

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JANUARY 9, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/Operations Melinda Carroll; Assistant City Manager/CFO Shawn McKay; City Attorney John Kimball; Sue Zius, Assistant to the Mayor/Legislative Liaison; Christy Bryant, Support Services Manager, Beverley Lindsey, Executive Secretary II; Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Kris Miller, IT Director; Brian Moran; Social Media Coordinator; Tim Henderson and Tad Bacon with Cleveland Utilities; Bethany McCoy with Lee University; Doug Berry and Gary Farlow with the Chamber of Commerce; City Reporter Randall Higgins; Teresa Torbett; Hal Taylor; City School Director Dr. Russell Dyer; School Board Members Dawn Robinson and Charlie Cogdill; Tony Caywood; Pastor Dwight Herod; Steve Dixon; Sherry Brown; Gail Perry with the *Chattanooga.com*; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Pastor Dwight Herod from Bowman Hills Adventist Church, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on December 12, 2016 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland presented Assistant City Manager/CFO Shawn McKay and the entire finance budget team with the Budget Presentation Award from the Government Finance Officers Association for FY2017. This is the nineteenth consecutive year the City has received this award for its budget document. This award reflects the commitment of the governing body and staff to meet the highest principles of governmental budgeting; according to GFOA. In order to receive the budget award, the city had to satisfy nationally recognized guidelines for effective budget presentation. These guidelines are designed to assess how well an entity's budget serves as a policy document; a financial plan; an operations guide and a communications device. A budget document must be rated "proficient in all four categories to receive the award" according to GFOA.

Mayor Rowland stated a letter has been received from Dee Burris concerning sewer connection at 11th Street and Craigmiles Street NE. The property is located outside the city limits but could not perk for a septic system. Tim Henderson with Cleveland Utilities mentioned earlier they had no problem with a connection and it is the discretion of the City Council. Councilman May asked if they have asked to be considered for annexation. Tony Caywood stated there are three other properties that would need to be annexed in order to reach this property. Mayor Rowland asked if Mr. Burris would discuss possible annexation with the neighboring property owners. Councilman Banks suggested the item be passed for two weeks. In the past we've asked the owner to consent to annexation and that should give ample time. Councilman Estes stated we've done this in the past and have set a good precedence.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Motion** – Authorizing the Mayor to sign closing documents for 3745 and 3765 Sycamore Drive NW related to FEMA grant.
- **Motion** – Declaring a portion of real property (Map 050 Parcel 055.02) as surplus property and advertised in the local newspaper and sold to the highest bidder.

Councilman Hughes moved to approve the Consent Agenda. The motion was seconded by Councilman Banks; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Banks complimented Larry Bowers for his series of good articles in the *Cleveland Daily Banner* on all the good things the City and City Staff are doing. He appreciates the good coverage.

ANNOUNCEMENTS

Mayor Rowland Announced the City offices will be closed on Monday, January 16th in observance of Martin Luther King Day.

There being no future business the meeting was adjourned at 3:10 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JANUARY 23, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Sue Zius, Assistant to the Mayor/Legislative Liaison; Christy Bryant, Support Services Manager, Beverley Lindsey, Executive Secretary II; Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Kris Miller, IT Director; Brian Moran; Social Media Coordinator; Tim Henderson with Cleveland Utilities; Bethany McCoy with Lee University; Doug Berry and Gary Farlow with the Chamber of Commerce; City Reporter Randall Higgins; Teresa Torbett; Hal Taylor; School Board Members Dawn Robinson and Charlie Cogdill; Keith Barrett with Pinnacle Bank; Sherry Brown; Dennis and Rhee Epperson; Cathy Barrett; Cameron Fisher; Kay Horner with Awakening America Alliance; Floyd Chastain; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Kay Horner, the following business was then entered into:

Councilman Hughes left the meeting.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on January 9, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

Councilman Hughes re-entered the meeting.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today we are swearing-in three new Police Officers to the Cleveland Police Department. He stated officers sometimes can be the first line of greeting someone in our community and you never get a second chance at a first impression. He reminded each officer that he, as well as the City Council and department managers support the police officers and wished them well and safety. Mayor Rowland then administered the Oath of Office to Police Officers Dustin Lawson, Bradley Colbaugh and Nicholas Payne and welcomed them to the Cleveland Police Department. Chief Gibson introduced each officer and gave a brief background of their qualifications and welcomed them to the department.

Mayor Rowland then stated today's meeting is being held as a public hearing to hear public comments concerning a resolution to annex about 20.5 acres located on 22nd Street NW and New Murraytown Road NW and a resolution to adopt a Plan of Service for the annexation area. Mayor Rowland asked if anyone would like to speak in favor of the annexation and Plan of Service. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition to the annexation and Plan of Service. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today’s meeting is also being held as a public hearing to public comments concerning the zoning of about 18.28 acres located on 22nd Street NW and New Murraytown Road NW from the unincorporated county to R1 Single Family Residential Zoning District. Mayor Rowland asked if anyone would like to speak in favor of the zoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the zoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated we have received another letter from Dee Burris concerning the sewer connection at 11th Street and Craigmiles Street stating if in the event annexation into the City of Cleveland is possible they would not be opposed. Mr. Jobe stated we could annex part of the road and then the property but we’ll take it back to the Planning Commission for review. Hopefully the owners will contact the neighbors about annexation to bring those parcels in as well.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Resolution No: 2017-01** – Authorizing the Mayor to sign a contract with Terra Running Company for event management for the Cleveland Recycles 5K.

RESOLUTION NO. 2017-01

WHEREAS, the City has received the attached proposal and agreement from Terra Running Company for event management and timing for the 2017 Cleveland Recycles 5K to be held on May 27, 2017; and

WHEREAS, the City Council has reviewed the proposal and agreement and now desires to accept the proposal and to enter into the attached agreement with Terra Running Company, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby accept the proposal and approve of the attached agreement with Terra Running Company, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland. [on file in the City Clerk’s Office.]

This 22nd day of January, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-02** – Authorizing the annual payment of \$2,000 to the Chattanooga Regional Planning Agency for supplying the Green Trips program to the Cleveland Chattanooga Commute Hub project.

RESOLUTION NO: 2017-02

WHEREAS, the City of Cleveland has been awarded Congestion Mitigation Air Quality Maintenance (CMAQ) grant funds to develop a project know as the “Cleveland-Chattanooga Commute Hub to serve area commuters to Chattanooga, to provide air quality benefits to the Chattanooga area, and to support the redevelopment of the Old Woolen Mill, a key downtown Cleveland resource; and

WHEREAS, Cleveland Chattanooga Commute Hub project description relies upon support from the Chattanooga Green Trips program, a ride-sharing data base and user incentives program administered by the Chattanooga Regional Planning Agency (RPA); and

WHEREAS, the Chattanooga RPA has requested two-thousand dollars annually to support its costs in providing the Green Trips program to support the Cleveland Chattanooga Commute Hub

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby authorize the annual payment of \$2,000 to the Chattanooga RPA for supplying the Green Trips program to the Cleveland Chattanooga Commute Hub project, and it authorizes the Mayor to sign any documents necessary to carry out this proposed acquisition of Green Trips services.

This 23rd day of January, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-05** – Authorizing the Mayor to sign a grant application to TDOT for the 2017 SRTS Mini Grant Program in the amount of \$5,000 for Blythe Bower Elementary School.

RESOLUTION NO: 2017-05

WHEREAS, the Safe Routes to School Program (SRTS) Program was established in August 2005 as part of the federal transportation reauthorization legislation and provides funding for the State Department of Transportation to create and administer SRTS programs for the benefit of primary and middle school children;

WHEREAS, the 2017 SRTS Program will provide Mini Grants to provide assistance to schools and community groups to offer organized initiatives that support physical activity, education and encouragement for walking and biking to school safely;

WHEREAS, the Cleveland City Schools have selected Blythe Bower Elementary School to submit an application which will outline their specific intentions to address safety, physical activity and healthy initiatives to promote and facilitate walking and/or bicycling to and from school;

WHEREAS, the City of Cleveland will submit said application on behalf of Blythe Bower Elementary School;

BE IT THEREFORE RESOLVED by the City Council that the Mayor be and hereby is authorized to submit a grant application, including all the understandings and assurances contained herein, to Tennessee Department of Transportation for the 2017 SRTS Mini Grant Program funding in the amount of \$5,000 for Blythe Bower Elementary School. If said grant is approved, the Mayor is hereby authorized to accept (on behalf of the City of Cleveland) said grant and the Mayor is hereby designated as Cleveland’s representative to act in connection with the application and to provide additional information as may be required.

