he is confident that Mr. McCarthy is paying attention to what Council is looking at and as Ruscilli's numbers are received, the cost per square foot issue can be cleared up, which he is concerned with. He is confident that Mr. McCarthy will look into that and provide good information so that Council can proceed knowing that the City is getting good value for their money. Vice President Tarazi commented that Council is not trying to micro manage but when he was looking at the numbers and noticed a \$16 million hole, but now that is getting fixed moving forward and as long as Council is working in that direction, he is fine. If he is not comfortable, then he would suggest voting this down and pass everything by emergency moving forward to force five votes, unless everyone is going to work together toward consensus. Mr. Carrier commented that was illustrated clearly at the last meeting that it was a railroad job and Council voted on the programming for the community center with numbers that did not match, that members were uncomfortable with and then held a 1.5 hour Committee of the Whole meeting to understand those numbers. He stated there is no consensus, there is no operating information and Council was told the wrong numbers. For example, Council was told a family membership would be \$260.00, which Council knows is not correct and the City has not talked to and have ignored the Y. Mr. Carrier stated this is not ready and has not been ready, but rushed. The consultants state they have been working furiously to keep on a timeline because the expectation is that inflation will continue and there will be cycles. The City is rushing and for what reason. Council keeps hearing from residents asking for more aquatics and



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that is either simply ignored or that it costs too much. He stated it does not cost too much, but is a choice. Every survey said they wanted more aquatics and that the City wants to be unique and different. Mr. Carrier commented that what the City is doing is not unique or different and is not enough. There is one opportunity to do this and asked why would Council appropriate money that was already voted for. The only reason Council is doing that is to "move quicker" and he is not sure quicker is better. He said that he did not have enough data to make a decision at the last meeting and is why he voted no. The fact that Council has no operating information, there is a 25,000 square foot building that Ohio State is wanting built and Council does not know the cost of that and yet Council is expected to vote on all of these other pieces when they do not have the whole puzzle in front of them. President Teater explained that the legislation this evening is to allow the City of move quickly, when we need to move quickly. Council is not voting on any specifics, but voting so that the money is available and that when it is time, Council can do a resolution to pass it. Mr. Carrier commented that the City is doing a lot of this quickly. President Teater stated that Mr. McCarthy is the expert and time is money so if Council keeps taking more time and pushing this off, the result will be a smaller center and will be limited even further by what is being seen in the economy.

Mr. Marsh reported that this project is on a fast timeline because that is what all of Council asked for at the start of this process. He mentioned that a year ago it could not go fast enough for Council because everyone wanted it opened this year. He believes staff is following the direction Council provided and is why this is going fast. He noted inflation also may make the cost continue to rise and it is smart to go fast for that reason. Mr. Marsh stated that he takes exception to the characterization of the last meeting. He stated Mr. McCarthy untangled the 1.5 hours spent and the approximately \$39,000.00 they were off. Mr. Marsh explained that it was a categorization error that the architects made but the pricing was all there and within \$40,000.00 of where Mr. McCarthy is with his budget. Council was voting on a total package and was presented numbers where the buckets they were put in did not match up with what was presented earlier this evening. He commented that the numbers were there and he based his vote on the fact that he trusted the numbers in aggregate are relatively accurate for where the City is in the design process and voted accordingly. It is fine if some did not support it. Mr. Marsh remarked that he is strongly opposed to calling it a railroading or people not knowing what they were voting on and reiterated he knew what he was voting on. Mr. Carrier replied that Council received the presentation during the meeting and there is a Council Rule that states Council is supposed to have the material on Thursday and they did not get any of the information until the day Council was voting. Mr. Marsh replied that is not correct either because Council received a presentation that was formatted differently than the one Council received in the packets four days before and Ms. Osborn told Council that during the meeting three of four times. There was nothing that he recalled seeing on the screen during the meeting that was not included in the packet but acknowledged Ms. Osborn repackaged it. Mr. Marsh believes that all of the information was provided within plenty of time per Council Rules.

Vice President Tarazi reported that when assessing programming you are not assessing the overall budget and the overall budget had been previously agreed to. His idea of programming is that the City wants roughly X square feet, a 25 meter pool, etc. and that was based on a series of prices for each of them so that when they were totaled, Council found out today that we have no idea where those numbers came from. He added that Council had no idea at the time to say they want more of this or less of this if the dollar value of each of those programming items were made up. Mr. McCarthy asked for clarification if during the dialogue at the COW meeting Vice President Tarazi thought the numbers drove the square footage and stated that it does not work that way. The square footage was created out of the programming and the process that was done and they came up with numbers based on their assessment of what the square footages were worth. Vice President Tarazi replied that Council was asked to approve a program that is based on what can be fit in the square footage based on the dollar value of those various items that are in the program. Mr. McCarthy stated that the way the architects presented the information was very unusual in terms of having individual line items for individual spaces. Normally an owner is presented an overall program for square footage and vote on the program and work through the design process to determine the program that fits the budget. Those numbers were provided from their database and not tested by anyone on the construction side. Vice President Tarazi commented that Council members relied on those numbers to determine the programming and not something different,



and if those numbers were not reliable, then how can anyone make an informed decision if that is an appropriate program. He stated Mr. McCarthy will revisit the program after receiving the Ruscilli numbers. Mr. McCarthy replied the important thing was the program, which allows the process to move forward.

Vice President Tarazi asked if this legislation is tabled to the next meeting, would that harm the process in any way since they are not spending any money today. Mr. McCarthy replied that the only time this affects him (the City) is if the City cannot move quickly when something is ready to go out for bid. If the process is going to take longer, than he has to change the process to account for that time duration, which means the overall procurement process may have to be modified. Ms. Crandall added that it could be approved at the next meeting. Mr. McCarthy stated that if they are staying on the path they are on, he has to put the steel package, the mill order for steel, out to bid in September.

Mr. Carrier stated one of the problems he has is that Council does not have the operating side, but has a budget for the capital side and Ms. Crandall has agreed to provide that to Council at the next meeting because she has to vet some of the numbers. He asked if Mr. McCarthy knows what the community's cost for the Ohio State piece will be because he figures it out to be \$8 to \$10 million for that integration. He asked how much is being held back from the current budget on capital for the integration with Ohio State. Mr. McCarthy replied all of the numbers being shown are based only on the recreation center and Ohio State is not in that math. Mr. Carrier stated there are tax payer dollars going to the Ohio State lease deal that are currently being held back. President Teater remarked that will be an investment in the Ohio State lease and the City will recoup that money at a great advantage to the residents. Mr. Carrier countered that another way to look at it is that the City is holding back on amenities for the community with tax payer dollars to build something for Ohio State to use as a referral service. He reiterated that his problem with the whole process is that he is not seeing the whole picture and only seeing pieces of it.

Vice President Tarazi stated that he would move it to the next meeting so there is more time to discuss, Council will have Ruscilli's numbers and it will not harm anything by passing it then. It will give more time for things to gel and for Council to get on board with where things are. Ms. Vermillion asked what additional information will Council get by the next meeting that will make Vice President Tarazi feel more comfortable. Vice President Tarazi replied Council will have the Ruscilli numbers. Mr. Carrier added Council will get the operating numbers. President Teater remarked that Council is just appropriating the dollars and not spending the dollars today. Vice President Tarazi stated that moving this to the next meeting does not affect anything and builds consensus but his problem is if President Teater is not concerned about building consensus. President Teater replied he is about building consensus but is concerned that Council is walking down the road of micromanaging this project, which will cost money and time. Mr. Marsh stated he would rather wait two weeks to get the information because some feel they need some additional information to cast a vote. He noted that it is very important that Council does this and if it is July 11, 2022, then he is ok with that. He feels this will cost the City money if this is not passed and the City will end up with a smaller community center or spending money from somewhere else that is not currently budgeted.

Ms. Crandall asked for clarification on what type of information Council wants at the next meeting because she is not sure that she can answer every question that Council would want to move this appropriation forward. She reported there will be refined PROS numbers, but they will not be exact. The refined operating costs will not be available for a while. Vice President Tarazi replied the Ruscilli numbers. Mr. McCarthy replied Ruscilli is doing their version of the same exercise that the architect did but using their database. Vice President Tarazi stated that Mr. McCarthy stated earlier that the numbers the architect provided were not accurate and Ruscilli, the company that will build this has a database who will provide construction costs per square feet, which will clarify a hole in the information in his mind. Mr. Carrier stated he would like to understand what the community is being asked to put into the Ohio State lease as well and how much that will divert away from programming.

STATUS:	Tabled to July 11, 2022
MOVER:	Omar Tarazi
SECONDER:	Pete Marsh
AYES:	Andy Teater, Omar Tarazi, Pete Marsh, Cynthia Vermillion
NAYS:	Les Carrier, Peggy Hale
EXCUSED:	Tina Cottone

FIRST READINGS

22-21 **AMENDING SECTION 537.16 AND ENACTING SECTIONS 537.161, 537.162, AND 539.07 OF THE CITY'S CODIFIED ORDINANCES REGARDING THE SALE OR OTHER DISTRIBUTION OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, AND ELECTRONIC SMOKING DEVICES TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE.**

Ms. Steele stated this legislation is specific to making changes under City Code to make some things different or stricter than it is under State Code as it relates to the legislation that raised the age of possession to 21. Staff is recommending the following: 1) to provide a penalty for use, purchase or possession under the age of 21. When the State upped the age to 21, they removed the penalty. This is not to make someone a criminal or adjudicate them delinquent but meant to identify that they are using a product that is dangerous to their health and the City then has a mechanism to intervene. The Diversion Program would be implemented hand in hand with this legislation as well as a community awareness program that works hand in hand with schools at the beginning of the school year and do education for parents and students. This gives the groundwork needed to put the other education and programming in place. She noted they are talking to students about resetting expectations in school and resetting expectations about vaping. 2) to treat falsification the same as in other places in the City's Code and in the Ohio Revised Code (ORC), falsification is an M1 and in order to enforce this, they felt it needed to be at a higher level. 3) asking for a more inclusive definition to ban all electronic smoking devices and their component parts and not just ones that are for nicotine. 4) because the City is putting a penalty back in, so they had to create a penalty for ages 18-21, which will be an M4, which is the lowest level but could then enforce conditions but does have to have the same exception as in the juvenile law. This is the bigger picture to addressing youth who are being found with these devices to have something in place to put them into a diversion education program to try to address the underlying issues in combination with an informational campaign to the community, to the parents and the youth.

Mr. Carrier asked if Superintendent Stewart is on board and ready to go this fall. Ms. Steele replied that the hope of the work group is that the school district is working through their end. A referral form has been created so we are ready if this passes that if it is referred to division. The school is working through their policy committee and is something their administration supports and the hope is that it will be in place when school starts in the fall. Mr. Carrier asked what type of community service would they be doing. Ms. Steele replied they have talked with Mr. Merritt to implement something where they would be giving back to the community, like picking up trash, emptying trash cans or helping beautify the parks.

Ms. Vermillion asked how this is enforced or monitored. Ms. Steele replied that she believes most of the referrals will come from the SROs in the school. Ms. Vermillion asked if there is an audit of the stores who sell these things. Ms. Steele replied that is part of the Tobacco Retail Licensing (TRL) piece and is a separate process. This addresses how to help the youth that have become addicted to this and a separate discussion will be held to discuss how to enforce and audit the retailers.

STATUS: First Reading
SPONSOR: Les Carrier
SECONDER: Peggy Hale
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone
President Teater announced the second reading/public hearing will be July 11, 2022.

22-22 APPROPRIATING FUNDS FOR THE HILLIARD DEVELOPMENT CORPORATION'S PURCHASE OF 3978 BROWN PARK DRIVE.

Ms. Crandall explained that this legislation appropriates \$725,000.00 to be used by the Hilliard Development Corporation for the acquisition of 2.8 acres located at 3978 Brown Park Drive. This location is being purchased in anticipation of studying the area as a passenger rail station in response to Amtrak's interest in expanded commuter rail in Ohio. She noted this location was previously identified for this purpose more than ten years ago as part of the City's Comprehensive Plan. Ms. Crandall reported a study of the site will begin in the next few months in conjunction with MORPC.

STATUS: First Reading
SPONSOR: Peggy Hale
SECONDER: Cynthia Vermillion
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone
President Teater announced the second reading/public hearing will be July 11, 2022.

22-23 AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT ELECTRIC SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE 4928.20; AND DIRECTING THE FRANKLIN COUNTY BOARD OF ELECTIONS TO SUBMIT THE BALLOT QUESTION TO THE ELECTORS OF THE CITY.

STATUS: First Reading
SPONSOR: Cynthia Vermillion
SECONDER: Pete Marsh
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone
President Teater announced the second reading/public hearing will be July 11, 2022.

Mr. Carrier, seconded by Ms. Hale, moved to amend the legislation to allow the community to opt in versus opt out into the program

Mr. Carrier explained that if this is going to be put on the ballot, there are members of the community who are busy and not going to pay attention that will get rolled up into something that, admittedly by Mr. Smith, will cost them more for their electricity.

Ms. Vermillion remarked that it has to do with education and if the City does a good informational campaign, it should not be very much work to opt out. She said she understands Mr. Carrier's concerns but feels if the City educates properly and make it easy to opt out, it should not be an issue. Mr. Carrier replied that everyone is so busy and to make someone go online or fill out and mail something back to opt out, he feels it would be better served as an opt in. Ms. Vermillion replied and if during the RFP there are 20,000 people who can be in this program and a small percentage opt out, that is more beneficial to the resident who want to participate in this program. President Teater commented that two different presenters have stated that the opt in program does not get the advantages of the aggregation because you do not receive good deals from the RFPs. Mr. Carrier stated there is a motion on the floor.



STATUS: Defeated (4-3)
MOVER: Les Carrier
SECONDER: Peggy Hale
AYES: Les Carrier, Peggy Hale
NAYS: Andy Teater, Omar Tarazi, Pete Marsh, Cynthia Vermillion
EXCUSED: Tina Cottone

Vice President Tarazi stated that in his view there has to be clarity as to what is being brought to the community. If the goal is that 80 percent of the public is willing to pay more to participate in renewable energy, who is Council to stand in the way. As it is currently written it is not true at all and if the intention is to support green energy even at a higher cost and residents vote for it, he is ok with that. President Teater stated he understands what Vice President Tarazi is saying and everyone wants to be transparent on this because the goal is to eventually go to local renewable energy and tonight we heard that is more than four to five years away.

Vice President Tarazi remarked that he does not know if residents are willing to support paying more and, if so, at what level. Mr. Hartmann clarified that he does not think getting that specific language belongs on the ballot, and is probably more education or do not put it on the ballot and conduct surveys. He believes that the Board of Elections would want to take that out because they want bare bone language that is succinct. Vice President Tarazi stated he would support doing a survey because everyone says they support green energy, but at what price is the question. Ms. Vermillion believes that Council needs to move forward to get this on the ballot in November. President Teater added by putting it on the ballot, that acts as the survey as long as the City gives good information and fully informs the public. It is their choice whether they want to move forward with an aggregation program that they can opt out of or the City may not even move forward with if energy prices continue to rise.

Ms. Hale stated that Council just heard from Mr. Smith from Grove City who reported that it could cost an extra \$200.00/year and they tabled it. She is not convinced this is the right time to go to the community with this. Ms. Vermillion replied the effects of climate change keeps marching on in spite of rising prices and there is nothing that can be done to stop that unless people use more green energy and do other measures.

Vice President Tarazi, seconded by Mr. Marsh, moved to amend the ordinance with the language presented by Vice President Tarazi below for second reading/public hearing on July 11, 2022.

"Shall the City of Hilliard have the authority to aggregate the retail electric loads located within the incorporated areas of the City, to support renewable, clean energy generation and for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of electricity, such aggregation to occur automatically except where any person elects to opt out?"

STATUS: Approved (6-0)
MOVER: Omar Tarazi
SECONDER: Pete Marsh
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone



B. Resolutions

22-R-49 APPROVING A MODIFICATION TO THE PLANNED UNIT DEVELOPMENT (PUD) TEXT FOR 2.465 ACRES KNOWN AS RESERVES “B” AND “C” (SUBAREAS C1 AND C2) OF THE ANDERSON MEADOWS PUD LOCATED ON THE NORTH SIDE OF ROBERTS ROAD APPROXIMATELY 1,500 FEET EAST OF ALTON DARBY ROAD TO SPECIFY USES AND DEVELOPMENT STANDARDS.

Mr. Combs explained that this is for a minor text modification for the Anderson Meadows PUD. (See attached)

STATUS: Adopted (6-0)
MOVER: Pete Marsh
SECONDER: Omar Tarazi
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone

President Teater announced 22-R-49 passed and will take effect at the earliest time allowable by law.

22-R-50 ACCEPTING THE DEDICATION OF EASEMENTS FOR PUBLIC AND PRIVATE UTILITIES, CABLE TELEVISION, SERVICE CONNECTIONS AND STORM WATER DRAINAGE INCLUDING CROSS ACCESS EASEMENTS FOR ANDERSON MEADOWS SECTION 1 REPLAT OF RESERVES “B” & “C”

See attachment.

STATUS: Adopted (6-0)
MOVER: Cynthia Vermillion
SECONDER: Peggy Hale
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone

President Teater announced 22-R-50 passed and will take effect at the earliest time allowable by law.

22-R-51 ADOPTING A TENTATIVE TAX BUDGET FOR THE CITY OF HILLIARD FOR THE FISCAL YEAR 2023.

Mr. Tantari explained that this adopts a tentative tax budget for 2023 and is required by the ORC and City Charter. This needs to be filed with the Franklin County Auditor by July 20, 2022.

Ms. Vermillion asked for an explanation on the unencumbered balance information. Mr. Tantari replied those numbers are what the City would end with and the big one is the Recreation and Parks because that money has not been allocated. Most of the others are the balances in those funds. Mr. Carrier asked if the \$6.8 million unencumbered funds in the TIF Fund could be used. Mr. Tantari replied it has to be for a specific parcel. Ms. Crandall noted some have not been expended for what they were intended yet. In other words, the TIF has not seen it's useful life yet for the infrastructure it was intended for. She added staff provides those TIFs to Council on a routine basis



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STATUS: Adopted (6-0)
MOVER: Omar Tarazi
SECONDER: Pete Marsh
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone
 President Teater announced 22-R-51 passed and will take effect at the earliest time allowable by law.

22-R-52 AUTHORIZING THE CITY MANAGER TO ENTER INTO ONE OR MORE CONTRACTS FOR THE 2022 STREET MAINTENANCE AND REHABILITATION PROGRAM (SMRP); AND AUTHORIZING THE EXPENDITURE OF FUNDS.

Mr. Lester reported that staff opened bids for this program on June 16, 2022, and Strawser Paving Company was the lowest and best bid received at a cost of approximately \$1.4 million for base bid items. Staff recommends awarding the base bid to Strawser Paving Company along with alternate 5A and 6A, which is the incentive package. He noted this also includes funding to partner with the Franklin County Engineer's office to resurface Hayden Run Road, west of Avery Road within the City limits. Information in the packet provides a complete overview of the program along with funding breakdown.

Mr. Carrier asked if some streets can be added to this program. Mr. Lester replied not within the funding that is available. Mr. Carrier then asked if he would have to bring a new resolution forward if he wanted to add a couple of streets that are in need of work. Mr. Lester replied that if it is spot repair, those could be taken care of within this program because there are quantities for partial and full depth pavement repair. Mr. Carrier reported Leap Road, south of Davidson and north of Anson is getting really bad and the other one is Main Street at the curve by the taco shop is starting to get pitted pretty bad as well. Mr. Lester stated he will look into these. Mr. Carrier added the third is the alley behind Crooked Can because drainage is needed back there. Mr. Lester replied that project will be underway soon and they are finalizing a proposal.

STATUS: Adopted (6-0)
MOVER: Cynthia Vermillion
SECONDER: Omar Tarazi
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone
 President Teater announced 22-R-52 passed and will take effect at the earliest time allowable by law.

22-R-53 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ARCHITECTURAL GARDENS, INC FOR THE MERCHANT PARK, ROTARY LABYRINTH PROJECT (CIP RP-2).

Mr. Merritt stated this resolution would allow the City Manager to authorize this contract. He reported on June 6, 2022, the City received a bid for this project, which fell within the awardable ten percent threshold for the project.

Ms. Vermillion asked if it would look similar to the drawing in the meeting packet. Mr. Merritt replied that it would and are working with the landscape artist that designed that and there will a slight variation but is the intended outcome.

President Teater thanked the Rotary Club for their \$20,000.00 donation to this project.

Minutes Acceptance: Minutes of Jun 27, 2022 7:00 PM (Approval of Minutes)

STATUS: Adopted (6-0)
MOVER: Cynthia Vermillion
SECONDER: Les Carrier
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone
President Teater announced 22-R-53 passed and will take effect at the earliest time allowable by law.

22-R-54 APPOINTING MEMBERS TO THE BOARD OF TRUSTEES OF THE HILLIARD COMMUNITY AUTHORITY.

(See Attached) This NCA collects certain millage and each development agreement and PUD have specifics on what millage can be collected. This resolution appoints members to the Board of the Hilliard Community Authority, which meets one to two times a year to ensure that any property involved start getting assessed the millage by the Franklin County Auditor. The individuals listed have expressed a willingness to serve.

STATUS: Adopted (6-0)
MOVER: Peggy Hale
SECONDER: Omar Tarazi
AYES: Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED: Tina Cottone
President Teater announced 22-R-54 passed and will take effect at the earliest time allowable by law.

PRESIDENT'S COMMUNICATION

President Teater reminded residents of the July 4th festivities; Freedom Fest will be on Saturday, July 2, 2022, and the parade will be Monday, July 4, 2022, at 9 a.m. He noted it is a new start time and a new route for the parade this year that begins and ends at the Fairgrounds. He encouraged everyone to check the City's website for more information.

President Teater announced City offices will be closed Monday, July 4, 2022.

STAFF REPORTS - None

CITY MANAGER UPDATES

Ms. Crandall announced Forsee Power will be coming to Hilliard. She thanked Mr. Meadows for his work on this project.

Ms. Crandall reported that she mentioned there might be a need for a Special Council meeting over Council's summer break to discuss some of the community center items like the architectural themes and character of the building and options on that. She noted that a possible date for this Special meeting is August 3, 2022, but she will send out some alternative dates as well.

ITEMS FOR COUNCIL DISCUSSION

Ms. Steele stated the number one question is what is the City doing to ensure that retail smoking establishments are not selling to minors, which was briefly discussed the last time. She had a meeting with Franklin County Public Health to discuss this further and she is here to provide an update regarding those discussions and if Council wants to move forward with this what the anticipated timeline would be. She noted which would be to have proposed legislation for Council consideration on the first meeting back from summer break.