BE IT FURTHER RESOLVED that if the City is awarded the grant, that the Mayor is further authorized to sign all documents and to take any other action on behalf of the City that may be necessary or appropriate for the City to accept this grant.

Adopted this 23rd day of January, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved to approve the Consent Agenda. The motion was seconded by Vice Mayor Johnson; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Banks encouraged everyone to attend the Red Clay event at the Museum Center tomorrow, January 24. He then asked City Manager Joe Fivas to explain a bit about the community meetings. Mr. Fivas stated there will be six meetings, one in each district and then a general forum. Everyone is welcome to attend. Some Department Heads will be in attendance to answer any possible questions. We will update everyone on what is going on in the community, priorities in their neighborhoods and what they would like to see.

Councilman McKenzie asked for an update on 933 Harle Avenue. Chief Building Official Bryan Turner stated they are making progress.

Councilman Estes inquired about 70/80 Church Street and if the permit had been acquired. Mr. Turner stated the permit was not obtained by his deadline. He has been contacted and the contractor should pick it up today. Councilman Estes thanked staff for the updates on Joe V. Williams on each of his properties and request reports every two weeks to be in the packet. He continued to follow up on sidewalks as discussed earlier, he is not aware of who to ask city staff to look at changing the City Code, so possible look at in the future. Mr. Jobe stated that would be in the subdivision regulations and Planning Commission would have to review first. Councilman Estes we could follow up in two weeks to discuss to see if everyone would like to do it. He then stated Lee University hired a new basketball coach last year and a new soccer coach today and a press conference was held today. He was impressed with the coaches engaging the community and the importance of the they have in the community and the quality of people they are bringing in is astounding at what Cleveland it getting. There are so many good things happening and good people caring for our children. He is getting positive comments from the community about Lee University, what we are doing in the community and about the new City Manager. It is encouraging. Councilman Hughes stated the new Raider Arena had 3,500 attending the basketball game. Councilman Estes stated yes and 3,000 for the wrestling match. That is an example of an investment that was very expensive that pays dividends; no different than the Cherokee Hotel, sidewalks, redeveloping downtown. We invest in the community and it comes back to us.

Councilman Cassada congratulated the newly hired police officers and hopes to add more down the road to strengthen our police force, as well as firefighters to relieve the Fire Department strain they feel as well. He then thanked Chief Gibson and Chief Harrison for all they do for the community. He then inquired about Hwy 60. Mr. Jobe stated nothing new since the last update. Once TDOT is ready, they will hold a public hearing in the area. Councilman Cassada stated he would like to thank Governor Haslam, Senator Bell and TDOT Transportation Director for their support of the project and all the work TDOT is doing for our community. He finished by asking if it was possible to do a study for Exit 23 at Harrison Pike. He is aware there has been discussion before but he'd like it to be revisited. Mayor Rowland stated twenty-five years ago we started the Prospect interchange with semi-approval but there is a cemetery in the area and last he heard, years ago, it would have to be reduced in size and some discussion to move it further north a bit. Councilman Cassada stated it would be a good gateway for Cleveland. Ms. Carroll stated there are some issues due to Prospect Elementary School being too

close to the interchange but we have some information that can be provided. Mr. Fivas stated we will get together information we have and have options on how a study could move forward. Mr. Jobe stated the study should qualify to use MPO funds but it would have to be added to the TIP.

Councilman May stated we had a lengthy discussion earlier about downtown and now Mr. Williams who knew he was to pick up his permit before today's meeting and he has not. The projects look the same as they did three to four weeks ago. Mr. Turner stated 633 North Ocoee Street we are waiting to issue a permit. Drawings have been reviewed but not stamped, still waiting on the structural engineer. He does have an architect on this project but no permit. On 50 1st Street, the process was started in April of last year and it can only be boarded up for up to a year waiting on repairs. In order for him to have any amount of work prior to April we would need submittals quickly. It has been discussed with him and he is using the same architects on all projects. Councilman Estes asked if there was a time clock on the drawings for the 633 North Ocoee stabilization. Mr. Turner stated yes and no. He has already started the process and at some point his application will go dormant. He feels we are close to obtaining drawings. Since it is over 5,000 square feet it will have to be blessed by a structural engineer. Councilman Estes stated he didn't want it to be an open window. Councilman May stated that is also his concern and the next thing you know it has been a year. Mr. Fivas stated in March or April something will have to be done and if they don't then that opens the door for the next process. Councilman Estes asked that every two weeks the memos list the next hard date. Receiving the memos on these properties every meeting is helpful.

Councilman Banks expressed sympathy to Forrest Preston and family on the passing of Kathleen Preston. The Preston Family have been an example of what can be accomplished by citizens when they have pride in their community, pride in their properties by maintaining and landscaping them and provide jobs and build buildings and increase tax benefits for our citizens. Kathleen Preston will be missed.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

RESOLUTION NO: 2017-03

A RESOLUTION APPROVING A PLAN OF SERVICES FOR A PROPOSED ANNEXATION OF TERRITORY INTO THE CITY OF CLEVELAND BY OWNER CONSENT

22nd St/New Murraytown Rd Annexation Area

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries by owner consent; and

WHEREAS, a Plan of Services for the territory proposed for annexation by owner consent has been reviewed by the Cleveland Municipal Planning Commission; and

WHEREAS, the governing body desires to conduct a public hearing on the proposed annexation and plan of services;

NOW THEREFORE BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That a public hearing is hereby held at 3:00 pm on January 23, 2017 at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning at an iron pin located at the southwest corner of the land of Epperson Homes LLC, as recorded in BCROD deed book 2415 page 637, said corner also being the north west corner of the lands of Green Planet Servicing LLC, as recorded in BCROD deed book 2241 page 424; thence north 24 degrees 1 minute 36 seconds east, 796.67 feet to an iron pin; thence south 63 degrees 9 minutes 51 seconds east, 122.74 feet to an iron pin; thence north 23 degrees 34 minutes 3 seconds east, 502.65 feet to an iron pin; thence south 64 degrees 3 minutes 2 seconds east, 348.93 feet to a metal post; thence south 69 degrees 37 minutes 15 seconds east, 286.74 feet to an iron pin; thence north 20 degrees 22 minutes 45 seconds east, 230.48 feet to an iron pin; thence north 62 degrees 43 minutes 56 seconds west, 65.84 feet to an iron pin; thence north 23 degrees 46 minutes 34 seconds east, 196.88 feet to an iron pin; thence crossing 22nd Street with the previous bearings and distances 50 feet, more or less, to a point in the northern right of way of 22nd Street, said point also being located in the existing City Limits; thence with the northern right of way of 22nd Street and the existing City Limits in an easterly direction 1268 feet, more or less, to a corner in the existing City Limits; thence crossing 22nd Street in a southerly direction with the existing City Limits, 50 feet, more or less, to a point in the southern right of way of 22nd Street, said point being located in the existing City Limits; thence leaving the existing City Limits and following the southern right of way of 22nd Street in a westerly direction 1067 feet, more or less, to the south east corner of the intersection of the right of ways of 22nd Street and New Murraytown Road; thence with the eastern right of way of New Murraytown Road in a southerly direction 706 feet, more or less; to a point in the eastern right of way of New Murraytown Road, said point being located where an extension of the northern line of the lands of S Murray, as recorded in BCROD plat book 17 page 102 would intersect if the northern line were extended; thence crossing New Murray town Road in a westerly direction north 66 degrees 13 minutes 42 seconds west, 41 feet, more or less, to an iron pin located at the north east corner of lot 1 of S Murray as recorded in BCROD plat book 17 page 102; thence north 66 degrees 13 minutes 42 seconds west, 388.33 feet to an ion pin; thence south 17 degrees 59 minutes 2 seconds west, 358.75 feet to an iron pin; thence south 66 degrees 13 minutes 42 seconds east, 39.03 feet to an iron pin; thence south 17 degrees 59 minutes 2 seconds west, 167.72 feet to an iron pin; thence north 65 degrees 46 minutes 21 seconds west, 192.81 feet to an iron pin; thence south 23 degrees 20 minutes 00 seconds west, 401.03 feet to an open pipe; thence south 25 degrees 26 minutes 2 seconds west, 109.94 feet to an iron pin; thence north 58 degrees 29 minutes 30 seconds west, 219.16 feet to an iron pin; thence north 60 degrees 53 minutes 18 seconds west, 217.13 feet to the point of beginning.

B. That a copy of this Resolution shall also be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland.

C. That notice of the time and purpose of a public hearing on the proposed annexation by owner consent and the Plan of Services shall be published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing.

WHEREUPON, the Mayor declared the Resolution adopted, affixed a signature and the date thereto, and directed that the same be recorded.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk



DECEMBER 15, 2016
22nd ST/NEW MURRAYTOWN RD ANNEXATION ANALYSIS
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 20.5 acres located on 22nd St NW and New Murraytown Rd NW as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2017.

This report begins with a brief overview of the annexation process and the report then turns to a proposed Plan of Services (POS) for the annexation area. The services described are those that would be necessary for the City to provide under Tennessee law. This area is proposed to receive city services in accordance with the POS.

Introduction

Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty eight square mile UGB that was based on a study of urbanization and service requirements in a fifty square mile urban fringe area. The UGB was amended in January 2010, expanding it near I-75 Exit 20 and in the vicinity of the new airport site near Dry Valley Road. Cleveland can annex property within its UGB by ordinance.

PC 1101 Section 19 requires a “Plan of Services” (POS) prior to annexation and these services must include: police and fire protection; water, electrical and sanitary sewer services; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning services. Public Chapter 225 adopted by the Tennessee General Assembly and signed by then Governor Bredesen on June 2, 2003, amended TCA 6-51-102 to include impact on school attendance zones.

The property considered under this annexation is primarily vacant with one single family dwelling under its current conditions. The site is expected to be developed into a subdivision with approximately 58 additional single family detached dwellings.

22nd ST NW/NEW MURRAYTOWN RD



Legal Description

Beginning at an iron pin located at the southwest corner of the land of Epperson Homes LLC, as recorded in BCROD deed book 2415 page 637, said corner also being the north west corner of the lands of Green Planet Servicing LLC, as recorded in BCROD deed book 2241 page 424; thence north 24 degrees 1 minute 36 seconds east, 796.67 feet to an iron pin; thence south 63 degrees 9 minutes 51 seconds east, 122.74 feet to an iron pin; thence north 23 degrees 34 minutes 3 seconds east, 502.65 feet to an iron pin; thence south 64 degrees 3 minutes 2 seconds east, 348.93 feet to a metal post; thence south 69 degrees 37 minutes 15 seconds east, 286.74 feet to an iron pin; thence north 20 degrees 22 minutes 45 seconds east, 230.48 feet to an iron pin; thence north 62 degrees 43 minutes 56 seconds west, 65.84 feet to an iron pin; thence north 23 degrees 46 minutes 34 seconds east, 196.88 feet to an iron pin; thence crossing 22nd Street with the previous bearings and distances 50 feet, more or less, to a point in the northern right of way of 22nd Street, said point also being located in the existing City Limits; thence with the northern right of way of 22nd Street and the existing City Limits in an easterly direction 1268 feet, more or less, to a corner in the existing City Limits; thence crossing 22nd Street in a southerly direction with the existing City Limits, 50 feet, more or less, to a point in the southern right of way of 22nd Street, said point being located in the existing City Limits; thence leaving the existing City Limits and following the southern right of way of 22nd Street in a westerly direction 1067 feet, more or less, to the south east corner of the intersection of the right of ways of 22nd Street and New Murraytown Road; thence with the eastern right of way of New Murraytown Road in a southerly direction 706 feet, more or less; to a point in the eastern right of way of New Murraytown Road, said point being located where an extension of the northern line of the lands of S Murray, as recorded in BCROD plat book 17 page 102 would intersect if the northern line were extended; thence crossing New Murray town Road in a westerly direction north 66 degrees 13 minutes 42 seconds west, 41 feet, more or less, to an iron pin located at the north east corner of lot 1 of S Murray as recorded in BCROD plat book 17 page 102; thence north 66 degrees 13 minutes 42 seconds west, 388.33 feet to an ion pin; thence south 17 degrees 59 minutes 2 seconds west, 358.75 feet to an iron pin; thence south 66 degrees 13 minutes 42 seconds east, 39.03 feet to an iron pin; thence south 17 degrees 59 minutes 2 seconds west, 167.72 feet to an iron pin; thence north 65 degrees 46 minutes 21 seconds west, 192.81 feet to an iron pin; thence south 23 degrees 20 minutes 00 seconds west, 401.03 feet to an open pipe; thence south 25 degrees 26 minutes 2 seconds west, 109.94 feet to an iron pin; thence north 58 degrees 29 minutes 30 seconds west, 219.16 feet to an iron pin; thence north 60 degrees 53 minutes 18 seconds west, 217.13 feet to the point of beginning.

Plan of Services

1. Police Protection

Patrolling, radio response to calls and other routine police services using the City's personnel and equipment will be provided on the effective date of the annexation.

There is no additional cost expected from this annexation.

2. Fire Protection

This area falls well within CFD Station 5's four-minute response zone. We could begin servicing this area immediately with no financial impact to the Fire Department.

3. Domestic Water, Sanitary Sewer Service, and Fire Hydrants

A. Domestic Water--- Water is available to all parcels in the annexation area.

B. Sanitary Sewer--- Sanitary sewer facilities will need to be extended to serve the parcels along New Murraytown Road. To provide sanitary sewer facilities, it is estimated to cost \$80,000 and can be completed within eight (8) years after annexation.

C. Fire Hydrants--- To provide fire protection to the 22nd Street and New Murraytown Road Annexation Area, an 8-Inch Water Main must be extended along Freewill Road from Cumberland Hills Circle to 22nd Street to New Murraytown Road. The Water main extension would also include, at a minimum, three (3) fire hydrants. It is estimated to cost \$100,000 and would be available in eight (8) years.

	SUMMARY OF COSTS		
	Water	Sanitary Sewer	Total
22 nd Street and New Murraytown Road Annexation Area	\$100,000	\$80,000	\$180,000

4. Electric Service

Cleveland Utilities Electric and Volunteer Energy have agreed to pursue going joint use on their primary pole line along Freewill Rd. to 22ND St. and then west on 22ND St. to the property in question to be annexed.

We will be going joint use with VEC on Freewill Rd. starting at Lakewood Dr. going south approximately 3,250 ft. to 22ND St. NW. The estimated cost is **\$203,000.00**. We had previously given an estimate of **\$55,000.00** to build a 3-phase underground feed down Freewill Rd. to serve the Freewill Rd annexation area of 2016. This new joint use overhead line will take the place of that feed and serve both the new development and Freewill development. An additional joint use line will have to be constructed along 22ND St. from Freewill Rd. to the new developments property. This distance is 1,900 ft. and an estimated cost of **\$118,750.00**.

If the same line is extended from the intersection of 22ND St. at New Murraytown Rd. going west another 1,500 ft., we will be able to serve the Wright Brother’s development which was annexed in 2014. This cost is right at the **\$92,000** figure previously given to build an underground feed through the McIntire farm. This overhead feed is a much better solution and gives Cleveland Utilities more flexibility easy access to serving other future annexations in this area.

In summary, a joint use line with Volunteer Energy costing **\$413,750.00** would give Cleveland Utilities the ability to serve this new development at New Murraytown Rd. @ 22ND St., the Freewill Rd annexation area development, Wright Brother’s development (2014 annexation area), and other possible future annexations in this area.

State law states that Cleveland Utilities must pay VEC 25% of the revenues for residential customers for a period of 10 years. It is estimated that this would average \$50 per customer per month. For the two customers, that would be \$1,200.00 per year for 10 years for a total of \$12,000.00. Facilities to be purchased from Volunteer is estimated to be **\$5,000.00**.