She explained the Tobacco Retail Licensing (TRL), as was briefly presented last time, when Ohio raised the age to 21 there was never a good enforcement mechanism put into the legislation. The TRL is a



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licensing method to be able to set up a structure to make sure it is clear on who is selling these types of devices. The intention would be, although the City is calling it Tobacco Retail Licensing, the definition of tobacco is going to include all of the things included in the legislation that was discussed earlier, which includes electronic smoking devices no matter what substance is in them. She noted that Franklin County Health does have a grant from the Ohio Department of Health to start these types of enforcement mechanisms to send them in for investigations (compliance checks), which is to be differentiated because the Health Department does inspections with license inspectors so they need to be defined differently. There would be a minimum of two inspections a year, but if they receive a call about a problem, they would do more. There is some initial grant funding for that and their hope is to get a few communities to come in and do a roll out together. The discussion has been to see if they can get the cities of Grove City and Reynoldsburg on board since they have expressed interest. Ms. Steele noted that the City of Dublin has a somewhat similar version of this that Franklin County Health is doing but that pre-dated the age of 21 so they believe the City of Dublin may be interested in rolling their program into this program as well. She added Frost Brown Todd represents three of those jurisdictions so the communication will be easier to determine what everyone is comfortable with. She said that before time and energy is invested in this, staff wanted to make sure Council wanted to move forward with this. The advantages are that it gives the City a mechanism of enforcement, it is self-funded through the original Ohio Department of Health grant and they have a formula to determine how much licensing fees should be, which would be in an amount to cover the ongoing cost of the program. There would be more discussion between the City and Franklin County Health's legal team but everyone is committed to this because it shows that it helps and it holds the retailers accountable. Ms. Steele explained there are penalties for the clerk who sells the items, but there is no mechanism for the store to make sure they are properly training the clerks and giving them the right resources, education and information and this would put that burden on the retailer. Increasing fines for multiple violations and the possibility of suspending retail licenses. It is staff's recommendation to do this first as a starting point to see how this goes. The research is good that this helps and the City can move forward and work in conjunction with the other communities in the area. Ms. Steele noted that there has been some interest in banning flavors or devices altogether but the Tobacco Lobbyists have reached out and said that when it comes to TRL and ensuring that retailers are doing what they are supposed to do and not improperly putting things in the hands of youth, they are neutral and would not be against it. There would not be any tobacco lobbying that would be against this type of legislation but would give the City a program for enforcement.

Vice President Tarazi asked if there was any evidence that any teen vaping material is being purchased in the City. Ms. Steele replied that she does not have any specific, scientific evidence but as a member of the community and in talking with the officers and SROs when they encounter individuals will have discussions on where they purchased the items. She noted there are potentially a few retailers in the community that the City needs to keep a closer eye on. Ms. Steele reported they reached out to Columbus Public Health to work with the City because it needs to be a joint effort. The Ohio Department of Health is trying to get these programs to become more popular and active and to have the Franklin County Public Health and Columbus Public Health to work together to ensure the problem is just not being pushed around the County.

President Teater remarked that he is in favor of this and feels it is a good first step.

Mr. Carrier asked what happens to someone above the age of 21 who buys for someone underaged. Ms. Steele replied that is in the Ohio legislation and in the City's legislation that someone cannot provide it and if they do, it is a criminal offense.

Ms. Hale stated that all of the work will be on Franklin County and Columbus and asked if no additional work will be put on City staff. Ms. Steele replied that is how the discussions have gone so far, but if there is a levying of a fine and an appeals process, that has to be worked out. Any fine funds the program but if the City does take on any of the work, the fine will be split by the percentage of contribution.



President Teater asked Council if they agree to direct staff to bring legislation forward at the first meeting back after summer break. Ms. Steele replied that they will bring back the legislation with more specifics on how TRL will work and will continue the conversations with Franklin County Health.

Mr. Carrier asked about a port-o-pot that is standing outside the new restrooms at St. Brendan's. Ms. Crandall replied staff can look into that if Mr. Carrier forwards the information on this.

Mr. Carrier asked about food trucks at the DORA who ran out of food. Ms. Crandall replied staff will look into this and get back to Mr. Carrier.

Mr. Carrier reported there is an individual playing at the street corner who was run off. Ms. Crandall replied she will look into this.

Mr. Carrier mentioned he read today that the EPA is working on an approval for Plain City for a lot of taps and asked if the Comprehensive Plan group is going to look into this. Ms. Crandall replied that she will look into this.

Vice President Tarazi, seconded by Ms. Vermillion, moved to adjourn the Regular meeting by Voice Vote.

MOVER:	Omar Tarazi
SECONDER:	Cynthia Vermillion
AYES:	Teater, Tarazi, Carrier, Hale, Marsh, Vermillion
EXCUSED:	Tina Cottone

ADJOURNMENT – 9:12 PM

Andy Teater, President
City Council

Diane Werbrich, MMC
Clerk of Council

Approved: _____



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CITY COUNCIL

July 5, 2022 Special Meeting Minutes

President Teater called the meeting to order at 8:02 AM.

ROLL CALL

Attendee Name:	Title:	Status:
Andy Teater	President	Present
Omar Tarazi	Vice President	Late – Arrived at 8:15
Les Carrier	Councilman	Present
Tina Cottone	Councilwoman	Present
Peggy Hale	Councilwoman	Present
Pete Marsh	Councilman	Present
Cynthia Vermillion	Councilwoman	Present

Staff Members Present: City Manager Michelle Crandall, Law Director Phil Hartmann, Finance Director Dave Delande, Staff Attorney Kelly Clodfelder and Clerk of Council Diane Werbrich

BUSINESS

Ms. Crandall thanked Council for accommodating their schedules on short notice to pass this emergency legislation. She explained that this legislation would authorize a contract with Coni Construction to repair a section of waterline on Davidson Road and adjacent to the CSX railroad tracks. She noted that due to the emergency nature of this repair, this legislation includes a waiver of competitive bidding, an appropriation of funds, a declaration of emergency and becomes effective immediately upon passage.

Ms. Crandall reported that originally the City assumed the City of Columbus was going to move forward with this repair but on June 28, 2022, 12 days after the waterline break occurred, the City of Columbus notified the City that they were going to exercise language within their contract. She referenced the second paragraph in Section 3 which states "the provision of this section shall not apply to any damage the water main distribution caused by any type of construction or work in the vicinity of the water main". She noted that with this being a contractor, they exercised that section.

Ms. Crandall stated staff is asking for an appropriation of \$150,000.00 because the City is not aware of the extent of the damage until the contractor is in there. She is hopeful that the contract will be \$56,875.00, but this provision will allow for that escalation, if needed. She noted an error in the staff memo which states 100% contingency and explained the contract would be for \$56,875.00 but the legislation would authorize up to \$150,000.00 in appropriations. She announced the contractor is ready to start this work on Thursday.

Ms. Vermillion asked what the process is for holding Amazon accountable for everything. Mr. Hartmann replied that the City is working with the insurance company on investigating this and once that is determined, they will report back to Council. He assumes this will be a battle between insurance companies on who is responsible. Ms. Vermillion asked about the costs residents have incurred. Mr. Hartmann replied that those costs usually fall back and all insurances have set offs so the residents would have to go through their own insurance and then if it is not paid, they could possibly collect on the responsible party's insurance. For example, if someone has a deductible they might be able to get reimbursed from the insurance carrier that is liable. If someone has homeowner's insurance, they have to go to that first before the insurance company will pay it, that is just insurance rules and how insurance works.

Ms. Vermillion explained that with the rising cost of insurance, a lot of people carry higher deductibles and she would think most would not be covered. Mr. Hartmann replied that if someone has higher deductibles, there may not be any recourse except if the City wanted to do something. Ms. Crandall



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stated she had heard that the contractor on this job had paid for some minor expenses that had occurred, but she has not been able to verify that. This may be another means of recourse for residents if they wanted to work directly with the contractor on the project who caused the water line break. Ms. Vermillion commented that having everyone working on their own reimbursement separately is highly ineffective. She feels the person who hired the subcontractor is the one ultimately responsible and it would be up to Amazon to go after the subcontractor. Mr. Hartmann agreed and said if they hired the subcontractor there would be contract provisions in the agreements that would cover that and the subcontractor would have to carry so much insurance to cover any type of these damages. Ms. Vermillion stated that as a good corporate neighbor, there should be discussions with them and asked if the City is doing that. Ms. Crandall replied that the City has been working with the contractor who is believed to be ultimately responsible for the water line break. Mr. Hartmann noted that he will follow-up on this and let Council know what is going on with those types of payments. Ms. Vermillion reiterated that it should not be incumbent on each individual homeowner to do their own thing.

Mr. Carrier stated that he agrees with Ms. Vermillion but he is concerned that they have hit that water line four or five times. Ms. Crandall replied that it has been two maybe three time but there were other times when the line was being repaired and the Tremont residents did not have service for a while. She reiterated that it was two times but could be three that they have hit something. Staff has been working with them and are going to put some measures in place to double check and to be on site more when the contractors are there. She noted that ultimately it is their responsibility to be aware of where they are moving. Mr. Carrier reported that on his road there is an AEP power project that has been delayed twice because the City has not been able to mark the water line and they are not able to find it. He is concerned that the City is unable to mark them and they are not able to find them. Mr. Carrier reported that the City of Columbus employee said the line was here and the City said it was somewhere else and AEP just threw their hands up. He added AEP is worried about hitting that main line underneath his street that they are moving the power conduit away from all of the markings. He asked how does that happen and he has been publicly saying that the City needs to take a look at what we are doing in this space. Are things marked right or were they done right in the past and what is the risk to the community for more of this happening. Ms. Crandall replied that staff is looking at that and have had a couple after action review meetings to see if there are ways the process can be improved.

Ms. Cottone reported that a lot of people who live at Tremont Club are elderly and the City needs to consider those people when thinking about how to make this better for them. Ms. Crandall remarked that she does know that the Tremont Club is a really tight knit homeowners association and that the two time that they have had water line issues, they have come together as a community and she know those residents that might have some needs and are trying to address those amongst themselves.

Mr. Marsh, seconded by Ms. Hale, moved to approve the emergency language in this ordinance.

STATUS:	Approved (7-0)
MOVER:	Pete Marsh
SECONDER:	Peggy Hale
AYES:	Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

22-24 AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH JACK CONIE & SONS CORP. (A/K/A CONIE CONSTRUCTION COMPANY) TO REPAIR A SECTION OF A WATERLINE; WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING; APPROPRIATING THE NECESSARY FUNDS; AUTHORIZING AN EXPENDITURE; AND DECLARING AN EMERGENCY.



Real People. Real Possibilities.

City Council

July 5, 2022
Special Meeting Minutes
Page 3

STATUS: Adopted (7-0)
MOVER: Pete Marsh
SECONDER: Cynthia Vermillion
AYES: Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

Mr. Carrier, seconded by Ms. Cottone, moved to adjourn the meeting by Voice Vote.

MOVER: Les Carrier
SECONDER: Tina Cottone
AYES: Teater, Tarazi, Carrier, Cottone, Hale, Marsh, Vermillion

ADJOURNMENT – 8:19 AM

Andy Teater, President
City Council

Diane Werbrich, MMC
Clerk of Council

Approved: _____

Minutes Acceptance: Minutes of Jul 5, 2022 8:00 AM (Approval of Minutes)

Council Memo: Legislation (22-18)

Subject: Code Amendment for "Bed & Breakfast" and "Short-term Rental" uses
From: Michelle Crandall, City Manager
Initiated by: John Talentino, City Planner
Date: July 11, 2022

Executive Summary

The proposal is for an amendment to the Zoning Code to establish regulations for Short-term Rentals (STRs) such as those advertised on platforms such as Airbnb.com and Vrbo.com. The Code amendment will permit STRs and Bed and Breakfast Inns within Old Hilliard and establishes standards by which STRs must operate.

Update

The following additions have been made to the proposed code amendment based upon prior discussion:

- Registration would be required through a one-time zoning certificate. The zoning certificate fee of \$100 would be applied and the Code outlines the required submission materials. [1121.06(i)(1) through 1121.06(i)(3)]
- Minimum standards have been included in 1121.06(i)(4) for operation of the Short-term Rental
- Administrative processes for the denial of an application, revocation of a zoning certificate and the appeals process are incorporated. The code also includes standard language for inspections, severability and penalties. [1121.06(i)(5) through 1121.06(i)(10)]
- Section 1141.03 of the Code has been modified to include time limitations for the Short-term Rental approval. The Zoning Certificate remains valid unless (1) the rental ceases, (2) the owner changes, (3) the approved floor plan or site plan changes or (4) a violation results in revocation of the zoning certificate.

Staff Recommendation

Staff recommends that Council adopt this ordinance based on the finding that while STRs have not generated complaints to-date, the creation of base standards will provide a framework to address any should they arise. STRs are currently not permitted citywide – the proposed Code modifications establish Old Hilliard as a test area for incorporating STRs and Bed and Breakfast Inns in a manner that can be evaluated for broader application in the future.

Background

On October 27, 2014, City Council adopted Ordinance No. 14-29 which established a new Planning and Zoning Code and related Zoning Map. At the time of adoption, STRs were not a widely known use and have not been addressed in the Code. The proposed language establishes a definition and standards for STRs; it also establishes STRs and Bed and Breakfast Inns as permitted uses within the OH-MD, Old Hilliard Mixed Use District and the OH-RD, Old Hilliard Residential District. (Bed and Breakfast Inns are currently permitted only in the R-R, Rural Residential District.) Old Hilliard is the one area of the city where interest has been expressed in such uses because of the DORA and large public events.

During its April and May meetings, the Planning and Zoning Commission reviewed the proposed Code amendments and made a positive recommendation to City Council on May 12, 2022. The Commission reduced the minimum square footage needed for an STR from 1,500 square feet to 800 square feet to better match the size of dwellings within Old Hilliard. The Commission acknowledged the need to consider the uses in a manner that would result in limited administration by City staff. The Commission expressed a desire to make STRs available to a broader area throughout the city, but recommends testing the idea within Old Hilliard and revisiting the ordinance in the future if necessary adjustments are identified.

Financial Impacts

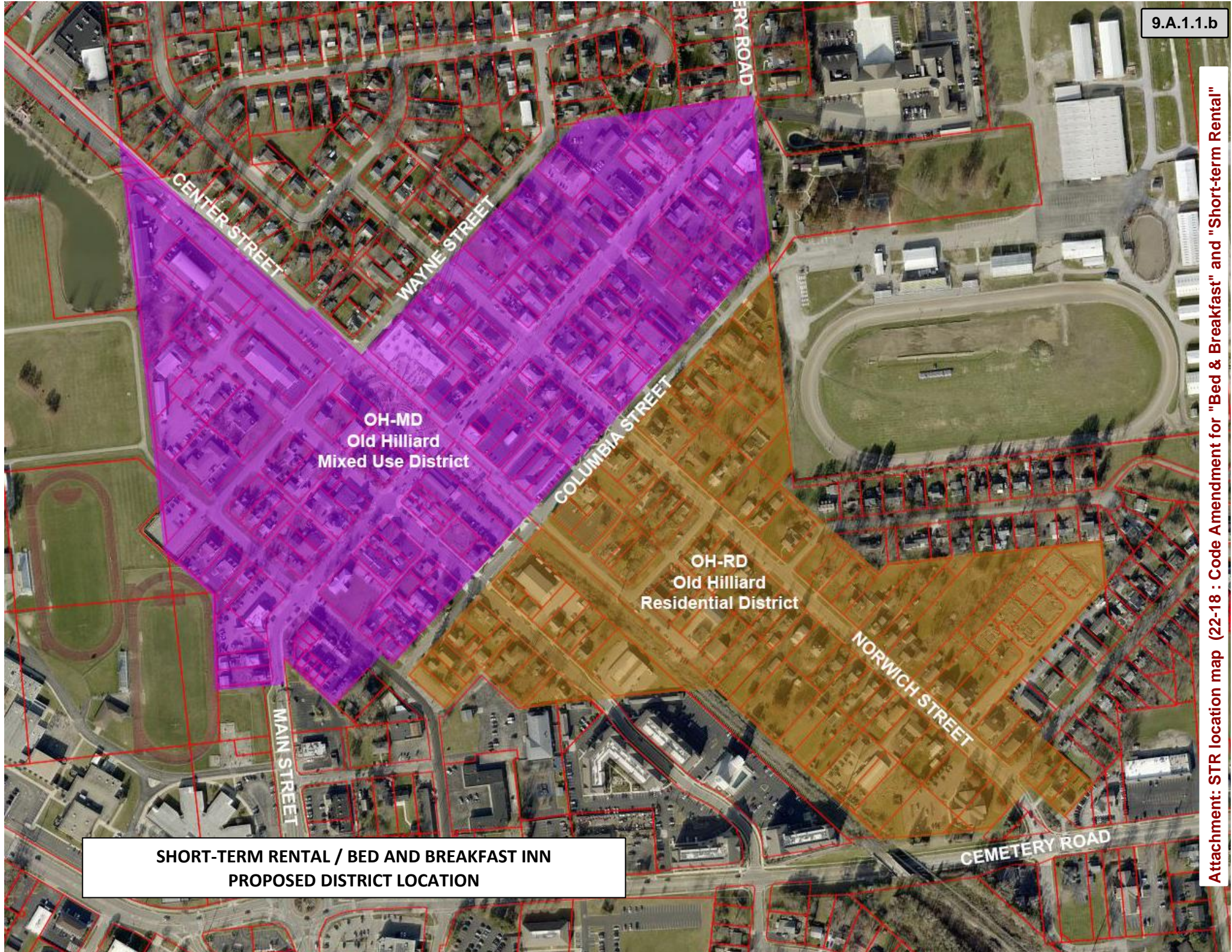
There are no anticipated financial impacts.

Expected Benefits

Approval of this amendment to the Zoning Code will establish STRs in the Zoning Code and will utilize Old Hilliard as limited geographic area where the uses can be an amenity for public events in a manner where use standards can be evaluated.

Attachments

- Exhibit A – Short-term Rental / Bed and Breakfast Inn
- P&Z Record of Action – April 14, 2022
- P&Z Minutes – April 14, 2022
- P&Z Record of Action – May 12, 2022
- P&Z Minutes – May 12, 2022



**SHORT-TERM RENTAL / BED AND BREAKFAST INN
PROPOSED DISTRICT LOCATION**



3800 Municipal Way, Hilliard, Ohio 43026 | Phone 614.876.7361 | www.hilliardohio.gov

PLANNING & ZONING COMMISSION RECORD OF ACTION

Thursday, April 14, 2022

The Planning and Zoning Commission took the following action at this meeting:

CASE 6: PZ-22-18 – Zoning Code Amendment

APPLICANT: City of Hilliard, c/o Michelle Crandall, City Manager. 3800 Municipal Way, Hilliard, OH 43026.

REQUEST: Review & approval of a zoning code amendment to Code Section 1105.08 to add a definition for “Short-term Rental” to Code Section 1115.02 to add “Short-term Rental” and “Bed and Breakfast Inns” as permitted uses in the OH-MD, Old Hilliard Mixed Use District, and OH-RD, Old Hilliard Residential District, zoning districts and Code Chapter 1121 to add associated development standards.

MOTION: Mr. Lewie made a motion to postpone the proposed code amendment to the May meeting to allow for more research and additional discussion.

Chairman Muether seconded the motion.

VOTE:

Chairman Muether	Yes
Vice Chair Schneck	Yes
Mr. Gutknecht	Yes
Mr. Lewie	Yes
Ms. Nixon	Yes
Mr. Pannett	Yes
Mr. Uttley	Yes

STATUS: The zoning code amendment will be rescheduled for additional review at the May 12, 2022, meeting (7-0).

CERTIFICATION:

Carson Combs, Planning Manager/Acting Clerk
April 15, 2022

Mr. Gutknecht, seconded by Vice Chair Schneck, made a motion to approve a variance under the provisions of Hilliard Code Section 1129.08 to permit 5 subdivision development advertising signs with more than 4 colors and to permit increased maximum sign size and maximum height with the following three conditions:

- 1) That the proposed subdivision sign package be permitted for a period of three years at which time any extension must be obtained from the Planning Commission;
- 2) That the proposed green “Coming Soon!” blade on the main entry signs be placed horizontally below the main sign face; and
- 3) That both main entrance signs be placed at least 15 feet from the edge of right-of-way outside of sight visibility triangles for safety consistent with the Code.

Status:	Approved with three conditions (7-0).
Mover:	Eric Gutknecht
Seconded:	Vice Chair Bevan Schneck
Ayes:	Chairman Jay Muether, Vice Chair Bevan Schneck, Eric Gutknecht, Chris Lewie, Tracey Nixon, Tom Pannett, Bill Uttley

CASE 6: PZ-22-18 – Zoning Code Amendment

APPLICANT: City of Hilliard, c/o Michelle Crandall, City Manager. 3800 Municipal Way, Hilliard, OH 43026.

REQUEST: Review & approval of a zoning code amendment to Code Section 1105.08 to add a definition for “Short-term Rental” to Code Section 1115.02 to add “Short-term Rental” and “Bed and Breakfast Inns” as permitted uses in the OH-MD, Old Hilliard Mixed Use District, and OH-RD, Old Hilliard Residential District, zoning districts and Code Chapter 1121 to add associated development standards.

[Mr. Talentino gave the report]

BACKGROUND:

On October 27, 2014, Council adopted an ordinance (14-29) enacting a new Planning and Zoning Code and adopting a new Zoning Map. The applicant is requesting approval of a Zoning Code amendment concerning “Bed and Breakfast” and “Short-term Rental” uses.

COMMISSION ROLE:

The Commission is to review the proposal and forward a recommendation to Council.

STAFF RECOMMENDATION:

Staff finds that the proposal is consistent with the purpose of the Zoning Code to promote the public health, safety, morals, comfort, and general welfare of the City and its residents. Based on this finding, staff recommends that the Commission forward a positive recommendation to Council concerning the proposed Zoning Code amendment.

CONSIDERATIONS:

Definitions

- Section 1105.08 - The proposal will add the following definition:
Short-term Rental. Any room or dwelling that is rented wholly or partly for a fee for less than thirty (30) consecutive days by persons other than the permanent occupant or owner from which the permanent occupant or owner receive monetary compensation, whether such compensation is paid directly by the short-term rental guest or is collected and remitted to the permanent occupant or owner by a hosting platform.

Schedule of Uses

- Section 1115.02 – The proposal will add “Bed and Breakfast Inn” as a permitted use in the OH-MD and OH-RD zoning districts.
- Section 1115.02 – The proposal will add “Short-term Rental” as a permitted use in the OH-MD and OH-RD zoning districts.
- Section 1115.02 – Identifies Code Section 1123.13(a) for specific conditions for “Bed and breakfast inns” uses in the OH-MD or OH-RD zoning districts.
- Section 1115.02 – Identifies Code Section 1121.06(i) for specific conditions for “Short-term rental” uses in the OH-MD or OH-RD zoning districts.
- Section 1121.06(i) – The proposal adds the following conditions for “Short-term rental” uses:
 - (1) A short-term rental shall not provide more than six guest rooms plus a common area for use by all guests.
 - (2) A short-term rental shall be located only in a detached single-family dwelling, designed and constructed for single family use, which shall contain at least 1,500 square feet of useable floor area. For each guest room in excess of two, an additional 100 square feet of floor area shall be required.
 - (3) Cooking facilities shall not be permitted in short-term rental guest rooms.