Street Lighting cost estimates for 22 ND St. from Freewill Rd. to New Murraytown are given below:

Cost of Project:	\$12,706.01
Facilities Charge:	\$95.30/month
Energy Charge:	\$10.15/month

City of Cleveland’s monthly investment charge = \$105.45

5. Public Works*A. Refuse Collection*

- a. Current city policies regarding residential, commercial and industrial refuse will apply in all proposed areas per the terms of the City's contract with Waste Connections of Tennessee, Inc.
- b. The City no longer provides curbside recycling and this service will not be provided in the proposed areas, unless the City Council initiates a program in the future.

B. Route Collection Services

- a. Current city policies regarding residential debris, brush, and white good collections will apply in all proposed areas and will begin at the time of annexation. Each residence will be included in the City's ten route collection system. No additional equipment or manpower will be needed at this time.
- b. The current city policies regarding residential leaf collection will be provided annually for a period of approximately three months and will apply in all proposed areas.

C. Street Repair and Maintenance

- a. Emergency maintenance of city streets (i.e. repairing hazardous potholes) within the proposed areas will begin at time of annexation.
- b. Routine maintenance of local streets in the proposed areas will be scheduled on the same basis as such maintenance in the rest of the City.
- c. Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such substantial improvements in the proposed areas (where identified as needed by the governing body) will be accomplished in accordance with the priorities and policies established for the entire city.
- d. It appears that no street name signs or street striping/painting is needed at this time for the proposed areas.

D. Stormwater and Drainage Services

No major drainage problems were identified in these areas. Emergency drainage maintenance (i.e. cleaning catch basins, unblocking tile, installing drainage tile and/or catch basins) within these areas will begin at time of annexation.

E. General Rights-of-Way Maintenance (i.e. street sweeping, snow removal)

- a. Current city policies for routine street sweeping will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.
- b. Current city policies for snow removal and salting will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.

6. Stormwater

The Cleveland Stormwater Division will oversee all stormwater related issues on the site. Stormwater fees will be based on post-construction impervious areas.

7. Schools

Cleveland City Schools estimates an impact of approximately twenty additional students with five to ten of them using transportation. Twenty students would add about .35 % to the school systems population which in turn would increase CCS cost by about \$19,531.80.

8. Planning and Zoning

- A. The planning and zoning jurisdiction of the City will extend to the annexation areas upon the effective date of annexations and all municipal planning activities will encompass the needs of the annexed areas.
- B. This property is currently zoned FAR Forestry/Agricultural/Residential in the unincorporated County. It is recommended that the property be zoned into the R1 Single Family Residential Zoning District its post-annexation zoning.



- C. In the case of lots of record that are recorded prior to the effective date of annexation, if there are prevailing deed or subdivision restrictions on record, these deed or subdivision restrictions shall apply if in conflict with City zoning or subdivision regulations.

9. Animal Shelter

The City operates a full-time animal control program including an animal shelter. The Animal Shelter is located on Hill Street SE. Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

10. Voting Rights and City Elections

- A. If an eligible voter's permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.
- B. If an eligible voter is in the category of a property rights voter then that voter must register at the Election Commission Office prior to voting in a City election.
- C. This annexation will immediately add approximately 3 residents to the 3rd City Council District as it is currently used. Once developed it is anticipated to add approximately 148 residents to the 3rd District.

Revenue

The current total appraised property value for this area is about \$301,580. A significant portion of this property is assessed under the Greenbelt Program which lowers the value significantly resulting in a total assessed value of approximately \$44,645. The property tax generated from this area under current conditions would be about \$788.21 a year.

With 1 residential homes and approximately 2.5 residents per structure the annexation would add an additional 3 residents under the current conditions. The current state shared appropriation is \$115.75 per resident which would result in approximately \$347.25 a year.

The monthly stormwater utility fee for this property will be approximately \$1.63 per home per month which results in \$39.12 per year.

The approximate revenue generated as a result of this annexation at the time of annexation would be about \$1,174.58.

This revenue is expected to increase significantly as the site could be developed with 58 additional single family detached residential units. A conservative estimate of the value of each additional new home is approximately \$225,000 per unit. The total expected value of this property post-development is approximately \$13,186,000 with an assessed value of approximately \$3,296,500 which would result in an annual property revenue of \$58,199.71.

The property is expected to accommodate approximately 148 residents once developed. The state appropriation of \$115.75 per resident equals approximately \$17,131 per year.

The monthly stormwater utility fee for this property will be approximately \$1.63 per home per month which results in \$96.17 per month or \$1,154.04 per year.

The total anticipated revenue of this property once developed to its expected capacity is \$76,484.75 per year.

Councilman Banks moved that Resolution No: 2017-03 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

RESOLUTION NO: 2017-04

A RESOLUTION TO ANNEX CERTAIN TERRITORY UPON WRITTEN CONSENT OF THE OWNERS AND TO INCORPORATE THE SAME WITHIN THE BOUNDARIES OF THE CITY OF CLEVELAND, TENNESSEE

22nd St/New Murraytown Rd Annexation Area

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries; and

WHEREAS, the owners of all property within the territory proposed for annexation have given their written consent by notarized petition so that a referendum is not required; and

WHEREAS, this Resolution was also published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland; and

WHEREAS, a Plan of Services for the area proposed for annexation is attached as *Exhibit A* hereto, which Plan of Services addresses the same services and timing of services as required in Tennessee Code Annotated § 6-51-102; and

WHEREAS, the proposed annexation and Plan of Services were submitted to the Cleveland Municipal Planning Commission for study, and it has recommended the same; and

WHEREAS, notice of the time and purpose of a public hearing on the proposed annexation and the Plan of Services was published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing; and

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on January 23, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

- A. That the following territory is hereby annexed and incorporated into boundaries of the City of Cleveland, to wit:

Beginning at an iron pin located at the southwest corner of the land of Epperson Homes LLC, as recorded in BCROD deed book 2415 page 637, said corner also being the north west corner of the lands of Green Planet Servicing LLC, as recorded in BCROD deed book 2241 page 424; thence north 24 degrees 1 minute 36 seconds east, 796.67 feet to an iron pin; thence south 63 degrees 9 minutes 51 seconds east, 122.74 feet to an iron pin; thence north 23 degrees 34 minutes 3 seconds east, 502.65 feet to an iron pin; thence south 64 degrees 3 minutes 2 seconds east, 348.93 feet to a metal post; thence south 69 degrees 37 minutes 15 seconds east, 286.74 feet to an iron pin; thence north 20 degrees 22 minutes 45 seconds east, 230.48 feet to an iron pin; thence north 62 degrees 43 minutes 56 seconds west, 65.84 feet to an iron pin; thence north 23 degrees 46 minutes 34 seconds east, 196.88 feet to an iron pin; thence crossing 22nd Street with the previous bearings and distances 50 feet, more or less, to a point in the northern right of way of 22nd Street, said point also being located in the existing City Limits; thence with the northern right of way of 22nd Street and the existing City Limits in an easterly direction 1268 feet, more or less, to a corner in the existing City Limits; thence crossing 22nd Street in a southerly direction with the existing City Limits, 50 feet, more or less, to a point in the southern right of way of 22nd Street, said point being located in the existing City Limits; thence leaving the existing City Limits and following the southern right of way of 22nd Street in a westerly direction 1067 feet, more or less, to the south east corner of the intersection of the right of ways of 22nd Street and New Murraytown Road; thence with the eastern right of way of New Murraytown Road in a southerly direction 706 feet, more or less; to a point in the eastern right of way of New Murraytown Road, said point being located where an extension of the northern line of the lands of S Murray, as recorded in BCROD plat book 17 page 102 would intersect if the northern line were extended; thence crossing New Murray town Road in a westerly direction north 66 degrees 13 minutes 42 seconds west, 41 feet, more or less, to an iron pin located at the north east corner of lot 1 of S Murray as recorded in BCROD plat book 17 page 102; thence north 66 degrees 13 minutes 42 seconds west, 388.33 feet to an

iron pin; thence south 17 degrees 59 minutes 2 seconds west, 358.75 feet to an iron pin; thence south 66 degrees 13 minutes 42 seconds east, 39.03 feet to an iron pin; thence south 17 degrees 59 minutes 2 seconds west, 167.72 feet to an iron pin; thence north 65 degrees 46 minutes 21 seconds west, 192.81 feet to an iron pin; thence south 23 degrees 20 minutes 00 seconds west, 401.03 feet to an open pipe; thence south 25 degrees 26 minutes 2 seconds west, 109.94 feet to an iron pin; thence north 58 degrees 29 minutes 30 seconds west, 219.16 feet to an iron pin; thence north 60 degrees 53 minutes 18 seconds west, 217.13 feet to the point of beginning.

B. That the Plan of Services for this territory which is attached as *Exhibit A* hereto is approved and the same is hereby adopted. [On file in the City Clerk’s Office.]

C. That the City Clerk’s office will cause a copy of this Resolution to be forwarded to the Mayor of Bradley County including the Plan of Services.

D. That a copy of this Resolution shall be sent to the Tennessee Comptroller of the Treasury and the Bradley County Assessor of Property.

E. That a copy of this Resolution, as well as the portion of the Plan of Services related to emergency services and a detailed map of the annexed area, shall be sent to any affected emergency communication district.

WHEREUPON, the Mayor affixed a signature and date thereto and directed that the same be recorded.

EFFECTIVE DATE: Be it further resolved that this Resolution shall only become effective at the time of the final passage of the ordinance zoning the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Resolution No: 2017-04 be accepted as presented. The motion was seconded by Councilman Banks. Councilman Banks stated it is important that we have developers that want to be annexed to increase our tax base. He appreciates the efforts of the developer. Councilman May stated yes, and it also increases the tax base for the County, at no cost to them. Upon roll call, the motion was unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-01

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE TO
AMEND THE 2016-2017 BUDGET FOR THE CITY OF CLEVELAND, TENNESSEE.

BE IT ORDAINED by the City Council of the City of Cleveland that the City of Cleveland, Tennessee budget for fiscal year 2016-2017 be amended according to the attached amendment.

BE IT FURTHER ORDAINED by the City Council of the City of Cleveland, Tennessee that all ordinances in conflict with the provisions of this ordinance are hereby repealed. This Ordinance shall take effect from and after its final passage, the public welfare of the City of Cleveland requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

 Tom Rowland, Mayor

 Shawn McKay, City Clerk

City of Cleveland, Tennessee				
FY2017 Budget Amendment - January 2017				
	ORIGINAL BUDGET	January 2017 Amendment	INCREASE (DECREASE)	EXPLANATION
GENERAL FUND				
Tax Revenues:	33,721,000	33,695,436	(25,564)	Property Tax - Utilities
Licenses & permits:	508,500	508,500	0	
Intergovernmental:	5,781,700	5,781,700	0	
Charges for services:	643,250	665,357	22,107	Contracted Svcs-CPD
Fines & forfeits:	778,900	778,900	0	
Interest income:	11,000	11,000	0	
Miscellaneous:	66,500	139,207	72,707	CHA Donation, Lyndhurst Grant, Asset Disposals
Public Enterprise Revenue:	1,159,100	223,833	(935,267)	New FBO Agreement
Subtotal	42,669,950	41,803,933	(866,017)	
Other Funding Sources:	2,343,623	2,343,623	0	
Total revenues	45,013,573	44,147,556	(866,017)	
Legis. & Judicial	439,598	591,598	152,000	Airmed Contract, Lyndhurst Grant
A&F	2,493,364	2,499,239	5,875	CU Email, Equipment
Development & Engineering	1,490,770	1,490,770	0	
Police	9,604,360	9,667,794	63,434	Contracted Svcs, Canine, Vehicle TML, FY16 Carryover
Fire	8,867,071	8,872,966	5,895	Donations, TML Reimbursement
PW Operations	2,338,060	2,338,060	0	
Street lightings & Signals	1,452,900	1,456,338	3,438	Insurance Replacement - School Zone Signal
Stormwater	0	0	0	
Cleveland Regional Jetport	1,146,700	252,820	(893,880)	New FBO Agreement
Animal Control	511,947	522,696	10,749	FY 16 Carryover
Safety Program	144,822	146,822	2,000	Safety Grant
Parks & Recr.	994,759	996,159	1,400	Workers Comp
Landscaping	674,742	685,079	10,337	FY 16 Carryover - Memorial Trees
College Hill Rec Center	450,669	450,669	0	
Cleveland Comm Center	398,133	399,633	1,500	Workers Comp
Tinsley Park	341,500	341,500	0	
P&R - Leases	38,000	38,000	0	
Appropriations	1,212,736	1,212,736	0	
Subtotal:	32,600,131	31,962,879	(637,252)	
Transfers	12,402,300	12,402,300	0	
Total expenditures	45,002,431	44,365,179	(637,252)	
Increase (use) of fund balance	11,142	(217,623)	(228,765)	

City of Cleveland, Tennessee				
FY2017 Budget Amendment - January 2017				
	ORIGINAL BUDGET	January 2017 Amendment	INCREASE (DECREASE)	EXPLANATION
SPECIAL REVENUE FUNDS:				
Solid Waste Mgmt. Fund				
Revenues	2,466,800	2,466,800	0	
Transfers from Other Funds	1,074,100	1,074,100	0	
Total Rev. & Transfers In	3,540,900	3,540,900	0	
Expenditures	3,535,096	3,535,096	0	
Increase (Use) of Fund Balance:	5,804	5,804	0	
State Street Aid Fund				
Revenues	1,142,000	1,142,000	0	
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	1,142,000	1,142,000	0	
Expenditures	730,541	730,541	0	
Transfers Out	411,200	411,200	0	
Total Expenditures & Transfers:	1,141,741	1,141,741	0	
Increase (Use) of Fund Balance:	259	259	0	
Cleveland Public Library Fund				
Revenues	779,800	779,800	0	
Transfers from Other Funds	645,800	645,800	0	
Total Rev. & Transfers In	1,425,600	1,425,600	0	
Expenditures	1,425,600	1,425,600	0	
Increase (Use) of Fund Balance:	0	0	0	
Drug Enforcement Trust Fund				
Revenues	10,000	10,000	0	
Expenditures	18,600	44,397	25,797	FY16 Carryover
Increase (Use) of Fund Balance:	(8,600)	(34,397)	(25,797)	

City of Cleveland, Tennessee FY2017 Budget Amendment - January 2017				
	ORIGINAL BUDGET	January 2017 Amendment	INCREASE (DECREASE)	EXPLANATION
2016 Byrne Mem. Justice Asst. Grant				
Revenues	0	39,340	39,340	2016 Grant
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin.	0	39,340	39,340	
Expenditures	0	39,340	39,340	2016 Grant
Increase (Use) of Fund Balance:	0	0	0	
Community Dev. Block Grant				
Revenues	487,481	822,612	335,131	Carryover, Donations - Park
Transfers from Other Funds	30,000	30,000	0	
Total Rev., Transfers & Other Fin.	517,481	852,612	335,131	
Expenditures	517,481	839,988	322,507	Carryover Projects
Increase (Use) of Fund Balance:	0	12,624	12,624	
MPO Fund				
Revenues	200,000	200,000	0	
Transfers from Other Funds	57,000	57,000	0	
Total Rev., Transfers & Other Fin.	257,000	257,000	0	
Expenditures	243,200	243,200	0	
Increase of Fund Balance:	13,800	13,800	0	
Recycling Grant				
Revenues	10,000	10,000	0	
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	10,000	10,000	0	
Expenditures	10,000	10,000	0	
Increase (Use) of Fund Balance:	0	0	0	