[end of report]

Mr. Uttley voiced concerns about neighborhoods in other areas of Columbus being impacted by the amount of such rentals impacting ownership patterns and the turnover. He is concerned about impacting the character of areas, especially when short-term rentals can generate more income than long-term leasing.

Mr. Talentino said that ordinances vary widely around the country depending upon how detailed you want to be with registration and enforcement. He noted that hotels and apartments are using short-term systems to fill vacancies. He said Old Hilliard seemed like a good starting point.

Mr. Gutknecht said that there is more control with regulations in Old Hilliard.

Mr. Uttley has concerns about parking and what happens when homes are expanded or finished out to squeeze in more units.

Mr. Lewie voiced caution, particularly when it comes to things like long-term construction rental, seasonal workers...the price per day will have a large impact on the users.

Ms. Hale noted her use of short-term rentals around the country and that many places denote parking limitations Such as two car spaces per house or lot.

Vice Chair Schneck noted that state legislation is being considered to restrict local control; Mr. Talentino noted that this request is due to interest in Old Hilliard – not pending legislation.

Mr. Uttley noted that in the university area they are finishing out old basements to create more units.

Mr. Talentino said that registration is an option, but it must be weighted against other factors. He said that how many resources are needed is a factor – there are examples out there currently that are not being enforced.

Currently there have been no complaints, but eventually at some point there will be a problem. Mr. Talentino encouraged the Commission to research VRBO and Airb&b.

Ms. Clodfelder noted that staff can provide examples of other ordinances such as Dublin's and Columbus'.

Mr. Lewie, seconded by Chairman Muether, made a motion to postpone the case to the May meeting to allow for more research and additional discussion.

Status:	Postpone to the May meeting for additional discussion (7-0).
Mover:	Chris Lewie
Seconded:	Chairman Jay Muether
Ayes:	Chairman Jay Muether, Vice Chair Bevan Schneck, Eric Gutknecht, Chris Lewie, Tracey Nixon, Tom Pannett, Bill Uttley

CHAIRMAN'S COMMUNICATION

There were no additional items for communication.

COMMITTEE COMMUNICATIONS

Ms. Nixon reported that a session was held to explore programming for the new Community Center. She was surprised by the desire for a catering hall. The exercise included looking at programming elements and budget limitations to create a mix of uses within the project budget.

ADJOURNMENT

Chairman Muether, seconded by Mr. Uttley, motioned to adjourn at 8:56 p.m.

CERTIFICATION:



Carson Combs, Planning Manager/Acting Clerk
May 12, 2022

[END OF MINUTES | APRIL 14, 2022]

RECORD OF ACTION



Planning & Zoning Commission

City Hall • 3800 Municipal Way • Hilliard, Ohio 43026
and Live-Streaming on YouTube

Thursday, May 12, 2022 | 7:00 pm

CASE 1: PZ-22-18 – Zoning Code Amendment

APPLICANT: City of Hilliard, c/o Michelle Crandall, City Manager. 3800 Municipal Way, Hilliard, OH 43026.

REQUEST: Review & approval of a zoning code amendment to Code Section 1105.08 to add a definition for “Short-term Rental” to Code Section 1115.02 to add “Short-term Rental” and “Bed and Breakfast Inns” as permitted uses in the OH-MD, Old Hilliard Mixed Use District, and OH-RD, Old Hilliard Residential District, zoning districts and Code Chapter 1121 to add associated development standards.

The Planning and Zoning Commission took the following action at this meeting:

MOTION:

Vice Chair Schneck made a motion to approve a zoning code amendment to Code Section 1105.08 to add a definition for “Short-term Rental” to Code Section 1115.02 to add “Short-term Rental” and “Bed and Breakfast Inns” as permitted uses in the OH-MD, Old Hilliard Mixed Use District, and OH-RD, Old Hilliard Residential District, zoning districts and Code Chapter 1121 to add associated development standards with the following change:

- 1) That Section 1121.06(i)(2) be modified from 1,500 square feet to 800 square feet of usable floor area.

Chairman Muether seconded the motion.

VOTE:

Chairman Muether	Yes
Vice Chair Schneck	Yes
Mr. Gutknecht	Yes
Mr. Lewie	Yes
Ms. Nixon	Yes
Mr. Pannett	Yes
Mr. Uttley	Absent

STATUS:

Case #1: PZ-22-18 has been approved with one modification.

CERTIFICATION:

Carson Combs, Planning Manager/Acting Clerk
May 13, 2022

[END OF RECORD]

Status:	Approved with two conditions (6-0).
Mover:	Chris Lewie
Seconder:	Chairman Jay Muether
Ayes:	Chairman Jay Muether, Vice Chair Bevan Schneck, Eric Gutknecht, Chris Lewie, Tracey Nixon, Tom Pannett

CASE 6: PZ-22-18 – Zoning Code Amendment

APPLICANT: City of Hilliard, c/o Michelle Crandall, City Manager. 3800 Municipal Way, Hilliard, OH 43026.

REQUEST: Review & approval of a zoning code amendment to Code Section 1105.08 to add a definition for "Short-term Rental" to Code Section 1115.02 to add "Short-term Rental" and "Bed and Breakfast Inns" as permitted uses in the OH-MD, Old Hilliard Mixed Use District, and OH-RD, Old Hilliard Residential District, zoning districts and Code Chapter 1121 to add associated development standards.

[Mr. Talentino noted that no change was made to the staff report and that the supplemental memo was provided to give examples of other codes from around the country for review/discussion]

BACKGROUND:

On October 27, 2014, Council adopted an ordinance (14-29) enacting a new Planning and Zoning Code and adopting a new Zoning Map. The applicant is requesting approval of a Zoning Code amendment concerning "Bed and Breakfast" and "Short-term Rental" uses.

COMMISSION ROLE:

The Commission is to review the proposal and forward a recommendation to Council.

STAFF RECOMMENDATION:

Staff finds that the proposal is consistent with the purpose of the Zoning Code to promote the public health, safety, morals, comfort, and general welfare of the City and its residents. Based on this finding, staff recommends that the Commission forward a positive recommendation to Council concerning the proposed Zoning Code amendment.

CONSIDERATIONS:Definitions

- Section 1105.08 - The proposal will add the following definition:
Short-term Rental. Any room or dwelling that is rented wholly or partly for a fee for less than thirty (30) consecutive days by persons other than the permanent occupant or owner from which the permanent occupant or owner receive monetary compensation, whether such compensation is paid directly by the short-term rental guest or is collected and remitted to the permanent occupant or owner by a hosting platform.

Schedule of Uses

- Section 1115.02 – The proposal will add "Bed and Breakfast Inn" as a permitted use in the OH-MD and OH-RD zoning districts.
- Section 1115.02 – The proposal will add "Short-term Rental" as a permitted use in the OH-MD and OH-RD zoning districts.
- Section 1115.02 – Identifies Code Section 1123.13(a) for specific conditions for "Bed and breakfast inns" uses in the OH-MD or OH-RD zoning districts.
- Section 1115.02 – Identifies Code Section 1121.06(i) for specific conditions for "Short-term rental" uses in the OH-MD or OH-RD zoning districts.
- Section 1121.06(i) – The proposal adds the following conditions for "Short-term rental" uses:

- (1) A short-term rental shall not provide more than six guest rooms plus a common area for use by all guests.
- (2) A short-term rental shall be located only in a detached single-family dwelling, designed and constructed for single family use, which shall contain at least 1,500 square feet of useable floor area. For each guest room in excess of two, an additional 100 square feet of floor area shall be required.
- (3) Cooking facilities shall not be permitted in short-term rental guest rooms.

[end of report]

Mr. Talentino pointed out that the code change is proposed for only Old Hilliard. He noted that the District is being used as a test case because it is most likely to see short-term and bed-n-breakfast uses. He clarified that a bed-n-breakfast use is already permitted in the Rural Residential District.

Mr. Gutknecht said he understood the test case idea but has concerns about the exclusionary nature of the square footage; Mr. Gutknecht said he is not comfortable moving forward with the current version.

Vice Chair Schneck noted his concerns and said that the size should not be limited; Ms. Nixon gave an example and noted that you don't care about the size because you're travelling.

Mr. Talentino confirmed that short-term rentals are currently not permitted in the city. He said the major focus is to avoid such uses from becoming a nuisance. He said there are only a few examples online currently. Mostly the hotels and apartments are posting vacancies. Mr. Talentino emphasized that additional staffing and more complication for staff or residents are not desired. He noted that the City does not wish to have administrative processes, pointing out that Dublin's ordinance is quite different because of the Memorial Tournament. He noted that to date there have been no calls or complaints to the City for such uses. The Code will allow for obvious places to have short-term as a permitted use.

Chairman Muether noted that the Commission can always revisit the ordinance; Mr. Talentino also pointed out that the Commission can make changes now to the ordinance language.

Mr. Gutknecht indicated that there is no administration to this ordinance; Mr. Talentino noted that there is not until such time as a complaint is made.

Mr. Lewie noted that he would prefer to see the ordinance city-wide, but also understood that it is not desired to need additional staff to administer the requirements.

Ms. Clodfelder clarified that Council can make any changes to the ordinance. She also noted that increasing the square footage would make the ordinance more restrictive.

Mr. Gutknecht asked about including the Avery Estates area into the ordinance; Mr. Combs provided a map of the DORA onscreen and also uploaded a zoning map for the Commission to compare the area of the DORA in comparison to the OH-MD and OH-RD Districts. Mr. Combs noted that purple is the mixed use district; brown is the residential district and the Avery subdivision is in yellow.

Vice Chair Schneck voice his preference for keeping the Old Hilliard Districts but reducing the size to 800 square feet for single-family detached uses. He said it could be revisited in a year.

Vice Chair Schneck, seconded by Chairman Muether, made a motion to approve a zoning code amendment to Code Section 1105.08 to add a definition for "Short-term Rental" to Code Section 1115.02 to add "Short-term Rental" and "Bed and Breakfast Inns" as permitted uses in the OH-MD, Old Hilliard Mixed Use District, and OH-

RD, Old Hilliard Residential District, zoning districts and Code Chapter 1121 to add associated development standards with the following change:

- 1) That Section 1121.06(i)(2) be modified from 1,500 square feet to 800 square feet of usable floor area.

Status:	Approved with the modification (6-0).
Mover:	Vice Chair Bevan Schneck
Second:	Chairman Jay Muether
Ayes:	Chairman Jay Muether, Vice Chair Bevan Schneck, Eric Gutknecht, Chris Lewie, Tracey Nixon, Tom Pannett

DISCUSSION ITEMS

Mr. Gutknecht noted that the new artwork on the traffic boxes looks great; Mr. Lewie noted that the infamous turkeys continue to run amok through the city.

COMMITTEE COMMUNICATIONS

Ms. Nixon reported that discussion was held regarding a rectangular field policy for the new recreation fields that would be built. She noted that policies vary greatly from one community to another.

ADJOURNMENT

Chairman Muether, seconded by Mr. Lewie, motioned to adjourn at 7:53 p.m.

CERTIFICATION:



Carson Combs, Planning Manager/Acting Clerk
June 10, 2022

[END OF MINUTES | May 12, 2022]



Ordinance: 22-18

Passed:

Page 1 of

Effective:

AMENDING CHAPTERS 1105, 1115, 1121 AND 1141 OF THE CITY'S CODIFIED ORDINANCES TO REGULATE SHORT-TERM RENTAL FACILITIES AND MODIFY REGULATIONS FOR BED AND BREAKFAST INNS

WHEREAS, on October 27, 2014, City Council adopted Ordinance No. 14-29 establishing a new Planning and Zoning Code and adopted a new Zoning Map; and

WHEREAS, Short-term Rentals have become a relatively new use that was not contemplated at the time of the Code's adoption; and

WHEREAS, Short-term Rentals are currently not a permitted use within the City of Hilliard; and

WHEREAS, Old Hilliard provides a logical activity center in which to consider testing the incorporation of such uses that are gaining in popularity; and

WHEREAS, Bed and Breakfast Inns are currently only permitted within areas of the City zoned R-R, Rural Residential District; and

WHEREAS, on May 12, 2022, at its regularly scheduled and advertised meeting, the Planning and Zoning Commission considered Short-term Rental uses and approved Case #PZ-22-18 to amend the Zoning Code, making a positive recommendation to City Council

WHEREAS, at its regularly scheduled and advertised meeting on May 12, 2022, the City's Planning and Zoning Commission voted to forward a positive recommendation to City Council that the Short-term Rental and Bed and Breakfast Inn code amendments be adopted; and

WHEREAS, amending Chapters 1105, 1115, 1121, and 1141 as identified in Exhibit "A", attached hereto and incorporated herein, promotes the general health, safety, and welfare of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio, that:

SECTION 1. Council finds that amending Chapters 1105, 1115, 1121 and 1141 of the City's Codified Ordinances as identified in Exhibit "A", **attached** hereto and incorporated herein, is in the City's best interest. The changes and additions to Chapters 1105, 1115, 1121 and 1141, as shown in track changes in the attached Exhibit "A" is approved and shall be incorporated in the City's Codified Ordinances.

SECTION 2. All other provisions of the City's Codified Ordinances, not modified herein, remain unchanged and are in full force and effect.

SECTION 3. This Ordinance shall be in effect from and after the earliest time provided for by law.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

Philip K. Hartmann
Director of Law

✓ Vote Record - Ordinance 22-18						
<input type="checkbox"/> Adopted			Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopted as Amended						
<input type="checkbox"/> Passed	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Defeated	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Tabled	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Held Over	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Referred	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> First Reading	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Positive Recommendation						
<input type="checkbox"/> No Recommendation						

1105.08 DEFINITIONS: R-S.

Short-term lending establishment. A business engaged in providing short-term loans to members of the general public as an element of its operation and which is not licensed by the appropriate state or federal agency as a bank, savings and loan association, or credit union. Short-term lending establishments include businesses offering title loans, payday loans, signature loans, small loans, pawnshops, and other similar businesses. This definition does not include investment companies and state or federally chartered banks or financial institutions.

Short-term rental. Any room or dwelling that is rented wholly or partly for a fee for less than thirty (30) consecutive days by persons other than the permanent occupant or owner from which the permanent occupant or owner receive monetary compensation, whether such compensation is paid directly by the short-term rental guest or is collected and remitted to the permanent occupant or owner by a hosting platform.

Sign. A structure, device, fixture or placard which may or may not use graphics, symbols and/or written copy designed specifically for the purpose of advertising, providing information, or identifying an establishment, product, service or activity.

1115.02 SCHEDULE OF USES.

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this code. Land and/or buildings in the districts indicated at the top of Table 1115-2 may be used for the purposes denoted by the following abbreviations:

- (a) *Permitted Use (P).* Land and/or buildings in this district may be used by right.
- (b) *Conditional Use (C).* Land and/or buildings in this district may be used if approval is granted, based on compliance with applicable review standards and specific conditions that may additionally apply, as found in Chapter 1123.
- (c) *Specific Conditions.* Indicates requirements or conditions applicable to conditional uses, as listed in Chapter 1123, Conditional Uses.

Table 1115-2 Schedule of Uses: Special Purpose Districts					
Use	S-1	HCD	OH-MD Mixed Use	OH-RD Residential	Specific Conditions
Residential					
Continuing care retirement community			C	C	
Dwellings, detached single family		P	P	P	
Dwellings, attached single family		C	P	P	Maximum 20 percent of total allowable units in the HCD District
Dwellings, multiple family		C	P	P	
Dwellings, two-family		C	P	P	
Dwelling units on upper floors of buildings with non-residential uses on street level			C	C	Section 1123.13(b)
Bed and Breakfast Inn			P	P	Section 1123.13(a)

Short-term Rental			P	P	Section 1121.06(i)
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1121.06 USES.

- (a) *Principal Use per Lot.* A lot or parcel shall not be devoted to more than one principal use, or contain more than one principal building, except for groups of multiple family dwellings, agricultural buildings, or commercial or industrial buildings contained within a single, integrated development, sharing parking and access and determined to be a single use collectively. Examples include vehicle service stations/convenience stores/car washes and vehicle sales lots/repair/body shops.
- (b) *Legal Use.* No building, structure or land shall be used or occupied and no building structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the regulations of this code.
- (c) *Legal Lot.* Every building, structure or use erected or established within the city shall be located on a legally recorded lot or parcel and shall conform to all applicable requirements of this code.
- (d) *Essential Services.* The erection, construction, alteration or maintenance of essential public services is permitted in all zoning districts and exempt from the provisions of this code.
- (e) *Home Occupation.*
 - (1) A permit shall be required prior to establishing a home occupation. Application for a home occupation permit shall be made in writing to the Planning Director or designee, together with payment of such fee, if any, as may be established by City Council. The requirement for a permit is to ensure compliance with the conditions of this subsection and to establish a record to determine future compliance.
 - (2) If the Planning Director or designee cannot determine if the home occupation requirements are met, in his/her sole discretion, the Planning Director or designee may refer the matter to the Planning and Zoning Commission for consideration.
 - (3) The home occupation shall be operated in its entirety within the principal dwelling.
 - (4) Only residents living in the principal dwelling shall be engaged in the home occupation.
 - (5) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 25 percent of the gross floor area of the dwelling or 250 square feet, whichever is less, shall be used in the conduct of the home occupation.
 - (6) There shall be no change in the outside appearance of the dwelling or other visible evidence of the conduct of the home occupation, except that one sign, not exceeding two square feet, non-illuminated and mounted flat against the wall of the dwelling, may be permitted.
 - (7) The direct sale of goods, merchandise, supplies, products or services to customers shall not be permitted on the premises. Phone and internet sales may be permitted, provided the items purchased are shipped directly to the customer so no pick-up is required at the location of the home occupation.
 - (8) Outdoor storage, activities or displays shall be prohibited.
 - (9) No traffic shall be generated by the home occupation in greater volume than would normally be expected in a residential neighborhood. Any parking needed to accommodate the home occupation shall be provided off-street behind the required front setback line.
 - (10) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single-family dwelling, or detectable outside the dwelling unit if conducted in an attached or multiple family dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in line voltage of the premises.

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- (11) Uses such as, but not limited to: clinics, hospitals, medical offices, nurseries, day care centers, ambulance service, amusement arcades, vehicle repair or maintenance, pawn shop, fortune teller, veterinarian offices, permanent basement or garage sales or kennels shall not be considered home occupations.
- (f) *Private Swimming Pools.* A private swimming pool, not including farm ponds, shall be any pool, lake, pond or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half feet. No swimming pool, exclusive of portable swimming pools with a diameter less than 12 feet or an area less than 100 square feet, shall be permitted in any zoning district, except as an accessory use and in compliance with the following:
- (1) The pool is intended and used for the sole enjoyment of the occupants of the principal use of the property on which it is located.
 - (2) The pool and adjacent walks, paved areas and accessory structures shall not be located closer than 10 feet to any property line.
 - (3) The pool shall be located only within the rear yard.
 - (4) Fencing shall be required around the pool, in conformance with Section 1121.02(d).
- (g) *Voting Place.* The provisions of this code shall not be construed in any manner that would interfere with the temporary use of any property as a voting place in connection with a municipal, school or other public election.
- (h) *Similar Uses.* Since every potential use cannot be addressed in this code, each district provides for similar uses, referencing this section. All applications for a use not specifically listed in a zoning district shall be submitted to the Planning Director or designee for review and decision, based on the following standards:
- (1) The Planning Director or designee shall find that the proposed use is not listed as a named permitted or conditional use in any zoning district.
 - (2) If the use is not addressed in any district, the Planning Director or designee shall review the uses listed as permitted and conditional in the zoning district in which the use is proposed and determine if a use listed in the district closely resembles the proposed use. This determination shall be based upon criteria such as consistency with the district purpose statement, similar character, service or market area, customer or visitor draw, scale of building and parking, potential impact on property values, traffic generated, aesthetics, noise or potentially objectionable impacts on the health, safety, and welfare in the immediate vicinity or City-wide.
 - (3) If a use is determined to be similar to a named use within the district, the proposed use shall comply with specific standards or other code requirements that apply to the named use. If the named use is a conditional use, the similar use may only be approved as a conditional use in accordance with the provisions of Chapter 1123.
 - (4) The Planning Director or designee may, at his/her discretion, submit the proposed use to the Planning and Zoning Commission for determination of the appropriateness of the use.
 - (5) Where the Planning Director or designee or Planning and Zoning Commission determines a proposed use is not similar to any named use addressed within the district, the applicant may petition for an amendment to this code.
 - (6) The determination as to whether a proposed use is similar in nature and classification to another named permitted or conditional use within a district shall be considered as an interpretation of the use regulations, and not as a use variance; this determination may be appealed as provided in Chapter 1106.
 - (7) Upon determination by the Planning Director or designee or Planning and Zoning Commission that a use is similar to a named use, the Planning Director or designee shall initiate an amendment to this

chapter to list the similar use in the schedule of uses for the zoning district as permitted or conditional as the case may be.

(i) **Short-term Rental**

- (1) **Zoning Certificate Required.** No person, including but not limited to an owner, operator, manager, or employee shall engage in, conduct, or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises, the operation of a short-term rental without an approved Zoning Certificate in accordance with Section 1141.03.
 - (A) A separate short-term rental registration is required for each dwelling unit; for two-family or multi-family dwellings, a separate Zoning Certificate is required for each dwelling unit.
 - (B) A copy of the approved Zoning Certificate for the short-term residence must be maintained on-site and available for inspection upon request.
- (2) **Registration Fee.** The fee for a Zoning Certificate as specified in Section 1143.03 to operate a short-term residence shall be established as set forth in Chapter 190 of the Codified Ordinances.
- (3) **Registration Requirements.** The application for a Zoning Certificate as specified in Section 1143.03 to operate a short-term residence shall include the following:
 - (A) Address of the proposed short-term residence.
 - (B) Type of dwelling unit.
 - (C) Name of the applicant, including contact address, telephone number and email address.
 - (D) Emergency contact information for the local rental host available at all times for any issues related to the short-term rental unit and/or transient guests who must be able to respond within an hour of being notified of an on-site emergency.
 - (E) Maximum number of occupants that will be accommodated at the short-term rental, not to exceed two (2) per bedroom.
 - (F) Minimum of one (1) parking space per guest bedroom that must park on-site on an approved surface.
 - (G) A labelled site plan or aerial photograph that identifies parking spaces in compliance with Code and other information that demonstrates the requirements of this section.
 - (H) A floor plan with square footages that identifies rooms on all floors and the specific location of bedrooms in a manner that demonstrates the requirements of this section.
 - (I) Any additional information as deemed necessary by the Planning Director or designee to evaluate an application as to the requirements of the Code.
- (4) **Short-term Rental Standards.** The following standards of operation shall be met as a minimum requirement for any short-term rental within the City of Hilliard:
 - (A) A short-term rental shall not provide more than six guest rooms plus a common area for use by all guests.
 - (B) A short-term rental shall contain at least 800 square feet of usable floor area. For each guest room in excess of two, an additional 100 square feet of floor area shall be required.
 - (C) Cooking facilities shall not be permitted in short-term rental guest rooms.
 - (D) On-site parking shall only be in designated spaces as identified on the approved site plan. Overnight occupancy or parking of recreational vehicles, camper trailers and tents at the property of the short-term residence is not permitted.
 - (E) No exterior advertising of the short-term rental shall be allowed.