City of Cleveland, Tennessee FY2017 Budget Amendment - January 2017				
	ORIGINAL BUDGET	January 2017 Amendment	INCREASE (DECREASE)	EXPLANATION
School Food Service Fund				
Revenues	3,528,723	3,528,723	0	
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	3,528,723	3,528,723	0	
Expenditures	3,528,723	3,528,723	0	
Transfer to Other Funds	0	0	0	
Total Expenditures & Transfers:	3,528,723	3,528,723	0	
Increase (Use) of Fund Balance:	0	0	0	
School General Fund				
Revenues	39,076,264	39,076,264	0	
Transfers from Other Funds	5,286,600	5,286,600	0	
Total Rev. & Transfers In	44,362,864	44,362,864	0	
Expenditures	43,791,945	43,791,945	0	
Transfer to Other Funds	557,919	557,919	0	
Total Expenditures & Transfers:	44,349,864	44,349,864	0	
Increase (use) of Fund Balance:	13,000	13,000	0	
E Ticketing Technology Fund				
Revenues	10,000	10,000	0	
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	10,000	10,000	0	
Expenditures	10,000	28,700	18,700	FY16 Carryover
Transfer to Other Funds	0	0	0	
Total Expenditures & Transfers:	10,000	28,700	18,700	
Increase (use) of Fund Balance:	0	(18,700)	(18,700)	

City of Cleveland, Tennessee				
FY2017 Budget Amendment - January 2017				
	ORIGINAL BUDGET	January 2017 Amendment	INCREASE (DECREASE)	EXPLANATION
CAPITAL OUTLAY FUNDS:				
Capital Improv. Program Fund				
Revenues	100,000	502,837	402,837	FY16 Carryover
Transfers & Other Fin.	274,000	7,999,356	7,725,356	TMBF Bond Proceeds
Total Rev., Transfers & Other Fin.	374,000	8,502,193	8,128,193	
Expenditures	541,275	19,404,685	18,863,410	FY16 Carryover, Projects from Bond Issue
Transfers to Other Funds	0	0	0	
Total Expenditures & Other Uses	541,275	19,404,685	18,863,410	
Increase (Use) of Fund Balance:	(167,275)	(10,902,492)	(10,735,217)	
Sales Tax Capital Projects Fund				
Revenues	3,790,800	3,790,800	0	
Total Rev., Transfers & Other Fin.	3,790,800	3,790,800	0	
Expenditures	3,786,962	5,896,627	2,109,665	FY16 Carryover
Total Expenditures & Other Uses	3,786,962	5,896,627	2,109,665	
Increase (Use) of Fund Balance:	3,838	(2,105,827)	(2,109,665)	
Fletcher Park				
Revenues	0	0	0	
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	0	0	0	
Expenditures	0	5,403	5,403	FY16 Carryover
Transfer to Other Funds	0	0	0	
Total Expenditures & Transfers:	0	5,403	(5,403)	
Increase (Use) of Fund Balance:	0	(5,403)	(5,403)	
Greenway Fund				
Revenues	0	3,900	3,900	FY16 Carryover
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	0	3,900	3,900	

City of Cleveland, Tennessee				
FY2017 Budget Amendment - January 2017				
	ORIGINAL BUDGET	January 2017 Amendment	INCREASE (DECREASE)	EXPLANATION
Expenditures	4,000	12,083	8,083	FY16 Carryover
Increase (Use) of Fund Balance:	(4,000)	(8,183)	(4,183)	
Spring Branch Industrial Park				
Revenues	0	439,925	439,925	FY16 Carryover
Total Rev., Transfers & Other Fin.	0	439,925	439,925	
Expenditures	0	551,504	551,504	FY16 Carryover
Total Expenditures & Other Uses	147,000	551,504	551,504	
Increase (Use) of Fund Balance:	(147,000)	(111,579)	(111,579)	

City of Cleveland, Tennessee				
FY2017 Budget Amendment - January 2017				
	ORIGINAL BUDGET	January 2017 Amendment	INCREASE (DECREASE)	EXPLANATION
Internal ServiceFunds:				
Fleet Management Fund				
Revenues	715,692	715,692	0	
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	715,692	715,692	0	
Expenditures	715,308	719,408	4,100	FY16 Carryover
Increase (Use) of Fund Balance:	384	(3,716)	(4,100)	

City of Cleveland, Tennessee				
FY2017 Budget Amendment - January 2017				
	ORIGINAL BUDGET	January 2017 Amendment	INCREASE (DECREASE)	EXPLANATION
Debt Service Fund:				
Revenues	856,819	856,819	0	
Transfers from Other Funds	5,460,400	5,460,400	0	
Total Rev., Transfers & Other Fin..	6,317,219	6,317,219	0	
Expenditures	6,317,112	6,317,112	0	
Increase (Use) of Fund Balance:	107	107	0	
Insurance Trust Fund:				
Revenues	3,537,484	3,537,484	0	
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	3,537,484	3,537,484	0	
Expenditures	3,475,278	3,475,278	0	
Increase (Use) of Fund Balance:	62,206	62,206	0	
Enterprise Funds:				
Storm Water Management Fund				
Revenues	1,500,000	1,595,800	95,800	Increase in Revenue Projection
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	1,500,000	1,595,800	95,800	
Expenditures	1,424,600	1,663,461	238,861	FY16 Carryover
Increase (Use) of Fund Balance:	75,400	(67,661)	(143,061)	

Councilman May moved that Ordinance No: 2017-01 be voted for passage on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-02

AN ORDINANCE TO ZONE THE “22nd ST/NEW MURRAYTOWN RD ANNEXATION AREA” WITHIN THE CORPORATE BOUNDARIES OF CLEVELAND, TENNESSEE

WHEREAS, a public hearing before this body was held on the 23rd day of January 2017 a notice thereof published in the *Cleveland Daily Banner* on Monday, January 2, 2017 and

WHEREAS, a Plan of Service, including a zoning plan consistent with this ordinance, for this property was adopted by Resolution 2017-03; and,

WHEREAS, this property was annexed by Resolution 2017-04; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, zoned from FAR Forestry/Agricultural/Residential within the unincorporated County to R1 Single Family Residential within the corporate limits of the City of Cleveland.

Section 2. The property described in Exhibit “A” shall be zoned in accordance with the zoning plan described in Exhibit “B”, attached hereto and made a part hereof by reference, upon the effective date of this ordinance.

Section 3. Be it further ordained that this Ordinance shall take effect immediately on final reading the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A

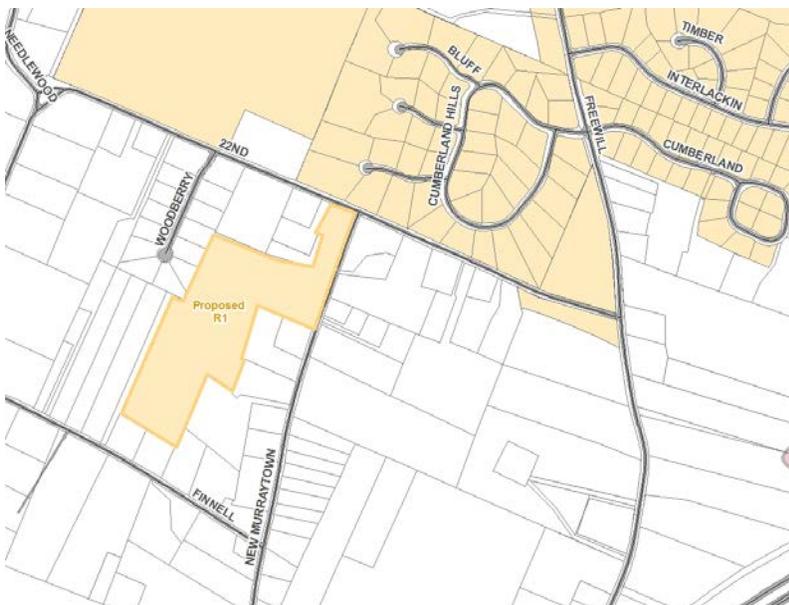


Exhibit B**Legal Description**

Beginning at an iron pin located at the southwest corner of the land of Epperson Homes LLC, as recorded in BCROD deed book 2415 page 637, said corner also being the north west corner of the lands of Green Planet Servicing LLC, as recorded in BCROD deed book 2241 page 424; thence north 24 degrees 1 minute 36 seconds east, 796.67 feet to an iron pin; thence south 63 degrees 9 minutes 51 seconds east, 122.74 feet to an iron pin; thence north 23 degrees 34 minutes 3 seconds east, 502.65 feet to an iron pin; thence south 64 degrees 3 minutes 2 seconds east, 348.93 feet to a metal post; thence south 69 degrees 37 minutes 15 seconds east, 286.74 feet to an iron pin; thence north 20 degrees 22 minutes 45 seconds east, 230.48 feet to an iron pin; thence north 62 degrees 43 minutes 56 seconds west, 65.84 feet to an iron pin; thence north 23 degrees 46 minutes 34 seconds east, 196.88 feet to an iron pin; thence crossing 22nd Street with the previous bearings and distances 50 feet, more or less, to a point in the northern right of way of 22nd Street, said point also being located in the existing City Limits; thence with the northern right of way of 22nd Street and the existing City Limits in an easterly direction 1268 feet, more or less, to a corner in the existing City Limits; thence crossing 22nd Street in a southerly direction with the existing City Limits, 50 feet, more or less, to a point in the southern right of way of 22nd Street, said point being located in the existing City Limits; thence leaving the existing City Limits and following the southern right of way of 22nd Street in a westerly direction 1067 feet, more or less, to the south east corner of the intersection of the right of ways of 22nd Street and New Murraytown Road; thence with the eastern right of way of New Murraytown Road in a southerly direction 706 feet, more or less; to a point in the eastern right of way of New Murraytown Road, said point being located where an extension of the northern line of the lands of S Murray, as recorded in BCROD plat book 17 page 102 would intersect if the northern line were extended; thence crossing New Murray town Road in a westerly direction north 66 degrees 13 minutes 42 seconds west, 41 feet, more or less, to an iron pin located at the north east corner of lot 1 of S Murray as recorded in BCROD plat book 17 page 102; thence north 66 degrees 13 minutes 42 seconds west, 388.33 feet to an iron pin; thence south 17 degrees 59 minutes 2 seconds west, 358.75 feet to an iron pin; thence south 66 degrees 13 minutes 42 seconds east, 39.03 feet to an iron pin; thence south 17 degrees 59 minutes 2 seconds west, 167.72 feet to an iron pin; thence north 65 degrees 46 minutes 21 seconds west, 192.81 feet to an iron pin; thence south 23 degrees 20 minutes 00 seconds west, 401.03 feet to an open pipe; thence south 25 degrees 26 minutes 2 seconds west, 109.94 feet to an iron pin; thence north 58 degrees 29 minutes 30 seconds west, 219.16 feet to an iron pin; thence north 60 degrees 53 minutes 18 seconds west, 217.13 feet to the point of beginning.

Councilman Cassada moved that Ordinance No: 2017-02 be voted for passage on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

Councilman Hughes moved to appoint Councilman Estes and Councilman Cassada to the Economic Development Council for a two-year term. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Councilman Banks moved to approve a letter of support for Mainstreet Entrepreneur Grant of \$50,000 for FY2019. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Councilman Hughes moved that Larry Bryant be appointed as a full member to the Wrecker Board. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

Councilman Estes moved that the City Council support the City Manager and staff in both pursuing and gathering all pertinent information to the acquisition of the Cherokee Hotel and we support them in this fact finding endeavor. Not only do we need to see it on paper we would like to maybe take a tour, or a virtual tour, something. Really do some due diligence on our part and get vested it from up here. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Rowland stated the Strategic Planning Session will be held on Monday, February 13th at 8:00 a.m. in the City Council room.

There being no future business the meeting was adjourned at 3:40 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, FEBRUARY 13, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Sue Zius, Assistant to the Mayor/Legislative Liaison; Christy Bryant, Support Services Manager, Beverley Lindsey, Executive Secretary II; Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Kris Miller, IT Director; Brian Moran; Social Media Coordinator; Marshall Stinnett with Cleveland Utilities; Bethany McCoy with Lee University; Doug Berry and Gary Farlow with the Chamber of Commerce; City Reporter Randall Higgins; School Board Members Dawn Robinson and Charlie Cogdill; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Avery Johnson, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on January 23, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request to rezone 0.31 acres located on 20th Street NW and Caywood Drive NW from R1 Single Family Residential Zoning District to R3 Multi-Family Residential Zoning District. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition to the rezoning. Jerry Barrow, who lives in Everhart Subdivision stated he, along with Van Deacon feel the location of the lot would be better to remain as a single family development and that would be the best use for the property. Mayor Rowland stated the Planning Commission has voted for denial of the rezoning. Mayor Rowland then declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning an amendment to section 5.6 of the zoning regulations to create provisions governing the establishment of three sided billboards. Mayor Rowland asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meetings is being held as a public hearing to hear public comments concerning an amendment to sections 2.1, 2.11.1 and Table 1 of the zoning regulations to clarify the language relative to the development of public facilities in various zoning districts. Mayor Rowland asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Final Passage - Ordinance No: 2017-01** – heretofore passed on first reading January 23, 2017 and found in Minute Book 28, Page 318; amending the FY2017 Budget.
- **Final Passage - Ordinance No: 2017-02** – heretofore passed on first reading January 23, 2017 and found in Minute Book 28, Page 323; zoning about 18.28 acres located on 22nd Street NW and New Murraytown Road NW from the unincorporated county to R1 Single Family Residential Zoning District.
- **Resolution No: 2017-06** – To endorse the Governor’s proposal for additional state transportation funding contained within the Improve Act.

RESOLUTION NO: 2017-06

**RESOLUTION ENDORSING THE GOVERNOR’S PROPOSAL FOR
ADDITIONAL STATE TRANSPORTATION FUNDING CONTAINED WITHIN THE
IMPROVE ACT**

WHEREAS, the City of Cleveland is responsible to provide for the welfare of all citizens of Cleveland through high quality services, sound leadership and progressive planning for the future of Cleveland; and

WHEREAS, this organization is comprised of local elected officials within the City of Cleveland, Tennessee; and

WHEREAS, the members of this organization recognize that many State and Local roads and bridges within the region are in need of improvement or new construction to address capacity, safety and economic development concerns; and

WHEREAS, additional investment in critical transportation infrastructure is necessary in order to ensure the economic competitiveness of the State of Tennessee and to secure economic opportunity for its residents; and

WHEREAS, the current levels of Federal and State funding for road and bridge construction are inadequate to fund needed transportation improvements within the region; and

WHEREAS, the Governor’s proposal to increase transportation funding in the State of Tennessee is a thoughtful and conservative plan in keeping with the tradition of fiscal stewardship for which our State is so well known; and

WHEREAS, the Governor’s proposal provides comprehensive, balanced, and responsible solutions to the State’s transportation needs, and will provide additional funding for projects in all 95 Counties at a cost to the average driver of roughly \$4 per month; and

WHEREAS, the Governor’s proposal will result in funding for 962 projects, all of which will be complete, under construction, or under contract by 2030; and

WHEREAS, the Governor’s proposal will generate additional funds to address local transportation issues, resulting in additional direct annual funding of \$39 million for cities and \$78 million for counties across the State; and

WHEREAS, the Governor’s proposal will provide a sustainable long term solution to the State’s transportation funding needs, resulting in increased safety, prosperity, livability and access for our children, our grandchildren, and for generations to come;

NOW, THEREFORE, BE IT RESOLVED that the members of the City of Cleveland support the IMPROVE Act (Improving Manufacturing, Public Roads and Opportunities for a Vibrant Economy) which provides for increased funding levels and additional funding options for transportation improvements, and the increased funding it would provide to county and municipal governments for maintenance and improvements of the local highway system, and

FURTHERMORE, that copies of this Resolution be sent to the elected members of the Tennessee General Assembly representing the City of Cleveland, and

FURTHERMORE, that copies of this resolution be sent to the Governor of the State of Tennessee and to the Commissioner of the Tennessee Department of Transportation;

The public welfare demanding it.
This 13th day of February, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-07** – 2016 Tax Refund; Elise M. Languedoc (\$334.00).

RESOLUTION NO: 2017-07

WHEREAS, Stanley M. Thompson, Assessor of Property, has recently notified the City of Cleveland, Tennessee, that a change has been made in the 2016 real property taxes assessed to Elise M. Languedoc; and

WHEREAS, a copy of the Assessor’s notice to the City is attached hereto and incorporated herein by reference; and

WHEREAS, as a result of the notice from the assessor's office, this taxpayer is entitled to a refund for the overpayment of her 2016 real property taxes; and

WHEREAS, the parcel of property is generally identified as Map 042O, Group H, Parcel 003.08 SI 000 (2016 Receipt Number 17762); and

WHEREAS, this taxpayer has been determined by the Assessor’s office to be entitled to a tax refund of \$334.00 for 2016.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Clerk be, and hereby is, authorized to refund to Elise M. Languedoc the sum of \$334.00 for the overpayment of her 2016 real property taxes.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Surplus Property** – Declaring certain vehicles as surplus and to be sold on Govdeals.com for the Police Department.