- (F) Premises of short-term rentals shall not be utilized for holding commercial or social events/ gatherings.
 - (G) A licensee or guest of a short-term rental shall not use or allow the use of sound equipment or amplified music.
 - (H) Operators shall comply with applicable State and local laws, including those pertaining to fire and building codes, smoke detecting and carbon monoxide detecting equipment and housing/property maintenance codes.
 - (I) Short-term rentals shall not adversely affect the character of the surrounding area in a manner that violates municipal noise regulations as specified in Chapter 531 of the City's Codified Ordinances.
 - (J) Premises shall be maintained in a manner that remains free of any Zoning Code or Building Code violations.
 - (K) Residences shall not be altered in a manner that would make it appear less residential, including but not limited to installing parking lots and commercial lighting.
- (5) **Grounds for Denial.** The Planning Director or designee shall approve a Zoning Certificate for a short-term residence except for the following conditions:
- (A) Submission of an incomplete application and/or non-payment of an application fee.
 - (B) The applicant makes a material misrepresentation of fact on the application.
 - (C) Information provided does not comply with applicable use standards or other provisions of Section 1121.06(i).
 - (D) The property has outstanding Zoning Code, Building Code or other regulatory violations for the property.
 - (E) The short-term rental has a documented history of repeated conduct that endangers neighborhood or public safety that violates Section 1121.06(i)(6).
- (6) **Revocation of Registration.** The Planning Director or designee may revoke the Zoning Certificate for a short-term rental registration and restrict the short-term rental host from re-registering that property for a period of six months for any of the following:
- (A) Violating any of the use standards or requirements as set forth in Section 1121.06(i).
 - (B) Failure to permit entry for the Planning Director and/or designee to inspect the premises to verify compliance with the provisions of this ordinance.
- (7) **Appeal of Denial or Revocation.** In the event an applicant has been denied a Zoning Certificate for a short-term rental application or if a registration has been revoked or suspended, the affected party shall have the right to file an administrative appeal to the Board of Zoning Appeals in accordance with the provisions of Section 1106.03.
- (8) **Authority to Conduct Inspections.** By submitting the Zoning Certificate application for a short-term residence, the owner grants authorization to the Planning Director or designee to enter onto the property to inspect and ensure compliance with the short-term rental ordinance. In the event that consent is denied, the Planning Director or designee may pursue other legal authority for inspection and/or revoke the Zoning Certificate.
- (9) **Severability.** In the event that any provision of this chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.
- (10) **Penalty.** Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor and punishable as permitted by law (see Section 1141.06 for penalty and enforcement). Each day such

violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any person who commits a subsequent offense within one year of a prior offense hereunder shall be guilty of a misdemeanor of the fourth degree. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

1141.03 - ZONING CERTIFICATES.

(a) Certificate Required.

It shall be unlawful for an owner to use or to permit the use of any structure, building, land or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a zoning certificate has been issued by the Planning Director or designee. It shall be the duty of the Planning Director or designee to issue a certificate, provided he/she is satisfied that the structure, building or premises, and the proposed use thereof conform to all the requirements of this zoning code. No permit for excavation, construction or reconstruction shall be issued by the Planning Director or designee unless the plans, specifications and intended use conform to the provisions of this zoning code.

(b) Time Limits.

- (1) For purposes of obtaining a building permit, a zoning certificate shall be valid for 12 months from the date of issuance. If a building permit is not obtained within that period, the zoning certificate shall lapse and a new zoning certificate request and approval shall be required before a building permit may be issued.
- (2) All zoning certificates for construction shall expire two years after their issuance, unless construction has reached 25 percent of completion. The Planning Director or designee may grant extensions of up to one year if the applicant can show that delays in completion of the project are due to circumstances not under control of the applicant (e.g., weather, delays in receiving materials, etc.).
- (3) For the purposes of a short-term rental as defined in Sections 1105.08 and 1121.06(i), a zoning certificate shall be valid from the date of issuance until one of the following conditions occurs and voids the Zoning Certificate:
 - (A) The owner discontinues the operation of the short-term rental.
 - (B) Ownership of the short-term rental property is transferred to another owner.
 - (C) A change in usage of the building floor plan or site occurs.
 - (D) A violation of applicable regulations occurs that results in the revocation of the Zoning Certificate by the Planning Director or designee.
- (c) *Existing Use Certified.* Upon written request from the owner or tenant, the Planning Director or designee shall issue a zoning verification letter for any building or premises certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this zoning code. A fee may be charged as provided in Chapter 190.
- (d) *Requirement.* No building permit or other permit required to allow construction and no certificate of occupancy shall be issued for any of the above, unless a zoning certificate has been issued by the Planning Director or designee. A zoning certificate shall be required for any of the following, except as otherwise provided:
 - (1) Prior to the construction, occupancy or use of any proposed structure or addition to an existing structure, or prerequisite to the continued occupancy of a newly altered, reconstructed, enlarged or relocated structure.

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- (2) Prior to any change of use of any building or land, even if the changed use is of the same general type as its predecessor;
 - (3) Prior to occupancy and use of vacant land;
 - (4) Prior to the reoccupation or reuse of any nonresidential lot or structure, unless the zoning inspector finds that all of the following apply:
 - A. The reoccupation or reuse results in a land use that is authorized by right in the zoning district;
 - B. The reoccupation or reuse is of the same or less intensity of use than the predecessor use;
 - C. The reoccupation or reuse does not require any exterior changes to the approved site, other than signs or aesthetic changes (e.g., exterior painting, etc.); and
 - D. The reoccupation or reuse does not require a greater number of off-street parking spaces, according to Chapter 1127, than are provided on the site.
- (e) *Exemptions.* A zoning certificate shall not be required for the following:
- (1) An accessory structure on a lot zoned or used for residential purposes that is less than 200 square feet in ground floor area and no higher than 10 feet;
 - (2) A swing set or similar child's play structure;
 - (3) Cosmetic (non-structural) changes to any structure, including the replacement of windows in existing openings, re-roofing, installation of siding material and repainting;
 - (4) Resurfacing of existing parking lots without increasing the number of spaces;
 - (5) Residential TV towers, satellite dishes and similar structures; and
 - (6) Modifications to comply with accessibility requirements, unless proposed to encroach in a public right-of-way.
 - (7) Roof top solar energy systems on residential structures.
- (f) *Application.* Written application shall be made for a zoning certificate for the construction of a new building or the alteration of an existing building. At the request of the owner or operator, the Planning Director or designee shall issue a zoning certificate for any building, structure or premises existing on the effective date of this zoning code that certifies the extent and kind of use made of the building, structure or premises and whether the use conforms to the provisions of this code.
- (1) Every application for a zoning certificate shall be accompanied by a plot plan in duplicate, and such other plans as may be necessary to show the location and type of buildings to be erected or alterations to be made. Where construction or physical improvement of the land is involved, the lot and location of the buildings to be erected shall be staked out on the ground before construction is started, and all dimensions shown on filed plans shall be based on an actual survey.
 - (2) Each plan shall show:
 - A. The street providing access to the lot and the exact location of the lot in relation to the nearest cross-street;
 - B. The name of the concerned plat, if any, and the lot numbers of the concerned and abutting properties;
 - C. The actual dimensions of the lot, the yard and other open space dimensions thereof, and the location and size of any existing structure thereon;
 - D. The location and size of the proposed structure, and the proposed enlargement of the existing structure; and

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- E. Any other information which in the judgment of the Planning Director or designee may be necessary to provide for the enforcement of this zoning code;
 - F. All exterior lot lines, with dimensions based upon an actual survey;
 - G. Dimensions of existing and proposed buildings and structures;
 - H. Setback of all existing and proposed structures from property lines;
 - I. Required setback distances, according to the zoning district;
 - J. Height of existing and proposed buildings and structures;
 - K. Location of off-street parking, including dimensions of parking spaces and access aisles, and distance of parking areas from property lines.
- (3) Each application shall include certification statements:
 - A. That no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure; and
 - B. That if any abutting land was formerly owned by the applicant and sold, the approximate date of title transfer is listed.
 - (4) Where complete and accurate information is not readily available from existing records, the Planning Director or designee may require the applicant to furnish a survey of the lot by a registered engineer or surveyor.
 - (5) Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.
 - (6) A file of such applications and plans shall be kept in the office of the Planning Director or designee.
 - (g) *Approval.* The zoning certificate shall state that the plans for the proposed improvement, addition, relocation, change of use or reoccupancy/reuse have been inspected by the Designated Code Enforcement Officer, have been approved according to the procedures outlined in this zoning code and are in compliance with the provisions of this code and other applicable regulations.
 - (h) *Record Keeping.* Every zoning certificate shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all zoning certificates shall be kept on file in the office of the Planning Director or designee and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.
- (Ord. 14-29. Passed 10-27-14; Ord. 15-26. Passed 7-13-15; Ord. No. 21-09 , § 1(Exh. A), 3-22-21; Ord. No. 21-33 , § 1(Exh. A), 11-8-21.)

Council Memo: Legislation (22-20)

Subject: Initial Appropriation of Bond Funds
From: Michelle Crandall, City Manager
Date: July 11, 2022

Executive Summary

This Ordinance appropriates funds for the construction of the City's Recreation and Wellness Campus.

Staff Recommendation

Staff recommends that Council approve this piece of legislation.

Background

On November 2, 2021, residents approved increasing the City's municipal income tax by 0.5% and dedicating the resulting funds for recreation and parks, including (but not limited too) construction of the Recreation and Wellness Campus, which includes a new community center and a new athletic complex (the "Project"). Through multiple resolutions, Council has approved agreements for services related to the design and construction of the Project:

Company	Legislation	Services Provided
The Edge Group, Inc.	Resolution No. 22-R-06	Design of Athletic Fields and Landscape Architecture
Prime AE Group of America, Inc.	Resolution No. 22-R-19	Architect and Engineer for the Recreation and Wellness Center
Ruscilli Construction Co., Inc.	Resolution No. 22-R-41	Construction Manager at Risk for the Campus

On March 14, 2022, City Council also approved Ordinance No. 22-10 authorizing the issuance of up to \$95 million in bonds in order to finance the Project. The City, through its issuance, secured \$85 million (the "Bond Funds"). Due to volatility of the market and long lead times on multiple construction items (e.g. steel), the City will be required to move quickly on ordering items. As a result, it is necessary to appropriate a portion of the Bond Funds so that later in the year, when necessary, the City can seek authorization from Council and proceed with the purchase of these items in a timely manner.

Financial Impacts

This legislation appropriates \$40 million of the entire \$85 million that was secured through the issuance of bonds earlier this year.

Expected Benefits

By having this money appropriated, the City will be able to move quickly when seeking Council authorization and purchase items when needed.

Attachments

N/A



Ordinance: 22-20

Passed:

Page 1 of

Effective:

**APPROPRIATING FUNDS FOR THE CONSTRUCTION OF THE CITY'S RECREATION
AND WELLNESS CAMPUS.**

WHEREAS, on November 2, 2021, City electors approved increasing the City's municipal income tax by 0.5% and dedicating the resulting funds to recreation and parks, including the design and construction of the Recreation and Wellness Campus; and

WHEREAS, City Council has approved multiple agreements for the design and construction of the Recreation and Wellness Campus; and

WHEREAS, on March 14, 2022, City Council passed Ordinance No. 22-10 authorizing the issuance of an amount not to exceed \$95 million in bonds in order to fund the design and construction of the Hilliard Recreation and Wellness Campus; and

WHEREAS, due to the volatility of the construction market and the long lead times construction materials, the City will need to purchase items later this year and appropriating funds now will ensure that the City is able seek authorization and purchase in a timely manner; and

WHEREAS, appropriating these funds is in the best interest of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio that:

SECTION 1. An appropriation in the amount of \$40,000,000 from Fund 103, Object 53/55 is authorized in order to initiate construction of the City's Recreation and Wellness Campus.

SECTION 2. This Ordinance shall be in effect from and after the earliest time provided for by law.

ATTEST:**SIGNED:**

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ **Vote Record - Ordinance 22-20**

<input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Passed <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Held Over <input type="checkbox"/> Referred <input type="checkbox"/> Withdrawn <input type="checkbox"/> First Reading <input type="checkbox"/> Positive Recommendation <input type="checkbox"/> No Recommendation			Yes/Aye	No/Nay	Abstain	Absent
	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Council Memo: Legislation (22-21)

Subject: Amending Codified Ordinances regarding Youth Possession of Vaping Devices
From: Michelle Crandall, City Manager
Initiated by: Dawn Steele, Staff Attorney/Prosecutor
Date: July 11, 2022

Executive Summary

The City of Hilliard recognizes the health and safety risks associated with youth vaping and wants to take into consideration actions that can minimize these risks. The City Administration and Division of Police have worked closely, along with the Hilliard City School District, to propose actions that will deter youth use of electronic smoking devices (commonly referred to as “vapes or vaping devices”).

Staff Recommendation

Staff recommends that Council approve this legislation.

Background

Staff was asked to explore options to better address “youth vaping” and nicotine addiction in our community. After a thorough review of the recent State tobacco law changes, discussions with Hilliard Division of Police, and consulting with Hilliard City School District, Staff suggests considering legislation that is stricter than State tobacco laws to better protect the youth of our community. The proposed legislation is one step towards better enforcement and education that will be part of a larger comprehensive plan. Staff does not feel the State legislation is strong enough to combat the vaping problems in our community. Staff suggests the following differences from State law to better protect our youth:

1. Provide a “penalty” for use, purchase, and possession under 21. The new Tobacco under 21 State Law removed all “penalties” for youth possession, and only provides penalties for those that furnish or sell it.
2. Make Falsification to obtain tobacco and electronic smoking devices an M1. All other forms of Falsification are an M1. This provides better consistency in City Code and affirms the City’s strong position against youth attempting to purchase electronic smoking devices with fake identification.
3. Adopt more inclusive language than the State and ban ALL electronic smoking devices and their component parts, and not just ones used for nicotine.
4. Because of the expanded prohibition to electronic smoking devices that deliver any substance, the City would also need to add language making it not a violation if someone works for a Medical Marijuana Dispensary or are properly enrolled in the Medical Marijuana Program. State law requires us to acknowledge and make these exceptions.

The City anticipates that the legislation will provide better leverage to enter youth offenders into a Youth Diversion Program that educates youth and parents about the dangers of vaping, addresses any underlying issues that led the youth to vaping, and provides smoking cessation and/or addiction services if the youth’s vaping has risen to the level of an addiction.

Financial Impacts

There should not be any significant cost to the City for the Youth Diversion Program needed to enforce the new legislation. The diversion process will be coordinated by the Recovery Court Coordinator position that is already in place and grant funded. Staff has consulted with the Franklin County Juvenile Court Police Initiated Diversion (PID) that became available to the City after this legislation was originally proposed. The City will be able to use the staff and resources of the PID program as needed, at no cost.

Other municipal youth diversion programs charge a fee for participation and Staff proposes implementing a \$100 fee to cover any new costs created by the youth diversion program. Participants

would generally be responsible for the cost of any other educational programs/assessments/treatment they are required to complete as part of the diversion process.

The Hilliard City School District has confirmed eligibility with a grant funded wellness program offered through the Educational Services Center (ESC) that will provide “prime for life” substance abuse education to youth and parents, at no cost to the City or participants.

Upon enactment, Staff can seek funding from ADAMH and other sources to help cover any additional costs that may arise as the program grows.

Expected Benefits

- Increased community awareness about health dangers of vaping
- Coordinated effort to inform parent/guardians if a youth is vaping and offer resources to help address the underlying reasons for vaping
- Decreased vaping use, nicotine addiction, and health issues related to using electronic smoking devices

Attachments

- Exhibits “A” through “D”



Ordinance: 22-21

Passed:

Page 1 of

Effective:

AMENDING SECTION 537.16 AND ENACTING SECTIONS 537.161, 537.162, AND 539.07 OF THE CITY'S CODIFIED ORDINANCES REGARDING THE SALE OR OTHER DISTRIBUTION OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, AND ELECTRONIC SMOKING DEVICES TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE.

WHEREAS, the City of Hilliard is dedicated to promoting and supporting the health and wellbeing of its residents; and

WHEREAS, there has been a dramatic increase in electronic vaping device use among the youth in the Hilliard community and throughout the nation; and

WHEREAS, the use of electronic vaping devices, especially in youth, include health risks such as chronic nicotine addiction, lung disease and damage, cardiovascular damage, changed brain development, and increased risk for additional substance use; and

WHEREAS, the American Journal of Respiratory and Critical Care Medicine has published research showing the components of electronic smoking devices aerosol have known pulmonary toxicity and that adolescent electronic smoking device users had increased rates of chronic bronchitic symptoms; and

WHEREAS, the American College of Cardiology reports that persons who use electronic vaping devices are significantly more likely to have a heart attack, coronary artery disease, and depression compared with those who don't use them or any tobacco product; and

WHEREAS, research confirms the prefrontal cortex of the brain, which is responsible for emotions and decision making, does not fully develop until about age 25 and nicotine, THC, and other substances affect the development of the brain and the prefrontal cortex; and

WHEREAS, JAMA Pediatrics published research showing young people who use electronic smoking devices are 3.5 times more likely to smoke marijuana later in life; and

WHEREAS, on July 18, 2019, the Ohio legislature acknowledged these health, safety, and welfare concerns and passed HB 166, which amended numerous Sections in Ohio Revised Code increasing the age from 18 to 21 at which a person may purchase, use, or possess tobacco products or other alternative nicotine products; and

WHEREAS, additionally, HB 166 defined vapor products and electronic smoking devices and incorporated them into the definition of alternative nicotine products that are prohibited under twenty-one (21) years of age; and

WHEREAS, the City of Hilliard, recognizing the dangers of smoking and the use of vapor products and/or electronic smoking devices, has determined that it is necessary to incorporate State Code into its Codified Ordinances, as well as ensure that all electronic smoking devices and their component parts cannot be purchased, used, or possessed by those under the age of twenty-one; and

WHEREAS, the City of Hilliard believes that amending Section 537.16 and enacting Sections 537.161, 537.162, and 539.07 of the City's Codified Ordinances, as shown in Exhibits "A", "B", "C", and "D",

attached hereto and incorporated herein, promotes the general health, safety and welfare of the City and its residents; and

WHEREAS, the City of Hilliard is a home-rule charter municipality pursuant to Article XVIII, Section 7 of the Ohio Constitution, which enables the City to have and exercise all powers of local self-government under the Constitution and laws of the State of Ohio.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio that:

SECTION 1. Council finds that amending Section 537.16, **attached** hereto as Exhibit "A" and incorporated herein, regarding the Illegal Distribution of Cigarettes, Other Tobacco Products, Alternative Nicotine Products, or Electronic Smoking Devices promotes the general health, safety and welfare of the City of Hilliard and its residents. The changes and additions to Section 537.16, as shown and identified in track changes on the attached Exhibit "A", are approved and shall be incorporated into the City's Codified Ordinances, from and after the effective date of this Ordinance. All other provisions of Section 537.16, not modified or deleted herein, remain unchanged and are in full force and effect.

SECTION 2. Council finds that enacting Section 537.161, **attached** hereto as Exhibit "B" promotes the general health, safety, and welfare of the City of Hilliard and its residents.

SECTION 3. Council finds that enacting Section 537.162, **attached** hereto as Exhibit "C" promotes the general health, safety, and welfare of the City of Hilliard and its residents.

SECTION 4. Council finds that enacting Section 539.07, **attached** hereto as Exhibit "D" promotes the general health, safety, and welfare of the City of Hilliard and its residents.

SECTION 5. The Council finds that all deliberations and actions of the public body relating to this Ordinance were taken in an open meeting in compliance with Section 121.22 of the Ohio Revised Code.

SECTION 6. To the extent that grant funds, publications and/or proceeds from fines is available, the City of Hilliard may engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to persons affected by it, and to guide proprietors in their compliance with it.

SECTION 7. This Ordinance shall be in full force and effect from and after the earliest time provided for by law.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Ordinance 22-21

<input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Passed <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Held Over <input type="checkbox"/> Referred <input type="checkbox"/> Withdrawn <input type="checkbox"/> First Reading <input type="checkbox"/> Positive Recommendation <input type="checkbox"/> No Recommendation			Yes/Aye	No/Nay	Abstain	Absent
	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, ~~OR~~ ALTERNATIVE ~~E~~-NICOTINE PRODUCTS, OR ELECTRONIC SMOKING DEVICES; TRANSACTION SCANS.

(a) *Illegal Distribution of Cigarettes, Other Tobacco Products, ~~or~~ Alternative Nicotine Products, or Electronic Smoking Devices.*

(1) As used in this section:

- A. "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is ~~eighteen~~ **twenty-one** years of age or older.
- B. "Alternative nicotine product."
 - 1. Subject to subsection (a)(1)B.2. of this section, an electronic **smoking device**, **vapor product** ~~cigarette~~, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving or inhaling.
 - 2. The phrase does not include any of the following:
 - a. Any cigarette or other tobacco product;
 - b. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
 - c. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
 - d. Any product that is a "combination product" as described in 21 U.S.C. 353(g).
- C. "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.
- D. "Distribute." means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes.
- E. "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
- ~~F. "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under ORC 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.~~
- GF.** "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the

consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

H.G. "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in ORC Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.

H. "Vending machine." Has the same meaning as "coin machine" in ORC 2913.01.

- (2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes, and no other person shall do any of the following:
 - A. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes to any person under twenty-one years of age;
 - B. Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, ~~or~~ **electronic smoking devices**, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law;
 - C. Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes for that person;
 - D. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
 - E. Sell cigarettes, ~~or~~ alternative nicotine products **or electronic smoking devices** in a smaller quantity than that placed in the pack or other container by the manufacturer;
 - F. Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, **electronic smoking devices**, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, ~~or~~ alternative nicotine products, **or electronic smoking devices** by or from a vending machine, except in the following locations:
 - A. An area within a factory, business, office, or other place not open to the general public;
 - B. An area to which persons under twenty-one years of age are not generally permitted access;
 - C. Any other place not identified in subsection (a)(3)A. or B. of this section, upon all of the following conditions:

1. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, ~~and~~ alternative nicotine product, **electronic smoking devices** purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 2. The vending machine is inaccessible to the public when the place is closed.
 3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of twenty-one to purchase tobacco, alternative nicotine products, **or electronic smoking devices**."
- (4) The following are affirmative defenses to a charge under subsection (a)(2)A. of this section:
- A. The person under twenty-one years of age was accompanied by a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
 - B. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes to a person under twenty-one years of age under subsection (a)(2)A. of this section is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
- (5) It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age cigarettes, other tobacco products, alternative nicotine products, ~~or~~ **electronic smoking devices**, **or** papers used to roll cigarettes while the person under twenty-one years of age is participating in a research protocol if all of the following apply:
- A. The parent, guardian, or legal custodian of the person under twenty-one years of age has consented in writing to the person under twenty-one years of age participating in the research protocol.
 - B. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
 - C. The person under twenty-one years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age **electronic smoking devices** if that person is an approved caregiver to the person under twenty-one years of age in the Ohio Medical Marijuana Control Program, as that term is defined in Ohio R.C. Chapter 3796.
- (7) It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age **electronic smoking devices** if that person is employed at a properly licensed Ohio Medical Marijuana Dispensary, as that term is defined in Ohio R.C. Chapter 3796.
- (68) A. Whoever violates subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, alternative nicotine products, **or electronic smoking devices**. Except as otherwise provided in this subsection, illegal distribution of cigarettes, other tobacco products, alternative nicotine products, **or electronic smoking devices** is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, alternative nicotine products, **or electronic smoking devices** is a misdemeanor of the third degree.

- B. Whoever violates subsection (a)(2)C. of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, other tobacco products, ~~or~~ alternative nicotine products, ~~or~~ **electronic smoking devices**. Except as otherwise provided in this subsection, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, ~~or~~ alternative nicotine products, **electronic smoking devices** is a misdemeanor of the ~~fourth~~ **first** degree. ~~If the offender previously has been convicted of a violation of subsection (a)(2)C. of this section or a substantially equivalent state law or municipal ordinance, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.~~
- (7) Any cigarettes, other tobacco products, alternative nicotine products, **electronic smoking devices**, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age in violation of ORC 2151.87 are subject to seizure and forfeiture as contraband under ORC Chapter 2981. (ORC 2927.02)

537.161 AFFIRMATIVE DEFENSE TO CIGARETTE, TOBACCO, ALTERNATIVE NICOTINE PRODUCT, ELECTRONIC SMOKING DEVICE CHARGE.

- (a) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of 537.16 of the Hilliard Codified Ordinances in which the age of the purchaser or other recipient of cigarettes, other tobacco products, alternative nicotine products, or electronic smoking devices is an element of the alleged violation, if the seller, agent, or employee raises and proves as an affirmative defense that all of the following occurred:
 - (1) A card holder attempting to purchase or receive cigarettes, other tobacco products, alternative nicotine products, or electronic smoking devices presented a driver's or commercial driver's license or an identification card.
 - (2) A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid
 - (3) The cigarettes, other tobacco products, alternative nicotine products, or electronic smoking devices were sold, given away, or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (b) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by division (a) of this section, the trier of fact in the action for the alleged violation of section 537.16 of the Hilliard Codified Ordinances shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of section 537.16 of the Hilliard Codified Ordinances. For purposes of division (a)(3) of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:
 - (1) Whether a person to whom the seller or agent or employee of a seller sells, gives away, or otherwise distributes cigarettes, other tobacco products, alternative nicotine products, or electronic smoking devices is twenty-one years of age or older;
 - (2) Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
- (c) In any criminal action in which the affirmative defense provided by division (a) of this section is raised, the registrar of motor vehicles or a deputy registrar who issued an identification card under sections 4507.50 to 4507.52 of the Revised Code shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the bureau of motor vehicles in the action.

537.162 PROHIBITING PERSONS AGE EIGHTEEN TO TWENTY-ONE FROM POSSESSING, USING, PURCHASING, RECEIVING, OR FURNISHING FALSE INFORMATION TO OBTAIN TOBACCO PRODUCTS OR ELECTRONIC SMOKING DEVICES

- (a) No person who is eighteen years of age or older but younger than twenty-one years of age shall do any of the following unless accompanied by a parent, spouse, or legal guardian of the child, each of whom shall be twenty-one years of age or older:
 - (1) Use, consume, or possess tobacco products or electronic smoking devices;
 - (2) Purchase or attempt to purchase tobacco products or electronic smoking devices;
 - (3) Order, pay for, or share the cost of tobacco products or electronic smoking devices;
 - (4) Except as provided in division (c) of this section, accept or receive tobacco products or electronic smoking devices.
- (b) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products or electronic smoking devices.
- (c)
 - (1) It is not a violation of division (b)(4) of this section for a person who is eighteen years of age or older but younger than twenty-one years of age to accept or receive tobacco products or electronic smoking devices, if the person is required to do so in the performance of the person's duties as an employee of that person's employer and the person's acceptance or receipt of tobacco products or electronic smoking devices occurs exclusively within the scope of the person's employment.
 - (2) It is not a violation division (b)(1), (2), (3), or (4) of this section if the person who is eighteen years of age or older but younger than twenty-one years of age possesses, purchases or attempts to purchase, orders, pays for, shares the cost of, or accepts or receives tobacco products or electronic smoking devices while participating in an inspection or compliance check conducted by a federal, state, local, or corporate entity at a location at which tobacco products or electronic smoking devices are sold or distributed.
 - (3) It is not a violation of divisions (b)(1), (2), (3), or (4) of this section if the person who is eighteen years of age or older but younger than twenty-one years of age possesses, purchases or attempts to purchase, orders, pays for, shares the cost of, or accepts or receives electronic smoking devices while an approved patient in the Ohio Medical Marijuana Control Program with an active Medical Marijuana Card, as those terms are defined in Ohio R.C. Chapter 3796, and uses the electronic smoking device in compliance with the Ohio Medical Marijuana Control Program Guidelines.
- (d)
 - (1) Whoever violates division (a) of this section is guilty of possessing, using, purchasing, or receiving tobacco products or electronic smoking devices. Possessing, using, purchasing, or receiving tobacco products or electronic smoking devices is a misdemeanor of the fourth degree.
 - (2) Whoever violates division (b) of this section is guilty of furnishing false information to obtain tobacco products or electronic smoking devices. Furnishing false information to obtain tobacco products or electronic smoking devices is a misdemeanor of the first degree.

539.07 PROHIBITING CHILD FROM POSSESSING, USING, PURCHASING OR RECEIVING CIGARETTES, OTHER TOBACCO, ALTERNATIVE NICOTINE PRODUCTS, OR ELECTRONIC SMOKING DEVICES

- (a) As used in this section:
- (1) "Tobacco product" has the same meaning as in Section 537.16 of the Hilliard Codified Ordinances.
 - (2) "Electronic Smoking Device" has the same meaning as in Section 537.16 of the Hilliard Codified Ordinances.
 - (3) "Youth smoking education program" means a private or public agency program that is related to tobacco use, prevention, and cessation, that is carried out or funded by the department of health pursuant to section 3701.84 of the Ohio Revised Code, that utilizes education methods focusing on the negative health effects of smoking and using tobacco products, and that is not more than twelve (12) hours in duration.
- (b) No child shall do any of the following unless accompanied by a parent, spouse, or legal guardian of the child, each of whom shall be twenty-one years of age or older:
- (1) Use, consume, or possess tobacco products or electronic smoking devices;
 - (2) Purchase or attempt to purchase tobacco products or electronic smoking devices;
 - (3) Order, pay for, or share the cost of tobacco products or electronic smoking devices;
 - (4) Except as provided in division (e) of this section, accept or receive tobacco products or electronic smoking devices.
- (c) No child shall knowingly furnish false information concerning that child's name, age or other identification for the purpose of obtaining tobacco products or electronic smoking devices.
- (d) A juvenile court shall not adjudicate a child a delinquent or unruly child for a violation of this section.
- (e)
- (1) It is not a violation of division (b)(4) of this section for a child to accept or receive tobacco products or electronic smoking devices, if the child is required to do so in the performance of the child's duties as an employee of that child's employer and the child's acceptance or receipt of tobacco products or electronic smoking devices occurs exclusively within the scope of the child's employment.
 - (2) It is not a violation of division (b)(1), (2), (3), or (4) of this section if the child possesses, purchases or attempts to purchase, orders, pays for, shares the cost of, or accepts or receives tobacco products or electronic smoking devices while participating in an inspection or compliance check conducted by a federal, state, local, or corporate entity at a location at which tobacco products or electronic smoking devices are sold or distributed.
 - (3) It is not a violation of divisions (b)(1), (2), (3), or (4) of this section if the child possesses, purchases or attempts to purchase, orders, pays for, shares the cost of, or accepts or receives electronic smoking devices while an approved patient in the Ohio Medical Marijuana Control Program with an active Medical Marijuana Card, as those terms are defined in Ohio R.C. Chapter 3796, and uses the electronic smoking device in compliance with the Ohio Medical Marijuana Control Program Guidelines.
- (f) If a juvenile court finds that a child violated division (b) or (c) of this section, the court shall do either or all of the following:

- (1) require the child to attend a youth smoking education program or other smoking treatment program approved by the court, if one is available;
- (2) impose a fine of not more than one hundred dollars (\$100);
- (3) require the child to perform not more than twenty hours of community service.

Council Memo: Legislation (22-22)

Subject: Appropriating Funds for HDC Purchase of 3978 Brown Park Drive
From: Michelle Crandall, City Manager
Initiated by: David Meadows, Director of Economic Development
Date: July 11, 2022

Executive Summary

The Hilliard Development Corporation (HDC) entered into a Real Estate Purchase Agreement for the acquisition of approximately 2.8 acres of land located at 3978 Brown Park Drive. This legislation would allow the City of Hilliard to appropriate funds in the amount up to \$725,000 to transfer to HDC for its acquisition of the property.

Staff Recommendation

Staff recommends City Council authorize the appropriation of \$725,000 for the acquisition of 3978 Brown Park Drive.

Background

The Hilliard Development Corporation (HDC) is the City's agency and instrumentality for industrial, commercial, distribution and research development. A primary role of HDC is to identify real estate acquisition opportunities to advance community and economic development in the City. With the announcement of significant funding to secure passenger rail sites in the region, the City and HDC identified 3978 Brown Park Drive as an important piece of real estate for passenger rail. Staff and HDC believe the investment in this property is a great opportunity for economic development purposes as commercial real estate options become more limited in the region.

Financial Impacts

This acquisition would require \$725,000 contribution from the City's capital funds.

Expected Benefits

Acquisition of this property will allow the City to compete for future passenger rail service and other economic development projects.

Attachments

N/A



Ordinance: 22-22

Passed:

Page 1 of

Effective:

**APPROPRIATING FUNDS FOR THE HILLIARD DEVELOPMENT CORPORATION'S
PURCHASE OF 3978 BROWN PARK DRIVE.**

WHEREAS, on July 13, 2020, City Council adopted Ordinance No. 20-19 (Amended) designating the Hilliard Development Corporation ("HDC") as the agency for the City of Hilliard, Franklin County, Ohio for the industrial, commercial, distribution and research development; and

WHEREAS, on March 25, 2022, the HDC entered into a purchase agreement for the acquisition of 3978 Brown Park Drive for future transit and economic development opportunities; and

WHEREAS, the City of Hilliard has determined that the acquisition of this property is necessary for community and economic development purposes; and

WHEREAS, it is necessary to appropriate \$725,000 and authorize the expenditure of these funds for HDC's acquisition of the 3978 Brown Park Drive; and

WHEREAS, following closing, HDC will transfer the Brown Park Drive Property to the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio that:

SECTION 1. An appropriation in the amount of \$725,000 from Fund 304, Object 55 is authorized in order to provide the Hilliard Development Corporation with funds for costs associated with the acquisition of the 3978 Brown Park Drive.

SECTION 2 City Council authorizes the expenditure of funds from Fund 304, Object 55 to the Hilliard Development Corporation for its acquisition of the 3978 Brown Park Drive.

SECTION 3. The City Manager is authorized to enter into any agreements or sign documents as may be necessary regarding the appropriation and expenditure of these Funds.

SECTION 4. This Ordinance shall be in effect from and after the earliest time provided for by law.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Ordinance 22-22

<input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Passed <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Held Over <input type="checkbox"/> Referred <input type="checkbox"/> Withdrawn <input type="checkbox"/> First Reading <input type="checkbox"/> Positive Recommendation <input type="checkbox"/> No Recommendation			Yes/Aye	No/Nay	Abstain	Absent
	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Council Memo: Legislation (22-23)

Subject: Authorizing Ballot Issue Regarding Electric Aggregation
From: Michelle Crandall, City Manager
Initiated by: Dan Ralley, Assistant City Manager
Date: July 11, 2022

Executive Summary

This legislation would authorize a ballot issue under §4928.20 of the Ohio Revised Code for Hilliard residents to decide whether to establish a community wide opt-out electric aggregation program. Passage of this legislation prior to Council's summer recess will allow the ballot issue to be considered on the November 2022 ballot, which has a filing deadline of August 10, 2022.

Background

At the May 9th Council of the Whole meeting City Council heard a presentation from representatives of AEP Energy overviewing green energy aggregation options for Hilliard. In a follow-up discussion at the May 23rd City Council meeting staff was directed to take the necessary steps to prepare for a ballot issue, a first step in the creation of a green energy program for the community.

Several Central Ohio communities have successfully passed ballot issues to establish a green energy aggregation program, including Columbus, Worthington and Grove City. These ballot issues typically include modest informational campaigns that are similar to Charter amendments in scale.

Columbus and Worthington have fully implemented their aggregation programs, and have secured sources of green energy credits for their communities. Grove City passed their ballot issue in November 2021, and initiated an RFP for energy providers earlier this year, but chose not to move forward with the selection of a provider at this time due to extreme volatility in the energy markets that have led to electricity prices rising significantly in the last few months.

If Hilliard voters approved a green energy aggregation program, the City of Hilliard would need to complete the necessary regulatory filings and then seek an energy provider Hilliard residents and businesses that qualify for the program and that do not opt-out. However, given the current marketplace for electricity, the City would likely wait until pricing in the energy markets stabilized before soliciting proposals from energy providers. Staff would recommend holding off on the selection of an energy broker or consultant to assist with the selection of a provider until the ballot issue is passed and energy markets stabilize.

Expected Benefits

Passage of the legislation would allow Hilliard voters to decide whether the community should establish a green energy aggregation program. The availability of a community-wide green energy aggregation program would allow the community to further environmental goals for sustainability and would position the community to take advantage of new green energy programs and sources as they come online in the coming years.

Attachments

None



Ordinance: 22-23

Passed:

Page 1 of

Effective:

AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT ELECTRIC SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE 4928.20; AND DIRECTING THE FRANKLIN COUNTY BOARD OF ELECTIONS TO SUBMIT THE BALLOT QUESTION TO THE ELECTORS OF THE CITY.

WHEREAS, Section 4928.20 of the Ohio Revised Code authorizes the legislative authorities of municipal corporations, townships and counties to aggregate automatically, subject to opt-out provisions, competitive electric service for the retail electric loads located in the respective jurisdictions and to enter into service agreements to facilitate the sale and purchase of the service for the electricity loads; and

WHEREAS, such legislative authorities may exercise such authority jointly with any other legislative authorities; and

WHEREAS, this Council seeks to establish a governmental aggregation program with opt-out provisions pursuant to Section 4928.20, Ohio Revised Code (the "Aggregation Program"), for the residents, businesses and other electric consumers in the City and in conjunction jointly with any other municipal corporation, township, county or other political subdivision of the State of Ohio, as permitted by law.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard that:

SECTION 1. This Council finds and determines that it is in the best interest of the City, its residents, and small businesses located within the incorporated areas of the City to establish an Electric Aggregation Program within the incorporated areas of the City that promotes local renewable clean energy generation and Hilliard's sustainable economy.

SECTION 2. That provided this Ordinance and the Aggregation Program is approved by the electors of the City of Hilliard pursuant to Section 3 of this Ordinance, the City of Hilliard is hereby authorized to aggregate in accordance with Section 4928.20 of the Ohio Revised Code, the retail electrical loads located within the City of Hilliard, and, for that purpose to enter into service agreements to facilitate for those loads the sale and purchase of electricity. The City of Hilliard may exercise such authority jointly with any other municipal corporation, township or county or other political subdivision of the State of Ohio to the full extent permitted by law which may include use of an energy broker/consultant/aggregator, so long as the broker/consultant/aggregator is certified by the Public Utilities Commission of Ohio. The aggregation will occur automatically for each person owning, occupying, controlling, or using an electric load center proposed to be aggregated and will provide for the opt-out rights described in Section 5 of this Ordinance.

SECTION 3. That the Board of Elections of Franklin County is respectfully directed to submit the following question, in language approved by the Board of Election, to the electors of the City of Hilliard at the general election on November 8, 2022:

"Shall the City of Hilliard have the authority to aggregate the retail electric loads located within the incorporated areas of the City, to support renewable, clean energy generation, and for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of electricity, such

aggregation to occur automatically except where any person elects to opt out?"

The Aggregation Program shall not take effect unless approved by a majority of the electors voting upon this Ordinance and the Aggregation Program provided for herein at the election held pursuant to this Section 3 and Section 4928.20 of the Ohio Revised Code.

SECTION 4. That the Clerk of Council is directed to certify a copy of this Ordinance to the Board of Elections of Franklin County before 4:00 p.m. August 10, 2022, for placement on the November 8, 2022, General Election Ballot for consideration by City of Hilliard electors.

SECTION 5. That upon the approval of a majority of the electors voting at the election provided for in Section 2 of this Ordinance, this Council individually or jointly with any other political subdivision, shall develop a plan of operation and governance for the Aggregation Program. Before adopting such plan this Council shall hold at least two public hearings on the plan. Before the first hearing, notice of the hearings shall be published once a week for two consecutive weeks in a newspaper of general circulation in the City. The notice shall summarize the plan and state the date, time, and location of each hearing. No plan adopted by this Council shall aggregate the electrical load of any electric load center with the City unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the Aggregation Program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the opportunity to opt out of the program every three years or at any time, without paying a switching fee. Any such person that opts out of the Aggregation Program pursuant to the stated procedure shall default to the standard service offer provided under division (a) of Section 4928.14 or division (d) of Section 4928.35, Ohio Revised Code until the person chooses an alternative supplier.

SECTION 6. That all formal actions of this Council concerning and related to the adoption of this Ordinance were taken in an open meeting of said Council, and that all deliberations of this Council that resulted in such formal action were made in meetings open to the public, when required by law, in full compliance with all legal requirements, including without limitation, provisions of the Charter of the City of Hilliard, and Section 121.22 of the Ohio Revised Code.

SECTION 7. Pursuant to Section 3.07 of the Charter for the City of Hilliard, Ohio, this Ordinance shall take effect upon passage.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Ordinance 22-23

<input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Passed <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Held Over <input type="checkbox"/> Referred <input type="checkbox"/> Withdrawn <input type="checkbox"/> First Reading <input type="checkbox"/> Positive Recommendation <input type="checkbox"/> No Recommendation			Yes/Aye	No/Nay	Abstain	Absent
	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Council Memo: Legislation (22-25)

Subject: Amended Development Agreement with Epcon Carr Farms, LLC
From: Michelle Crandall, City Manager
Initiated by: David Meadows, Director of Economic Development
Date: July 11, 2022

Executive Summary

This Ordinance authorizes the City Manager to enter into an Amended Development Agreement with Epcon Carr Farms, LLC ("Epcon").

Staff Recommendation

Staff recommends that Council approve this piece of legislation.

Background

On July 11, 2016, Hilliard City Council passed Ordinance No. 16-21 authorizing the City to enter into a Developer's and Reimbursement Agreement with Homewood Corporation. This Agreement outlined the regional infrastructure improvements Homewood needed to construct related to a 157-unit single family home development on the east side of Leppert Road in the Carr Farms PUD (the "Property").

Homewood did not proceed with its project and instead, Epcon purchased the Property and is proceeding with its development of the Property. In 2020, City Council authorized an initial Developer's Agreement with Epcon for a development that consisted of 238-unit residential development that was a mixture of courtyard homes and traditional single-family homes. In 2021, City Council approved a PUD Modification for the Property which resulted in a slight increase of the total residential units to 243, consisting of 227 courtyard homes and 16 townhomes. As a result, the City and Epcon have been working to amend its Development Agreement to account for the slight change. Below is a summary of the public improvements and recommendations on reimbursements:

- Leppert Road Improvements - The Developer is responsible for the widening and overlay of two lanes and shoulders and ditch improvements along Leppert Road. Epcon will be able to utilize impact fees (\$486,000) generated by the development as a source of reimbursement for this improvement.
- Multi-Use Path Improvements - Regional multi-use paths are required along Leppert Road and connecting through the Carr Farm development. Epcon will be able to utilize a credit against its fee-in-lieu-of-parkland amount (\$243,000) as a source of reimbursement for this improvement.
- Upper Scioto West Sanitary Sewer (a/k/a Hayden Run Sanitary Sewer) - A sanitary sewer lift station and force main construction project is required to serve the Carr Farm development and other sites in the northwest quadrant of the City. The City will utilize sanitary sewer capacity fees, an additional \$1000 Sewer Charge, and NCA fees generated from the 5 mill charge per unit until it is completely reimbursed for this improvement.

The Amended Agreement also provides that Epcon is permitted to utilize a master water meter service for all residential units for the Property. Therefore, Epcon has paid the \$102,094 master meter charge to the City, but has also agreed to pay \$903 per residential unit, which represents the water capacity charge to be used by the City to further fund regional water improvements in the area. Finally, Epcon has agreed to forego use of NCA funds for any reimbursement of the public infrastructure improvements that it is constructing.

Financial Impacts

The City will receive water capacity fees as well as sanitary sewer capacity fees and charges in order to fund regional water improvements as well as reimbursement for the City constructing the Upper Scioto West Sanitary Sewer (a/k/a Hayden Run Sanitary Sewer).

Expected Benefits

Since this Amended Agreement provides the City with access to financing sources in order to fully reimburse itself for the construction of the Upper Scioto West Sanitary Sewer (a/k/a Hayden Run Sanitary Sewer), the City can leverage its available capital improvements funds for other priority projects.

Attachments

- Exhibit A - Amended Agreement with its exhibits



Ordinance: 22-25

Passed:

Page 1 of

Effective:

**AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED
DEVELOPMENT AGREEMENT WITH EPCON CARR FARMS, LLC.**

WHEREAS, Epcon Carr Farms, LLC (“Epcon”) owns 79.45 ± acres of land located on the east side of Leppert Road and located approximately 200 feet north of Davidson Road, identified as parcel numbers 050-008252 and 050-011719 by the Franklin County Auditor’s Office (the “Property”); and

WHEREAS, on December 14, 2020, City Council approved Ordinance No. 20-34 authorizing a Developer’s and Reimbursement agreement with Epcon (the “Original Agreement”); and

WHEREAS, on October 11, 2021, City Council adopted resolution No. 21-R-62, approving a PUD Modification for the Property amending the number of residential units on the Property; and

WHEREAS, due to the change in the number of residential units, it is necessary to enter into a revised and restated Development Agreement; and

WHEREAS, this Amended Agreement also incorporates, restates and amends the material terms and conditions of the Original Agreement, and as such, replaces the Original Agreement in its entirety.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hilliard, Ohio that:

SECTION 1. The City Manager is authorized to enter into an Amendment Development Agreement with Epcon Carr Farms, LLC for the construction and installation of public infrastructure improvements, in a form substantially similar to the one **attached** hereto as Exhibit “A” and incorporated herein, with such non-material and non-adverse changes to the City as may be deemed appropriate by the City Manager and Director of Law, with her execution thereof on behalf of the City constituting conclusive evidence of Council’s approval of such changes.

SECTION 2. The reference to “Owner” and “Developer” as used in this Ordinance, shall refer to any entity in control of the Property that submits plans to the City to develop the Carr Farms PUD and is issued a building permit.

SECTION 3. This Ordinance shall be in effect from and after the earliest time provided for by law.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Ordinance 22-25						
<input type="checkbox"/> Adopted			Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopted as Amended						
<input type="checkbox"/> Passed	Andy Teater		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Defeated	Omar Tarazi		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Tabled	Les Carrier		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Held Over	Tina Cottone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Referred	Peggy Hale		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Pete Marsh		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> First Reading	Cynthia Vermillion		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Positive Recommendation						
<input type="checkbox"/> No Recommendation						

First Amendment to Development Agreement between the
City of Hilliard, Ohio and Epcon Carr Farms, LLC.

This First Amendment to the Developer's Agreement (the "Amended Agreement") is made by and between the **City of Hilliard, Ohio** (the "City"), a municipal corporation organized under the laws of the State of Ohio, with an office located at 3800 Municipal Way, Hilliard, Ohio 43026 and **Epcon Carr Farms, LLC**, an Ohio Limited Liability Company, with offices located at 500 Stonehenge Parkway, Dublin, Ohio 43017 (the "Developer").

WITNESSETH:

WHEREAS, the Developer owns 79.45 ± acres of land located on the east side of Leppert Road and located approximately 200 feet north of Davidson Road, identified as parcel numbers 050-008252 and 050-011719 by the Franklin County Auditor's Office (the "Carr Farm"); and

WHEREAS, the City initially approved the Developer's and Reimbursement Agreement with the Developer on December 14, 2020, by the passage of Ordinance No. 20-34 (the "Original Agreement"); and

WHEREAS, on October 11, 2021, the City adopted Resolution No. 21-R-62, approving a PUD Modification for the Property amending the number of residential units on the Property; and

WHEREAS, due to the change in the number of residential units, it is necessary to enter into a revised and restated Development Agreement; and

WHEREAS, this Amended Agreement also incorporates, restates and amends the material terms and conditions of the Original Agreement, and as such, replaces the Original Agreement in its entirety.

NOW THEREFORE, for good and valuable consideration received, the receipt and sufficiency of which is hereby acknowledge, the City and the Developer agree as follows:

I. Definitions.

- A. **Amended Agreement** means the Development Agreement between the City of Hilliard, Ohio and Epcon Carr Farms, LLC, as amended..
- B. **Carr Farm** means the property identified as Parcel Nos. 050-008252 and 050-011719 by the Franklin County Auditor's Office.
- C. **Epcon at Carr Farms Development** means the Carr Farm to be developed for two hundred forty-three (243) residential homes, including two hundred twenty-seven (227) detached single-family courtyard homes and sixteen (16) townhomes.
- D. **NCA Millage Charge** means the community development charge equal to 5 mills assessed on each residential lot located within the Epcon at Carr Farms Development.
- E. **NCA** means the New Community Authority established under Chapter 349 of the Ohio Revised Code.
- F. **Public Infrastructure Improvements** means the improvements required to be constructed for the Project.

- G. **Reimbursable Public Infrastructure Improvements** means the Public Infrastructure Improvements that are reimbursable pursuant to this Agreement and constructed for the Epcon at Carr Farms Development, as approved by the City.

II. List of Exhibits

- A. Depiction of Property
- B. Epcon at Carr Farms Development Plan
- C. Description of Public Infrastructure Improvements
- D. Reimbursable Public Infrastructure Improvements

- III. **Hilliard Community Authority.** The Developer has amended an existing NCA, the Hilliard Community Authority, in order to assess a 5 mill charge on all residential units in the Epcon at Carr Farms Development.

- IV. **Upper Scioto West Sanitary Sewer.** In order to serve the Epcon at Carr Farms Development and to complete the installation of the regional sanitary sewer facilities known as the Upper Scioto West Sanitary Sewer (a/k/a Hayden Run Sanitary Sewer), and to allow the Grener Property and other private property to develop, sanitary sewer infrastructure is being financed and installed by the City. The sanitary sewer facilities include the construction of a regional sanitary sewer lift station located on Carr Farm and sanitary force main connecting from the lift station to the gravity line manhole on the "White Property" (Franklin County Auditor Parcel Number 010-298468).

The Developer and the City agree that in order to complete the sanitary sewer infrastructure, the City will be reimbursed through Sanitary Sewer Capacity Fees paid by each residential unit in the Epcon at Carr Farms Development ($\$2,199 \times 243 = \$534,357$). Additionally, the City will be reimbursed from each residential unit in the Epcon at Carr Farms Development remitting a one-time sanitary sewer charge of \$1,000 ($\$1,000 \times 243 = \$243,000$).

Following reimbursement from Sanitary Sewer Capacity Fees and Sanitary Sewer Charge, revenue from chargeable fees from the Hilliard Community Authority on units within the Epcon at Carr Farms Development will be payable to the City, with interest, to reimburse the City financing the construction of the Upper Scioto West Sanitary Sewer.

- V. **Water Fees.** The Developer is required to pay, and has already paid, \$102,094 for the master water meter service for all the residential units. Additionally, the Developer is required to pay \$903 per residential unit; which represents the water capacity charge to be used by the City to fund regional water improvements in the area. In turn, Developer shall utilize the master water meter service for all the residential units in the Epcon at Carr Farms Development and the City explicitly acknowledges and agrees to the use of a master water meter by Developer for all the residential units in the Epcon at Carr Farms Development.

- VI. **Sources of Reimbursement.** The following sources of reimbursement are available to the Developer for the construction of Regional Public Infrastructure Improvements as identified in Section VI below and described generally on Exhibit "D".

- A. **Impact Fee Credit.** The maximum Impact Fee Credit available to the Developer is \$486,000.
- B. **Fee-in-lieu of Parkland Dedication Credit.** The Fee-in-lieu of Parkland Dedication Credit is \$243,000.

VII. Reimbursable Public Infrastructure Improvements. The following Reimbursable Public Infrastructure Improvements are to be completed by the Developer with contributions from various revenue sources identified in Section IV and as shown generally on Exhibit “D”.

A. Leppert Road Improvements

1. *Description of Improvement.* The Developer is required to improve its Leppert Road Frontage with a 2-foot-wide full depth paved shoulder and berm and ditch grading from the existing western edge of Leppert Road to the western right-of-way line.
2. *Reimbursement Amount.* The maximum reimbursement is shown on Exhibit “D;” the Developer will be reimbursed for the cost to construct the Leppert Road Improvements from Impact Fee Credit set forth in Section IV.

B. Multi-Use Paths and Sidewalk Connection.

1. *Description of Improvement.* The Developer is required to construct regional multi-use paths within the Epcon at Carr Farms Development, as well as along Leppert Road, south of the Epcon at Carr Farms main entrance. The Developer is also required to construct a 5-foot-wide sidewalk connection from the Epcon at Carr Farms sidewalk system east to Edie Drive.
2. *Reimbursement Amount.* As shown on Exhibit “D”, the Developer will be reimbursed for the cost to construct these multi-use paths and sidewalk connection with Fee-in-lieu of Parkland Dedication Credit set forth in Section IV.

E. Reimbursement Terms.

1. *Total Reimbursement.* Credit and Reimbursement amounts shall be determined at building permit stage and shall be approved only upon the Developer submitting certified costs. In no instance shall payment to the Developer exceed the total costs of the Reimbursable Public Infrastructure Improvements as those improvements are identified in Exhibits “C” and “D” (plus interest, financing cost, engineering design, inspection, permitting and other “soft costs” hereinafter the “Reimbursement Amount”). For purposes of this Agreement, the term “Interest” shall mean interest at a rate which is the greater of (i) 5%, or (ii) a variable rate which changes quarterly and that is equal to the Federal Mid Term Rate as published each month by the Internal Revenue Service in accordance with Section 1274(d) of the Internal Revenue Code, plus 3%.
2. *Reimbursement Payments.* All payment to the Developer, or its successor or approved assigns, shall be reimbursed according to the Sources of Reimbursement available for each public infrastructure improvement described above and as shown in the following chart. Upon Developer constructing all or a portion of the Public Infrastructure Improvements, the Developer shall provide one or more certified statements verifying costs for each Reimbursable Public Infrastructure Improvement. The Developer shall be reimbursed/credited for those costs in an amount not to exceed the applicable Sources of Reimbursement set forth in Section IV.

	Impact Fee Credits	Fee-in-lieu of Parkland Dedication Credit
Leppert Road Improvements	X	
Multi-Use paths and Sidewalk Connection		X

3. *Limits of Reimbursement.* Under the terms of this Agreement, the Developer understands and agrees that the funds to be conveyed to the Developer may be insufficient to fully reimburse the Developer for the Reimbursable Public Infrastructure Improvements, and the Developer understands and agrees that nothing in this Agreement shall be interpreted otherwise and that it alone bears the risk that a shortfall may exist. Nothing in the Agreement shall be construed as pledging the full faith and credit of the City for any costs or reimbursements in this Agreement, nor to issue any bonds or notes for any Reimbursement Amount.

VIII. Third-Party Contributions.

- A. **Non-Residential Third-Party Developer.** In the event If a new, non-residential third party developer or developers seek direct and main traffic access (as opposed to limited or emergency access) to Leppert Road within the boundaries of the Carr Farms site, the City and the Developer agree that the City shall cause the Developer to be reimbursed for improvements which benefit the non-residential third-party developer from the Hilliard Community Authority or other appropriate sources at the City's discretion in an amount in proportion to the additional non-residential third party developer's use and impact on Leppert Road. This foregoing sentence and provision shall sunset and shall no longer have any binding force or legal effect three years after the effective date of Ordinance. No. __-__, which approved this Amended Agreement.
- B. **Residential Third-Party Developer.** In the event a third-party residential developer requires direct traffic access to Leppert Road, either for main or secondary access, in a manner that such new third-party development benefits from the Improvements made by the Developer to Leppert Road, the City agrees it shall cause such third-party residential developer to reimburse the Developer in proportion to contributions benefiting the third-party residential developer's traffic mitigation benefit and/or the City shall cause contributions from the Hilliard Community Authority or other appropriate sources at the City's discretion to reimburse the Developer in an amount in proportion to the additional residential third-party developer's use and impact on Leppert Road covered by the Developer. This e foregoing sentence and provision shall sunset and shall no longer have any binding force or legal effect three years after the effective date of Ordinance No. __-__, which approved this Amended Agreement.

IX. Provisions Governing the Construction of all Public Infrastructure Improvements. The following provisions govern the construction of all public infrastructure improvements as listed and described on Exhibit "C".

- A. **Security for Performance.** The Developer shall execute, or cause its contractor(s) to execute, and provide to the City, a bond, a certified check or an irrevocable letter of credit equal to the Construction Bond Amount of the Public Infrastructure Improvements for which the Developer has received approval to construct (per engineering plans and drawings approved by the City Engineer). All forms of financial warranties must be acceptable to the City to ensure faithful performance of the terms and conditions under this Agreement and to ensure completion of all Public Infrastructure Improvements and that they are

constructed in accordance with the Subdivision Regulations of the City (as included in the City's Design Manual) and in compliance with the Epcon at Carr Farms Development Plan shown on Exhibit "B".

Reductions in the Construction Bond(s) Amount for the Public Infrastructure Improvements made or being made on City-owned property, City rights-of-way or in easements granted to the City, shall occur only after the City Engineer has been provided evidence that all work on the particular Public Infrastructure Improvement(s) have been performed according to the approved plans and specifications filed with the City Engineer and/or to the City Engineer's satisfaction. Such reductions in the Construction Bond(s) Amount shall occur periodically over time if the Public Infrastructure Improvements are accepted by the City in one or more phases.

If the surety of any bond so furnished by the Developer or its contractor(s) declares bankruptcy, becomes insolvent or its right to do business is terminated in Ohio, the Developer shall within five (5) days thereafter cause the substitution of another bond or surety. The Developer shall provide to the City prior to commencement of any work by any contractor a copy of the Security for Performance provided by the contractor pursuant to this Section.

- B. **Plan Review and Inspection Cost.** Prior to receiving any permits required to commence construction of any portion or phase of the Project, including the Public Infrastructure Improvements, pursuant to Chapter 1190 of the City's Codified Ordinances, the Developer shall deposit the following amounts estimated by the City Engineer to be necessary to pay the cost of plan review and inspection fees for that portion or phase of the Project:

7% of the costs for construction inspection; and

2% of the costs of construction for plan review fees for public improvements.

In the event that the amount of actual cost for the City to perform construction inspection and/or plan review exceeds the amount deposited, the Developer shall make such additional deposit as required by the City Engineer, not to exceed the amounts listed in Exhibit A of Chapter 190 of the City's Codified Ordinances. The entire percentage owed by City Code may be paid in installments only as approved by the City Engineer. All plan review and inspection fees are nonrefundable per Chapter 1190 of the City's Codified Ordinances.

- C. **Prevailing Wage.** The Developer and the City acknowledge and agree that construction of the Reimbursable Public Infrastructure Improvements under the terms and conditions of this Agreement, are subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115 and all wages paid to laborers and mechanics employed in constructing those Reimbursable Public Infrastructure Improvements on the Project shall be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Public Infrastructure Improvements, which wages shall be determined in accordance with the requirements of that Chapter 4115. The Developer shall require compliance by all contractors, and shall require all contractors to require all subcontractors working on the Reimbursable Public Infrastructure Improvements, to comply with all applicable requirements of that Chapter 4115.

The Developer and City further acknowledge that the construction of the Public Infrastructure Improvements that will be reimbursed pursuant to this Amended Agreement and those paid for by the Developer and/or builder(s) that are not reimbursable through the Sanitary Sewer Capacity Fee Credit, Water Capacity Fee Credit or Impact Fee Credit,

are also Public Infrastructure Improvements subject to the prevailing wage requirements of Chapter 4115 under this Agreement.

- D. **Insurance.** Prior to the commencement of construction of the Public Infrastructure Improvements, the Developer or its contractor(s), as well as all subcontractors, shall take out and maintain, insurance in such amounts as provided below. The Developer or its contractor shall provide sufficient evidence to the City, prior to construction, that such insurance exists and is in effect.
1. *Public Liability Insurance.* Shall be taken out and maintained in the amount of \$2,000,000.00 for bodily injuries including those resulting in death of any one person and on account of any one accident or occurrence with an annual aggregate of \$3,000,000.00.
 2. *Property Damage Insurance.* Shall be taken out and maintained in an amount of \$1,000,000.00 from damages on account of any one accident or occurrence with an annual aggregate of \$3,000,000.00.

The Developer agrees, on behalf of itself and its agents/contractors, that the insurance policies required herein (excluding the professional liability insurance) shall require the insurer to name the City as an additional insured, and to provide the City with prior written notice before the cancellation of a policy according to not less than the timeframe stated in the policy or policies.

- E. **Indemnification.** The Developer shall indemnify and hold harmless the City, and all of its elected officials, officers, employees and agents from and against all claims, losses, suits, actions and expenses (including reasonable attorneys' fees) that arise due to the wrongful or negligent performance or non-performance of the Developer, its contractors, subcontractors or its agents or employees, under the terms of this Agreement, including any and all proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor, subcontractor or agent, from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor, subcontractor or its agents or employees.

The Developer shall indemnify and hold harmless the City from all expenses and claims for labor and/or material related to construction by the Developer, or its Contractor, of said Public Infrastructure Improvements. In its contracts with agents and subcontractors, the Developer shall require each entity to indemnify and hold harmless the City from all expenses and claims for labor and/or material related to construction of the Public Infrastructure Improvements.

- F. **Acceptance of Public Infrastructure Improvements.**
1. *Formal Acceptance by Hilliard City Council.* Upon completion of any particular Public Infrastructure Improvement and final inspection by the City, the City shall submit to Hilliard City Council legislation documenting the City Engineer's approval of the Public Infrastructure Improvement. Formal Acceptance of the Public Infrastructure Improvement shall not be unreasonably withheld.
 2. *Maintenance Period.* Notwithstanding formal acceptance by Hilliard City Council, the Developer shall be responsible for the maintenance, repair and/or reconstruction of any and all defective materials or workmanship for a period of one year from the final inspection date.

During this one year period, the City shall be responsible for the operations and routine maintenance of the Public Infrastructure Improvement(s), including snow and/or ice approval.

The Developer shall be responsible for all utility charges and installation costs applicable to the period of construction. The utility user charges shall be paid by the Developer and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the City. The Developer shall not be responsible for utility user charges with respect to any particular Public Infrastructure Improvement(s) after formal acceptance of the dedication of the particular Public Infrastructure Improvement(s) by Hilliard City Council.

3. *Maintenance Bond.* Prior to formal acceptance by the Hilliard City Council, the Developer shall submit a maintenance bond, certified check or irrevocable letter of credit in an amount estimated by the City Engineer for the one-year maintenance period which shall not to exceed 10% of the cost of the accepted Public Infrastructure Improvement(s). This one-year term may be extended by the City upon reasonable request by the Developer or the NCA.

If no claims for repair or replacement are pending, the Maintenance Bond Amount shall be reduced to zero immediately after the expiration of the above-described one year period for the improvement accepted, after which the City shall assume all responsibility for the operation and routine maintenance of the formally accepted Public Infrastructure Improvements.

4. *As-builts.* The Developer shall, within sixty (60) days following the completion of the Public Infrastructure Improvement(s) and prior to final acceptance by the City, furnish to the City, as required, electronic "as built" drawings of the Public Infrastructure Improvement(s), which drawings shall become the property of the City and remain in the office of the City Engineer.
5. *Liens.* The Developer shall, within sixty (60) days of completing a Public Infrastructure Improvement or all of the Public Infrastructure Improvements, furnish to the City an itemized statement showing the cost of the Public Infrastructure Improvements and a notarized affidavit stating that all material and labor costs have been paid and there are no liens.

The Developer shall provide the City with evidence satisfactory to it that all liens affecting the Public Infrastructure Improvements, including but not limited to liens for delinquent taxes, the lien of any mortgage, and any mechanic's liens, have been released. The City shall not accept the Public Infrastructure Improvements until such satisfactory evidence is provided to the City Engineer.

- G. **Dedication of Right-of-Way and Easements.** The Developer agrees that it shall dedicate, and the City agrees that it shall accept (subject to the City Engineer's approval) all right-of-way and easements required for the construction of the Public Infrastructure Improvements. All right-of-way for Thoroughfare Plan Streets shall be per the City's Thoroughfare Plan, and all right-of-way for local streets shall be per the City's Engineering Design Guidelines. The Developer agrees that it shall dedicate all right-of-way and easements necessary for future public infrastructure improvements, as approved by the City Engineer. Dedication of rights-of-way and easements shall be made to the City without charge and the Developer shall not be entitled to, nor shall it request, any compensation or reimbursement therefor, nor or at any time in the future.

X. General Provisions.

A. Breach and Opportunity to Cure.

1. *Breach.* The Developer and the City agree that any material violations of or noncompliance with any of the terms and conditions of this Amended Agreement shall constitute a breach of contract, and, subject to the notification and cure provisions outlined below, the Developer and the City shall have the right to stop work forthwith and seek any and all remedies available at law or equity.

In the event of a breach by the Developer, the City shall have the right to act against the performance surety, or other financial security accepted by the City, for the purpose of properly completing the Public Infrastructure Improvement(s), or having the Public Infrastructure Improvements completed, as required herein.

Should the City exercise its right to act against any performance surety or other financial security accepted by the City, any such costs thereafter expended by the City, and not reimbursed to it by the approved surety or other financial security, or paid for by the Developer's surety or guarantor, shall be reimbursable to the City under this Agreement in the same manner and amounts as those Public Infrastructure Improvements are reimbursable to the Developer hereunder, and such costs in having the Public Infrastructure Improvement(s) completed shall be excluded from reimbursement to the Developer under this Agreement.

2. *Opportunity to Cure.* Prior to either party acting to stop its work in connection with an alleged breach of this Agreement, or the City seeking payment or performance from any surety or on any bond, the non-breaching party shall provide a written notice to the breaching party, which written notice shall set forth the alleged material violations of, or noncompliance with, any material term(s) and condition(s) of this Agreement.

The breaching party shall have thirty (30) days after receiving the written notice to cure the alleged breach. If the breach is not cured within that time period, the non-breaching party may act to stop the breaching parties' work in connection with this Agreement and seek any and all remedies available at law or equity.

Notwithstanding the foregoing, if the nature of the breach is such that it cannot be reasonably cured within said thirty (30) day period, then the breaching party may have a reasonable amount of time to cure, so long as the cure is commenced within said thirty (30) day period, is diligently prosecuted to completion thereafter, and provided that such additional time period is not adverse to the general health, safety and welfare of the City as determined by the Hilliard City Engineer.

Notwithstanding any other provision of this Agreement, the above-described notification and cure provisions shall not apply when (i) the non-breaching party reasonably believes that it will be materially harmed if a thirty (30) day notice period is observed, (ii) the City's Chief Building Official issues a stop work order for local, county or state code violations related to construction defects, or (iii) the City Engineer issues a stop work order for local, county or state construction code violations.

- B. **Notices.** Any notices, statements, acknowledgements, consents, approvals, certificates or requests required to be given on behalf of either party to this Agreement shall be made in writing addressed as follows and sent by registered or certified mail, return receipt requested, and shall be deemed delivered when the return receipt is signed, refused or unclaimed:

If to the City to:

Michelle Crandall, City Manager
City of Hilliard, Ohio
3800 Municipal Way
Hilliard, Ohio 43026

With a copy to:

Philip K. Hartmann, Law Director
One Columbus, Suite 2300
10 West Broad Street
Columbus, OH 43215

If to the Developer to:

Joel Rhoades
Epcon Carr Farms, LLC
500 Stonehenge Parkway
Dublin, Ohio 43017

With a copy to:

Thomas L. Hart, Esq
Painter & Associates
5029 Cemetery Road
Hilliard, OH 3026

or to any such other persons or addresses as may be specified by either party,
from time to time, by prior written notification.

C. **Representations.** All representations and warranties of the Developer and the City herein shall be binding upon the parties, their successors and approved assignees, and shall survive the execution and delivery of this Amended Agreement.

1. *Developer Representations.* The Developer represents and warrants that the execution and delivery by the Developer of this Amended Agreement and the compliance by the Developer with all of the provisions herein (i) are within the authority and powers of the Developer; (ii) will not conflict with or result in any breach of any of the provisions of, or constitute default under, any agreement, its articles of organization or operating agreement, or other instrument to which the Developer is a party or by which it may be bound, or, to the Developer's knowledge, any license, judgment, decree, law, statute, order, rule or regulation or any court or governmental agency or body having jurisdiction over the Developer or any of its activities or properties; and (iii) have been duly authorized by all necessary action on the part of the Developer.

Should the Developer be unable to carry out the terms and conditions of this Amended Agreement, the Developer's heirs, successors and/or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this Amended Agreement.

2. **City Representations.** The City hereby represents and warrants that (i) execution of this Agreement has been approved and authorized by Ordinance No. 22-____, passed by City Council on _____ and (ii) the City has full power and authority to enter into this Amended Agreement, to carry out its terms and to perform its obligations hereunder.
- D. **Waiver.** In the event that any covenant, agreement, or obligation under this Amended Agreement shall be breached by either the Developer or the City and the breach shall have been waived thereafter by the Developer or the City, as the case may be, the waiver shall be limited to the particular breaches so waived and shall not be deemed to waive any other or any subsequent breach thereunder.
- E. **Severability.** In case any section or provision of this Amended Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason,
1. that illegality or invalidity shall not affect the remainder hereof or thereof; any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein,
 2. the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof; and
 3. each section, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.
- F. **Assignment.** Except as otherwise provided in this Section, this Amended Agreement may not be assigned by any party hereto without the written consent of the other party which consent shall not be unreasonably withheld, and which consent, if granted, may include reasonable provisions to protect the interest of the non-assigning party.
- The assignment of Developer's right to receive reimbursement and payments of any and all reimbursements, credits and/or funds due and payable to it under this AMended Agreement, shall in no way affect the Developer's responsibility hereunder to construct the Public Infrastructure Improvements under this Amended Agreement, and pursuant to the Epcon at Carr Farms PUD.
- G. **Jurisdiction.** This Amended Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Amended Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.
- H. **Captions.** The captions and headings in this Amended Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections in this Amended Agreement.
- I. **Termination of Original Agreement.** Upon the effectiveness of this Amended Agreement, the Original Agreement shall terminate and be of no further force or effect, and shall be superseded and replaced in its entirety by this Amended Agreement.

IN WITNESS WHEREOF, the parties, each by a duly authorized representative, have executed this Amended Agreement on the dates below. This Amended Agreement is effective on the date signed by City Manager as identified below.

City of Hilliard, Ohio

Michelle L. Crandall
City Manager

Date

Approved as to Form:

Philip K. Hartmann
Law Director

Epcon Carr Farms, LLC

Print Name: _____

Its: _____

Date: _____



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Your Property

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On-Line Tools

Reference

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Summary

Land Profile

Residential

Commercial

Improvements

Permits

Mapping

Sketch

Photo

Aerial Photos

Transfers

BOR Status

CAUV Status

Tax & Payments

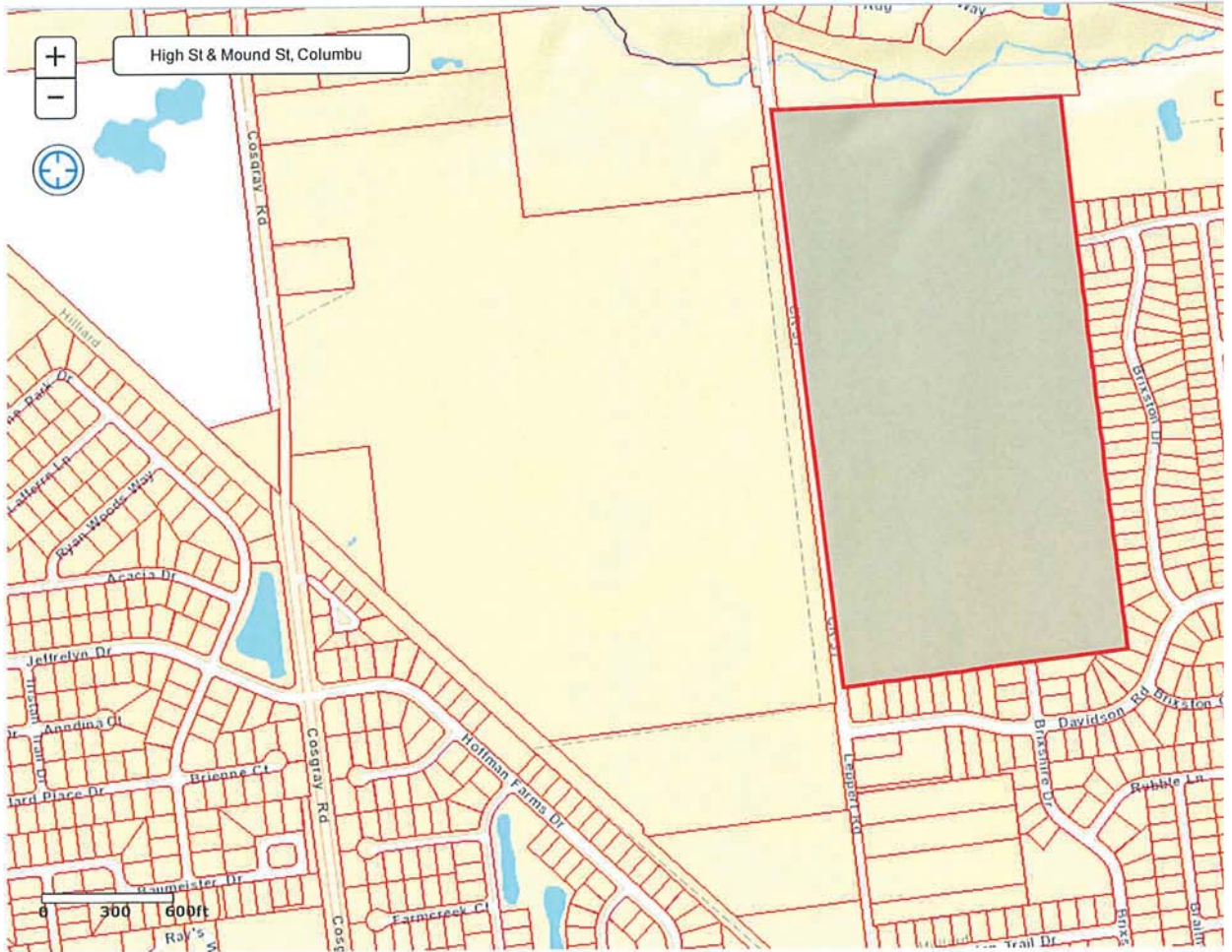
Tax Distribution

Value History

Rental Contact

Quick Links

ParcelID: 050-008252-00
HOMEWOOD CORP



Attachment: Exhibit A-Amended Epcon Development Agreement (22-25 : Amended Development Agreement with Epcon Carr Farms, LLC)

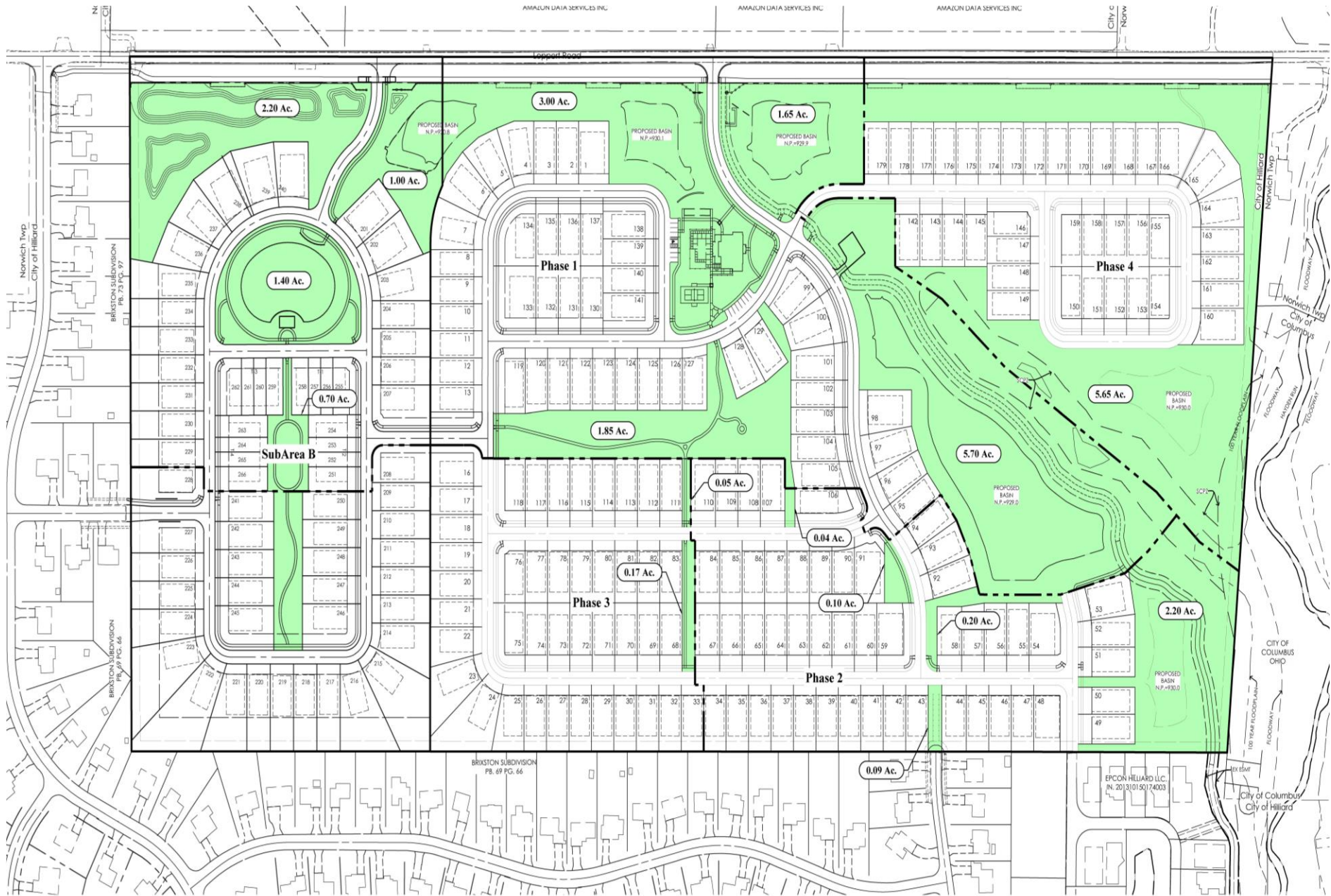


Exhibit C**Carr Farms Public Improvements****Developer Improvements****Description of Improvement****Reimbursable****1. Leppert Road**

Widening and overlay of two, 11 foot wide lanes, two foot wide paved shoulders on each side ,and ditch and berm improvements, additional of a two foot wide full depth paved shoulder and berm and ditch grading from the existing western edge of Leppert Road to wester right-of-way line

Yes, see Exhibit "D"

2. Water Main

Installation of approximately 3,500 Linear feet of 12 inch water main along Leppert Road

No

3. Multi-Use Path Improvements

Construction of a 10 foot wide share-use path along Leppert Road extending northeast through the project site until it connects to an existing public multi-use path stubbed near the property line of the project site, Edie Road sidewalk connection, eight foot wide shared-use path located along Leppert Road north of the project site entrance

Yes, see Exhibit "D"

City Improvements**1. Upper Scioto West Sanitary Sewer (a/k/a Hayden Run Sanitary Sewer Trunk Extension)**

Construction of an approximately 2,449 gallon per minute regional sanitary sewer pump station, 5,700 linear feet of 16-inch sanitary force main and gravity main from Leppert Road lift station to Cosgray Road

Yes, see Exhibit "D"

Exhibit D

Epcon at Carr Farms Public Improvement Reimbursement

Project Assumptions		Amended Numbers due to PUD Modification	
Total Residential Units	238	243	
Parkland Acreage Required	5.65	4.86	
Market Value Per Unit	\$375,000	\$375,000	
NCA Millage	5.00	5.00	
NCA Term (years)	30	30	

Public Funding Sources				
Source	Fee Amount per Unit	Amended Fee Amounts per Unit	Fees Collected	Amended Fees Collected
Impact Fees	\$ 2,000	\$ 2,000	\$ 476,000	\$ 486,000
Excess Water Capacity Fee	\$ 903	\$ 903	\$ 214,914	\$ 219,429
Sewer Capacity Fee	\$ 2,199	\$ 2,199	\$ 523,362	\$ 534,357
Sewer NCA Charge	\$ 1,000	\$ 1,000	\$ 238,000	\$ 243,000
Annual NCA Fees	\$ 656	\$ 656	\$ 156,188	\$ 159,469
Cumulative NCA Fees	\$ 19,688	\$ 19,688	\$ 4,685,625	\$ 4,784,063
	Price per Acre	Fees Collected	Amended Fee Collected	
Fee in-lieu-of Parkland	\$ 50,000	\$ 282,500	\$ 243,000	

Developer Constructed Public Improvement Funding Uses				
Public Improvement	Total Cost	Reimbursable Amount	Amended Reimbursable Amount	Public Funding Source(s)
Leppert Road Widening	\$ 1,633,260	\$ 508,040	\$ 486,000	Impact Fee Credit, NCA Fees*
Regional Path Improvements	\$ 387,360	\$ 387,360	\$ 243,000	Fee in-lieu-of parkland credit, NCA Fees*
Leppert Water Main Upsizing**	\$ 925,993	\$ 119,232		Excess Water Capacity Fee Credit

~~*NCA fees are available for reimbursement after the NCA funds are first utilized to support City financing of Regional Sewer Infrastructure-~~

~~**Represents the the additional cost of installing a 12-inch Water Main rather than an 8-inch water main-~~

City Constructed Public Improvement Funding Uses					
Public Improvement	Total Cost	Amended Total Cost	Reimbursable Amount	Amended Reimbursable Amount	Public Funding Source(s)
Upper Scioto West Sanitary Sewer (a/k/a Hayden Run Sanitary Sewer)	\$ 3,530,000	\$ 5,515,000	\$ 3,530,000	\$ 5,515,000	Sewer Capacity Fees, Sewer NCA Charges, NCA Fees

Council Memo: Legislation (22-R-55)

Subject: Greenwich Investors Sanitary Sewer Easement Vacation
From: Michelle Crandall, City Manager
Initiated by: Clark Rausch, City Engineer
Date: July 11, 2022

Executive Summary

This is for the vacation of a portion of an existing sanitary sewer easement on Lot 3 of the Hickory Chase subdivision due to the development of new garages on this parcel.

Staff Recommendation

City staff recommends approval of the vacation of a portion of an existing twenty (20) feet wide sanitary sewer easement due to the construction of new garages for the Verena development on Lot 3 in the Hickory Chase subdivision.

Background

Hilliard City Council adopted Resolution No. 16-R-08 on January 25, 2016, which accepted a twenty (20) foot wide sanitary sewer easement ("Easement") on Lot 3 of the Hickory Chase subdivision. The sanitary sewer easement was granted by Greenwich Investors Hickory Chase, LLC and is described in Plat Book 120, pages 61-63 of the Franklin County Recorder. The existing sanitary sewer in this easement serves the new Verena residential building in the Hickory Chase development.

Earlier this year, the Green Courte Acquisition IV, LLC submitted plans for and were approved for new garages for the Verena development. A portion of the proposed garages are over an existing sanitary sewer that serves the new Verena residential building. The City of Hilliard has determined that the portion of the existing sanitary sewer located beneath the new garages is at the beginning or "upstream end" of the sewer and removing the sewer and relocating a manhole will not affect the sanitary sewer. With the sewer removed, a portion of the Easement is no longer necessary. Therefore, Green Courte Acquisition IV, LLC has requested that a portion of the existing public sanitary sewer easement be vacated so that the new garages are not within a public easement. The portion of the easement to be vacated is shown on Exhibit "A" of the Council Resolution.

Financial Impacts

There are no financial impacts to the City associated with the vacation of this sanitary sewer easement.

Expected Benefits

The vacation of a portion of this sanitary sewer easement on Lot 3 allows the construction of garage units for the new Verena residential building. Vacating this easement will not encumber the new garages with an easement.

Attachments

- Exhibit A



Resolution: 22-R-55

Adopted:

Page 1 of

Effective:

VACATING A PORTION OF A SANITARY SEWER EASEMENT GRANTED TO THE CITY OF HILLIARD BY GREENWICH INVESTORS HICKORY CHASE, LLC.

WHEREAS, with the approval of Hilliard City Council Resolution No. 16-R-08 on January 25, 2016, Greenwich Investors Hickory Chase, LLC conveyed a twenty (20) foot wide sanitary sewer easement ("Easement") to the City of Hilliard on Lot 3 for the Hickory Chase subdivision, as described in Plat Book 120, pages 61-63 of the Franklin County Recorder; and

WHEREAS, within the Easement, Hickory Chase constructed a sanitary sewer to provide sewer service for the residential building of the Hickory Chase development, which sewer the City of Hilliard now owns and maintains; and

WHEREAS, Green Courte Acquisition IV, LLC ("Developer") submitted plans for and were approved for new garages ("Project") to serve the recently opened Verena residential community in the Hickory Chase development; and

WHEREAS, a portion of the new garages for the Project is located over a portion of the sanitary sewer and the Easement; and

WHEREAS, the Developer has petitioned the City to be able to remove the sanitary sewer under the new garage, relocate a sewer manhole; and

WHEREAS, the sewer to be removed is at the "upstream" or beginning of the sanitary sewer, and removal of the sewer and relocation of the manhole will not affect sanitary sewer service for the Hickory Chase Development; and

WHEREAS, with the sanitary sewer removed, the Easement is no longer necessary for ownership and maintenance of the former sewer by the City of Hilliard; and

WHEREAS, the Developer has requested that the City vacate a portion of the original Easement granted to the City of Hilliard, as described and depicted in the "Easement Vacation", **attached** hereto and incorporated herein as Exhibit "A".

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

SECTION 1. This Council finds that the request by the Developer for the City to vacate a portion of the original sanitary sewer easement granted to the City of Hilliard, as described and depicted in the "Easement Vacation", **attached** hereto and incorporated herein as Exhibit "A", is in support of the development and not adverse to the general health, safety and welfare of the public. Said portion of the sanitary sewer easement identified in Exhibit "A" is hereby vacated.

SECTION 2. The Clerk of Council is directed to record this Resolution and Exhibit "A" in the Office of the Recorder of Franklin County, Ohio and notify the Auditor of Franklin County, Ohio about the vacation by sending the Auditor a certified copy of this Resolution and attachments.

SECTION 3. This Resolution is effective upon its adoption.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Resolution 22-R-55						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopted	Andy Teater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Adopted as Amended	Omar Tarazi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Defeated	Les Carrier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Tabled	Tina Cottone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Held Over	Peggy Hale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Withdrawn	Pete Marsh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Positive Recommendation	Cynthia Vermillion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> No Recommendation						
<input type="checkbox"/> Referred Back To Committee						

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-55** passed by the Hilliard City Council on the 11th day of July 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 11th day of July 2022.

Diane C. Werbrich, MMC

**EASEMENT VACATION
0.024 ACRE**

Situated in the State of Ohio, County of Franklin, City of Hilliard, lying in Virginia Military District Survey Number 4854, being a part of that existing 20 feet wide sanitary sewer easement, of record in Plat Book 120, Page 61, (all references are to the records of the Recorder's Office, Franklin County, Ohio) being more particularly described as follows:

Beginning, for reference, in the southerly right-of-way line of Hickory Chase Way (50 feet wide), as dedicated by Plat Book 120, Page 61, at the common corner of Lot 3 and Lot 5 of that subdivision entitled "Hickory Chase", of record in Plat Book 120, Page 61;

Thence South 23° 37' 07" East, with the line common to said Lots 3 and 5, a distance of 144.06 feet to a point;

Thence across Lot 3, the following courses and distances:

North 66° 22' 53" East, a distance of 131.81 feet to a northwesterly corner of said existing sanitary sewer easement, being the TRUE POINT OF BEGINNING;

North 68° 13' 18" East, with the northerly line of said existing sanitary sewer easement, a distance of 53.14 feet to a point;

South 21° 46' 42" East, across said existing sanitary sewer easements, a distance of 20.00 feet to a point in a southerly line of said existing sanitary sewer easement;

South 68° 13' 18" West, with said southerly easement line, distance of 53.14 feet to a southwesterly corner of said existing sanitary sewer easement; and

North 21° 46' 42" West, with a westerly line of said existing sanitary sewer easement, a distance of 20.00 feet to the TRUE POINT OF BEGINNING, containing 0.024 acre, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Heather L. King
Heather L. King
Professional Surveyor No. 8307

6/7/22
Date

HLK: anp
0_024 ac 20200743-VS-ESMT-VACT-02.doc



Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Toll Free: 888.775.3648
emht.com

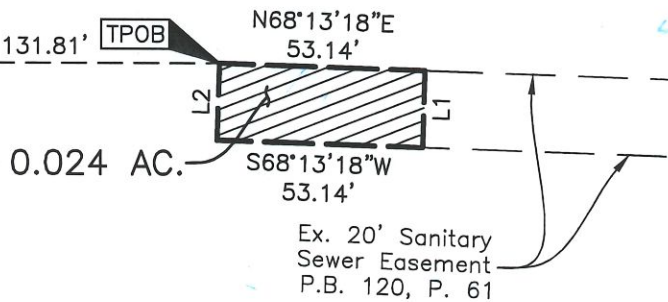
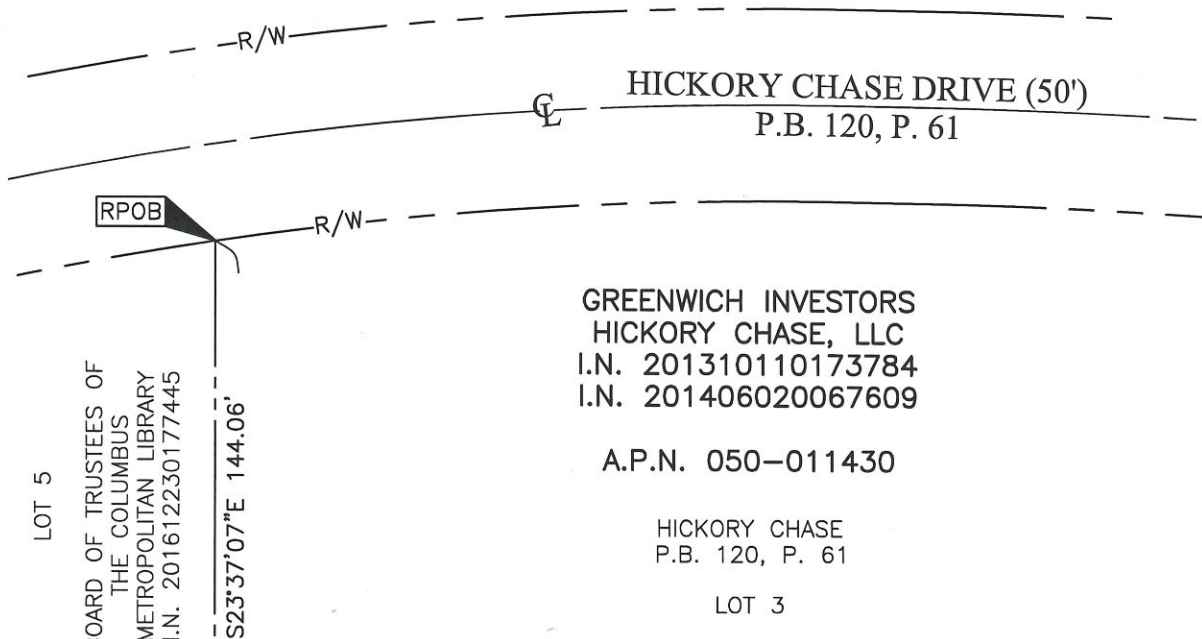
EASEMENT VACATION

SURVEY NO. 4854

VIRGINIA MILITARY DISTRICT

CITY OF HILLIARD, COUNTY OF FRANKLIN, STATE OF OHIO

Date: May 26, 2022 Scale: 1" = 50' Job No: 2020-0743 Sheet No: 1 of 1



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S21°46'42\"E	20.00'
L2	N21°46'42\"W	20.00'



SCALE (in feet)



By Heather L. King
Heather L. King
Professional Surveyor No. 8307
hking@emht.com

6/7/22
Date

J:\20200743\DWG\04SHEETS\EASEMENTS\20200743-VS-ESMT-VACT-02.DWG plotted by KING, HEATHER on 6/7/2022 1:02:03 PM last saved by HKING on 6/7/2022 1:01:27 PM

Council Memo: Legislation (22-R-56)

Subject: Carpenter Marty Transportation PSA
From: Michelle Crandall, City Manager
Initiated by: Letty Schamp, Transportation & Mobility Director
Date: July 11, 2022

Executive Summary

This resolution authorizes a professional service agreement (PSA) for a General Engineering Services (GES) contract with Carpenter Marty Transportation to provide technical expertise and support for the Division of Transportation & Mobility on an “on-call” basis in the areas of safety studies, traffic analysis, and related engineering services.

Staff Recommendation

Staff recommends approval of this resolution to provide technical expertise and engineering support to the City, as needed.

Background

The City of Hilliard Division of Transportation & Mobility utilizes the services of a consultants to provide technical expertise and general support of staff for safety studies, preliminary engineering activities, data collection, and traffic analysis.

The City has worked with Carpenter Marty in the past in these capacities, and they have provided excellent service to the City.

Examples of work performed by Carpenter Marty to support the Division in the past are:

- Pedestrian and bicycle safety studies along the Main Street/Hilliard Rome Road corridor and submittal of a grant application, which was ultimately awarded funding for crosswalk improvements through the Highway Safety Improvement Program.
- Data collection and analysis of vehicular, pedestrian, and bicycle traffic at Cemetery Road/Luxair Drive/Franklin Street to assist in development of infrastructure improvements to improve safety
- Traffic signal warrant analyses and access studies along the 5-lane section of Main Street/Hilliard Rome Road
- Update to the Hilliard Thoroughfare Plan on the City’s western boundary to support the Alton Place development proposal
- Collection of traffic counts throughout the City

Staff desires to enter into a new annual contract with Carpenter Marty Transportation. This contract is eligible for up to four annual extensions for a total of five years, provided that Carpenter Marty Transportation continues to provide satisfactory and responsive service.

Financial Impacts

In 2022, the financial impact is summarized below.

• Operating Budget (101.407.53204):	\$30,000
• Capital Budget, T-124 (202.627.55704):	\$35,000
Total:	\$65,000

Expected Benefits

The benefit of this professional service agreement is to ensure that City has sufficient technical expertise and engineering assistance to support the needs of the City.

Attachments

Exhibit A - Professional Service Agreement



Resolution: 22-R-56

Adopted:

Page 1 of

Effective:

AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICE AGREEMENT (PSA) WITH CARPENTER MARTY TRANSPORTATION, INC. TO PROVIDE GENERAL ENGINEERING SERVICES AND AUTHORIZING AN EXPENDITURE.

WHEREAS, the City of Hilliard Division of Transportation & Mobility utilizes the services of consultants to provide on-call services and technical expertise to support the needs of the Division; and

WHEREAS, Carpenter Marty Transportation assists the Division with safety studies, data collection and analysis, grant submittals, and general engineering services; and

WHEREAS, the PSA for General Engineering Services (GES) is an annual contract and tasks are performed on an “as-directed” basis, whereby Carpenter Marty Transportation will provide services only as requested and directed by the City based on specific work to be performed; and

WHEREAS, the existing GES contract for traffic engineering and plan review services expired on July 2, 2022; and

WHEREAS, the City of Hilliard desires to enter into a new PSA with Carpenter Marty Transportation based on their technical experience, training, and past performance; and

WHEREAS, by the passage of Ordinance No. 21-36 on November 22, 2021, funds in the amount of \$30,000 were appropriated in the 2022 Operating Budget for consultant services related to this PSA; and

WHEREAS, by passage of Ordinance No. 20-27 on November 23, 2020, funds in the amount of \$35,000 were appropriated in the 2021 Capital Budget for CIP T-124 Citywide Safety & Capacity Improvements and carried over for use in 2022 for consultant services related to this PSA; and

WHEREAS, pursuant to Section 3.10 of the Charter of the City, authorization to fund the Services may be established by Resolution of Council.

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

SECTION 1. An expenditure is authorized in 2022 as follows:

- Fund 101, Object 53 = \$30,000
- Fund 202, Object 55 = \$35,000

Total = \$65,000

SECTION 2. The City Manager is hereby authorized to enter into a professional services agreement (“Agreement”) with Carpenter Marty Transportation in substantially the same form as the one **attached** hereto as Exhibit “A” and incorporated herein, for General Engineering Services. The City Manager is authorized to make such changes to the Agreement that are not inconsistent with this Resolution and not adverse to the City.

SECTION 3. The City Manager is authorized to extend this Agreement for up to four additional years, subject to satisfactory performance and the appropriation of sufficient funds by City Council.

SECTION 4. The Finance Director is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with expenditure of the funds provided herein.

SECTION 5. This Resolution is effective upon its adoption.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Resolution 22-R-56					
		Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopted	Andy Teater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Adopted as Amended	Omar Tarazi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Defeated	Les Carrier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Tabled	Tina Cottone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Held Over	Peggy Hale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Pete Marsh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Positive Recommendation	Cynthia Vermillion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> No Recommendation					
<input type="checkbox"/> Referred Back To Committee					

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-56** passed by the Hilliard City Council on the 11th day of July 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 11th day of July 2022.

Diane C. Werbrich, MMC

CITY OF HILLIARD, OHIO
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is by and between the City of Hilliard, Ohio, 3800 Municipal Way, Hilliard, Ohio 43026, (hereinafter referred to as "**City**"), and Carpenter Marty Transportation, Inc., 6612 Singletree Drive, Columbus, Ohio 44229 (hereinafter referred to as "**Service Provider**").

Witnesseth, that for the mutual considerations herein specified, **City** and **Service Provider** have agreed and do hereby agree as follows:

SECTION I – OBLIGATIONS OF SERVICE PROVIDER

- A. Perform the Services as set forth in Exhibit A.
- B. If the **Service Provider** is an individual, complete, sign and return the Ohio Public Employees Retirement System ("OPERS") Independent Contractor Acknowledgement form.
- C. Give prompt notice to **City** should the **Service Provider** observe or otherwise become aware of any fault or deficit in the project or any nonconformance with the Agreement.
- D. Remit to **City** after the termination of this Agreement, all files and documents pertaining to the project that have been obtained or produced including, but not limited to, permits, licenses, applications, codes, drawings, site plans, photographs and similar materials. **Service Provider** shall be entitled to retain copies for the **Service Provider's** files.

SECTION II – OBLIGATIONS OF HILLIARD

- A. Assist the **Service Provider** by placing at its disposal all available information pertinent to the Services for the project.
- B. Use its best efforts to secure release of other data applicable to the project held by others.
- C. Make all necessary provisions to enter upon public and private property as required to perform the Services.
- D. Give prompt notice to the **Service Provider** should **City** observe or otherwise become aware of any fault or deficit in the project or any nonconformance with the Agreement.

SECTION III – TERM AND TERMINATION

- A. This Agreement begins on the date signed by the City Manager. **Service Provider** shall

promptly provide the **City** with the Services as set forth in Exhibit A on an “as-requested” basis.

- B. The **City** may terminate this Agreement at any time by giving **Service Provider** thirty (30) days advance written notice. In the event this Agreement is terminated by **City** prior to its natural expiration, **Service Provider** shall be paid the amounts for work actually performed in accordance with this Agreement to the date of this early termination.
- C. This Agreement will terminate in one year or upon completion of the Services outlined in Exhibit A. This Agreement may be extended for up to four additional years, for a total of five years, if agreed to in writing through issuance of an Amendment of Professional Services Agreement, executed by the **City** and the **Service Provider**, subject to the appropriation of sufficient funds.

SECTION IV - PAYMENT

- A. **Service Provider** shall be compensated for the Services outlined in Exhibit A for a total not to exceed \$65,000 in 2022. For any assigned additional tasks/projects, **Service Provider** shall be compensated as agreed upon by the **Service Provider** and **City**, contingent upon the appropriation of sufficient funds and the approval of Hilliard City Council, if required.
- B. The **Service Provider** shall submit invoices to the attention of the **City's** Director of Transportation & Mobility, or designee, properly identified with the appropriate **City** purchase order number. Payment to **Service Provider** shall be made within thirty (30) days of receiving an invoice if additional information is not required by the **City** in order to pay the invoice.

SECTION V – RELATIONSHIP OF PARTIES

The parties acknowledge and agree that **Service Provider** is an independent contractor and is not an agent or employee of **City**. Nothing in this Agreement shall be construed to create a relationship between **Service Provider** and the **City** of a partnership, association, or joint venture. Further, the parties acknowledge that **Service Provider** is paid a fee, retainer, or other payment as per Section IV of this Agreement; is not eligible for workers' compensation or unemployment compensation; is not eligible for employee fringe benefits such as vacation or sick leave; does not appear on **City's** payroll; is required to provide his or her own supplies and equipment; and is not controlled or supervised by **City** personnel as to the manner of work.

SECTION VI – INDEMNIFICATION

- A. Professional Liability. Relative to any and all claims, losses, damages, liability and cost, the **Service Provider** agrees to indemnify and save **City**, its officers, officials, and employees harmless from and against any and all suits, actions or claims for property losses, damages or personal injury arising from the negligent acts, errors or omissions by the **Service Provider** or its employees.
- B. Non-Professional Liability (General Liability). To the fullest extent permitted by law, the **Service Provider** shall indemnify, defend and hold harmless **City**, its officers, officials, employees or any combination thereof, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of the acts or

omissions of the **Service Provider**, provided that such claim, damage, loss or expenses is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused by the negligent acts or omissions of the **Service Provider**, any subconsultant(s) of the **Service Provider**, its agents, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

SECTION VII - INSURANCE

- A. The **Service Provider** shall secure and maintain, at his/her/its own expense, errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000.00) per claim/annual aggregate to protect himself from any claim arising out of the performance of professional services and caused by negligent acts, omissions or negligent acts for which the **Service Provider** may be legally negligent. The **Service Provider** shall maintain said coverage for the entire contract period and for a minimum of one year after completion of the work under the contract.
- B. In addition to errors and omissions insurance, the **Service Provider** shall also secure and maintain, at his/her own expense, insurance for protection from claims under Worker's Compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and any other insurance prescribed by laws, rules, regulations, ordinances, codes or orders.
- C. The **Service Provider** shall secure and maintain, at his/her own expense, General Liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.
- D. The **Service Provider** shall secure and maintain, at his/her/its own expense, Property insurance for protection from claims or damages because of damage to or destruction of property including loss of use resulting therefrom in an amount not less than Five Hundred Thousand Dollars (\$500,000.00).
- E. The **City** shall be held harmless for any damage to the **Service Provider's** property and/or equipment during the course of performance under the Contract.
- F. The above referenced insurance shall be maintained in full force and effect during the life of this Contract and for one year beyond, where specified. Certificates showing that the **Service Provider** is carrying the above referenced insurance in at least the above specified minimum amounts shall be furnished to, and approved by, the **City** prior to the start of work on the project and before the **City** is obligated to make any payments to the **Service Provider** for the work performed under the provision of this contract. All such Certificates, with the exception of those for Worker's Compensation and Errors & Omissions coverage, shall clearly reflect that the City of Hilliard is an "Additional Insured".

SECTION VIII – EMPLOYEE DOCUMENTATION

- A. **Service Provider** guarantees that the individuals employed by the Service working on this project are authorized to work in the United States. The **Service Provider** will upon demand provide **City** with appropriate documentation (Form I-9) for any **Service Provider** employee performing services for **City**.
- B. The **Service Provider** agrees to indemnify **City** in accordance with Section VI of the Agreement for any issue arising out of the **Service Provider's** hiring or retention of any individual who is not authorized to work in the United States.

SECTION IX – TAXES

- A. **Service Provider** has the following identification number for income tax purposes: 46-0918246.
- B. **Service Provider** is subject to and responsible for all applicable federal, state, and local taxes.
- C. The **City** represents that it is a tax-exempt entity and evidence of this tax-exempt status shall be provided to **Service Provider** upon written request. **Service Provider** hereby further agrees to withhold all municipal income taxes due or payable under the provisions of Chapter 183 of the Codified Ordinances of City, Ohio, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such municipal income taxes due under such chapter for Services performed under this Agreement.
- D. The **Service Provider** shall receive Internal Revenue Service form 1099 from the City for income tax reporting purposes.

SECTION X – ASSIGNMENT

Neither party may assign this Agreement without obtaining express, written consent from the other party prior to assignment.

SECTION XI – ENTIRE AGREEMENT/AMENDMENT

This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreements between the parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers of the parties hereto. It is understood and agreed that this Agreement may not be changed, modified, or altered except by an instrument, in writing, signed by both parties in accordance with the laws of the State of Ohio.

SECTION XII - DISCRIMINATION

- A. No discrimination for reason of race, color, national origin, religion, sex, genetic information, pregnancy, age, ancestry, military status, sexual orientation, gender identity, marital status, veteran's status, or disability shall be permitted or authorized by **City** and/or **Service Provider** in connection with the Services.
- B. Nothing in this Agreement shall require the commission of any act contrary to any law

or any rules or regulations of any union, guild, or similar body having jurisdiction over the Services of **Service Provider**.

SECTION XIII. GOVERNING LAW/VENUE.

Any controversy or claim, whether based upon contract, statute, tort, fraud, misrepresentation or other legal theory, related directly or indirectly to this Agreement, whether between the parties, or of any of the parties' employees, agents or affiliated businesses, will be resolved under the laws of the State of Ohio, in any court of competent jurisdiction in Franklin County, Ohio.

SECTION XIV. SEVERABILITY.

If any provision of this Agreement is held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid, mutually agreeable and enforceable provision which so far as possible achieves the same objectives as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.

SECTION XV. PARAGRAPH HEADINGS.

Paragraph headings are inserted in this Agreement for convenience only and are not to be used in interpreting this Agreement.

IN WITNESS WHEREOF, the parties, each by a duly authorized representative, have entered into this Agreement and this Agreement is effective on the date signed by the City Manager as identified below.

Carpenter Marty Transportation, Inc.

City of Hilliard, Ohio

By: _____

Michelle L. Crandall
City Manager

Its: _____

Date: _____

Date: _____

Approved as to Form

Philip K. Hartmann, Law Director

CERTIFICATE OF FUNDS

I, David D. Delande, Director of Finance of the City of Hilliard, Ohio, do hereby certify that the funds for this Agreement with Carpenter Marty Transportation, Inc., in the amount of \$65,000, have been appropriated and are in the City Treasury or are in the process of collection, and that said funds are not and cannot be appropriated for any other purpose.

Date

David D. Delande
Director of Finance

Authorizing Appropriation Legislation (Capital): ORD 20-27
Passed: December 13, 2021
Effective: January 13, 2022

Authorizing Appropriation Legislation (Operating): ORD 21-36
Passed: November 23, 2020
Effective: January 1, 2021

Purchase Order No.:

Authorizing Contract Legislation: 22-R-
Adopted: July 11, 2022

Exhibit A – Scope of Services

General Engineering Services (GES) Contract

Carpenter Marty Transportation

Date: June 27, 2022

Scope of Services

This work provides City staff with technical support, expertise, and additional resources to perform a variety of engineering tasks. Projects will be assigned by City staff on an as-needed basis by means of individual task orders. Minor task assignments may not require a detailed scope of work based on the nature and extent of the services needed. Major tasks will require that a detailed scope of work be developed to ensure a mutual understanding prior to authorization.

Consultant tasks will vary and include, but are not limited to, the following:

1. Safety studies
2. Access studies
3. Traffic signal justification studies/warrant evaluations
4. Traffic impact studies
5. Speed studies
6. Corridor studies
7. Traffic calming design, monitoring, and evaluation
8. Capacity analyses
9. Traffic data collection
10. Preliminary engineering
11. Design of small to medium-sized capital improvement projects to improve safety, capacity, operations, or ADA compliance
12. Grant submittals
13. Cost estimating

2022 Project Budget

Funding for this GES contract for 2022 is as follows:

- Operating Budget (101.407.53204): \$30,000
- Capital Budget, T-124 (202.627.55704): \$35,000
- Total: \$65,000

If additional services are needed in 2022 or in future years, the GES contract may be extended in accordance with the Professional Service Agreement and subject to appropriation of funds by Hilliard City Council in either the Operating Budget or the Capital Budget.

Qualifications

Carpenter Marty Transportation has a Statement of Qualifications on file with the City of Hilliard. Carpenter Marty was selected for this GES contract based on technical expertise and experience; past performance; and strong background in traffic safety and engineering.

Council Memo: Legislation (22-R-57)

Subject: 2022 HPD Vehicle Purchase
From: Michelle Crandall, City Manager
Initiated by: Mike Woods,
Date: July 11, 2022

Executive Summary

This legislation authorizes the City Manager to enter into an agreement and utilize \$55,000.00 from the City's capital funds for the purchase of a Sprinter cargo van. The van will be up fitted for use as a mobile command vehicle.

Staff Recommendation

Staff recommends City Council authorize the purchase of the Sprinter van for approximately \$55,000

Background

Earlier this year, the Hilliard Division of Police (HPD) provided a memo to Council regarding its plan to purchase multiple vehicles via the state-term cooperative purchasing program. Unfortunately, due to long lead times of receiving the vehicle, one of the vehicles is not available via state-term. Therefore, HPD reached out to multiple dealers for a direct purchase and received two (2) quotes. It was determined that Mercedes Benz of Fort Mitchell provided the best price, which ultimately was lower than the state-term price.

The vehicle will be up fitted for use as a mobile command vehicle and used to transport equipment to crime scenes or other emergency situations. The vehicle will replace an aging unit that was obtained from the Norwich Township Fire Department. The current mobile command vehicle is often out of service due to needing repairs.

The exact purchase price will not exceed the requested funds but cannot be determined until trade in values for an existing vehicle(s) have been agreed upon.

Financial Impacts

This purchase will require the expenditure of \$55,000 from approved project funding of \$100,00.00 in capital funds.

Expected Benefits

A new vehicle will improve response to serious crime scenes or other emergencies that require protracted time at a location. Detectives and Accident Investigators will use the vehicle to transport equipment and as a mobile office to complete investigations. The vehicle will also be used at planned events as a staging area for officers and as a location for community members to seek HPD assistance.

Attachments

N/A



Resolution: 22-R-57

Adopted:

Page 1 of

Effective:

AUTHORIZING THE CITY MANAGER TO PURCHASE ONE (1) SPRINTER CARGO VAN AS IDENTIFIED IN CIP F-6 FROM MERCEDES BENZ OF FORT MITCHELL; AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, it is necessary for the health, safety, and welfare of the citizens of Hilliard, Ohio that the City appropriately maintains its fleet vehicle and equipment assets; and

WHEREAS, the City Manager has determined the Hilliard Division of Police (HPD) needs a new Mobile Command Vehicle; and

WHEREAS, at this time, existing HPD vehicles have an unknown trade-in value, but will be traded in and replaced by the newly acquired vehicle.

WHEREAS, funds were appropriated in the 2022 Capital Improvement Budget by Ordinance No. 21-41, passed by City Council on December 13, 2021, and pursuant to Section 3.10 of the Charter of the City, authorization for this purchase is established by resolution of Council.

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

SECTION 1. An expenditure is authorized in an amount not to exceed \$55,000 from Fund 304, Object 55 for the purchase of Sprinter Cargo Van.

SECTION 2. The City Manager is hereby authorized to enter into an agreement with Mercedes Benz of Fort Mitchell to purchase one Sprinter Cargo Van at a total cost not to exceed \$55,000.

SECTION 3. The City Manager is authorized to sign and execute any and all documents or agreements necessary to effectuate the purchase of one Sprinter Cargo Van as authorized hereunder.

SECTION 4. The Finance Director is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with expenditure of the funds.

SECTION 5. This Resolution is effective upon its adoption.

ATTEST:

SIGNED:

Diane C. Werbrich, MMC
Clerk of Council

President of Council

APPROVED AS TO FORM:

Philip K. Hartmann
Director of Law

✓ Vote Record - Resolution 22-R-57

		Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopted	Andy Teater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Adopted as Amended	Omar Tarazi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Defeated	Les Carrier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Tabled	Tina Cottone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Held Over	Peggy Hale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Pete Marsh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Positive Recommendation	Cynthia Vermillion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> No Recommendation					
<input type="checkbox"/> Referred Back To Committee					

CERTIFICATE OF THE CLERK

I, Diane C. Werbrich, Clerk of Council for the City of Hilliard, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. **22-R-57** passed by the Hilliard City Council on the 11th day of July 2022.

IN TESTIMONY WHEREOF, witness my hand and official seal this 11th day of July 2022.

Diane C. Werbrich, MMC