MEMO:

TO: MAYOR & CITY COUNCIL
FROM: MELINDA CARROLL
DATE: February 8, 2017
SUBJECT: VEHICLES – SURPLUS

I respectfully request the City Council declare the following vehicles surplus and to be sold:

<u>Vehicle</u>	<u>Minimum Bid</u>
1996 Jeep Cherokee – VIN #64514	\$750
1996 Chevrolet Lumina – VIN #72205	\$300
2000 Nissan Maxima – VIN #79263	\$500

These items will be placed on Govdeals.com with a minimum bid set for each vehicle as listed above.

Councilman Hughes moved to approve the Consent Agenda. The motion was seconded by Councilman Banks; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Banks commented he liked the new audience chair placement and then thanked Mr. Fivas and all Department Heads for their presentations during today’s Strategic Planning Session.

Vice Mayor Johnson stated he appreciates Mr. Myers for the addressing the sign that needed repainting along Tennessee Nursery Road so quickly.

Councilman Estes thanked staff for speaking and listening to concerns with the neighborhood association concerning the hours at the new Blythe Park. He also thanked Mr. Fivas for identifying the alleyways in the Blythe neighborhood that can’t be closed. There is a lot of momentum there and having a responsive staff has been great.

Councilman Cassada thanked City Staff for their work on the presentations held during the Strategic Planning Session.

Councilman Hughes stated today’s Strategic Planning Session was very uplifting to have an opportunity to see where we’ve been and where we’re going in the future. He then commended Mr. Fivas on the five community meetings that were held and to all the staff that attended. He thanked the School Board for their presentations during those meetings as well. The Highway 60 and Mouse Creek area update was much appreciated. They were good meetings and obtained information that will be helpful for our city. Councilman Hughes then asked if the March 13 meeting could be canceled due to Spring Break in our School system. Mayor Rowland asked Mr. Fivas if there were any legal hearings scheduled or anything else time wise for that meeting. Mr. Fivas stated both Assistant City Managers say we’re good to cancel the meeting.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

ZONING ORDINANCE NO: 2017-03

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R1 Single Family Residential Zoning District to R3 Multi-Family Residential Zoning District.

Approximately .31 acres, more or less, located northeast quadrant of 20th St NW and Caywood Dr NW as shown on the attached map.

For reference, see Book 2221 Page 294 in the Register's Office of Bradley County, Tennessee, and being shown on Tax Map 49C Group C Parcels 31.00 in the Assessor's Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

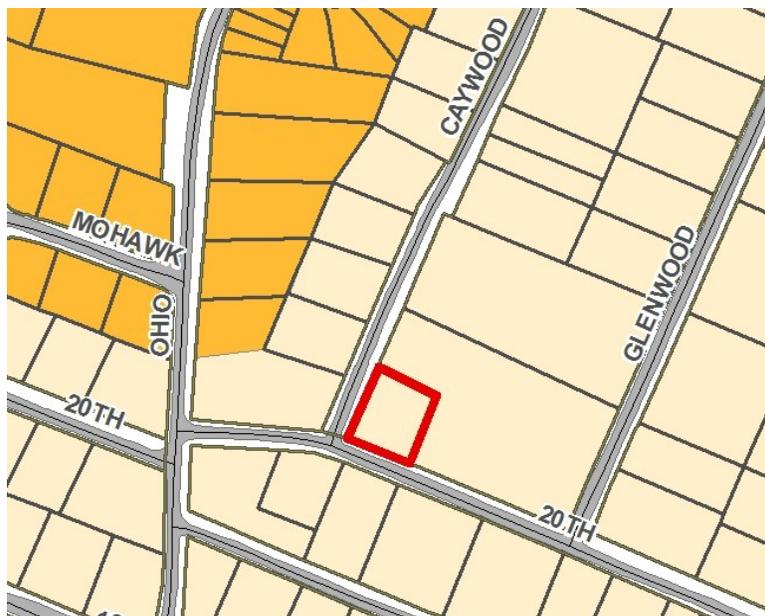
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

./s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Councilman May moved that Ordinance No: 2017-03 be denied on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-04

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTION 5.6 TO PROVIDE FOR PROVISIONS CONCERNING 3 SIDED BILLBOARDS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS the City Council of the City of Cleveland, Tennessee, having considered the comments of the Cleveland Municipal Planning Commission, has considered the impacts of permitting 3 sided billboards; and

WHEREAS the City Council has determined that the existing zoning regulations should be revised to allow for the proliferation of 3 sided billboards in certain circumstances; and

WHEREAS the proposed amendment may ultimately reduce the overall number of billboards in the community and make more efficient use of existing sign poles;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 5.6 to read as follows:

5.6. Billboards

Billboards are allowed in the CH, IL, and IH zoning districts as principally permitted uses. Billboards are allowed as principally permitted uses in those portions of the CG and PI zoning districts which are within 200 feet of the Interstate 75 right-of-way, and in that portion of the CG zoning district within 1200 feet of the Interstate 75 right-of-way where there is frontage on a street with four or more lanes if the aforesaid street directly connects with an I-75 interchange. Billboards are allowed as a conditional use in the B zone. Billboards can be allowed in a PUD district if specified as a permitted use. Though not considered an accessory use, they may be co-located with other uses on the same site. The following rules are specific to billboards:

5.6.1. Billboards must be spaced a minimum of five hundred (500) feet apart measured in a straight line distance on the same side of a street and a minimum of four hundred (400) feet apart measured from a radius of each billboard location. In applying this rule "same side of a street" shall mean the primary public street toward which a sign display area or sign face of a billboard is oriented and from which it is intended to be observed by passing motorists, and the intent is that any part of any two billboards along the same side of such street would be at least 500 feet apart. Likewise it is intended that no part of any billboard shall be within a 400 foot radius of any part of another billboard.

5.6.2. No part of any billboard shall be located within three hundred feet (300) feet of any R1, R2, R3, R4, or R5 zoning district. No part of any billboard shall be located within five hundred (500) feet of any historic site listed on the National Register of Historic Places or within five hundred (500) feet of any historic preservation zoning district.

5.6.3. No part of any billboard shall overhang or be within 5 feet of the public right-of-way and no part of any billboard shall overhang or be within any utility easement.

5.6.4. No sign display area on a billboard sign face shall be greater than three hundred (300) square feet. However, where billboards are permitted within 660 feet of I-75 the maximum size of the total sign display area shall be the maximum size for billboards set forth in the State of Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising.

5.6.5. The maximum height shall be thirty-five (35) feet measured from the ground level, except in a location where permitted within 660 feet of I-75 where the height shall be the same as those set forth in the State of Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising. In no case shall the bottom of the sign display area be less than 18 feet from the ground.

5.6.6. Billboards shall be constructed in accordance with the Building Code; however, wood structures are prohibited. Billboards shall not be built, installed or displayed except as free-standing structures. Billboards shall not be built, installed, or displayed as wall signs, awning signs, or roof signs.

5.6.7. A building permit and a sign permit are required to install a billboard. Billboards must be installed by properly licensed contractors and permits will be issued by the Building Official only to such contractors. Permits require a set of plans drawn by a Tennessee licensed professional engineer. Plans will include electrical and lighting details, as well as details on the foundation, the billboard structure, fastening, and windload. The Building Official may require additional information, such as soils testing, as he or she deems necessary.

5.6.8. Billboards are subject to inspection by the Building Official. Billboard owners shall correct, with maintenance and/or repair or removal or replacement of the billboard, problems found during an inspection.

5.6.9. Billboards shall not be constructed so as to have two or more sign display areas stacked vertically with one on top of the other, or located side by side, or otherwise located on the same supporting structure except as provided herein. A "V" shaped billboard is allowed with not more than one (1) sign face on each side of the "V" and where the interior angle of the "V" is not more than 35 degrees. Notwithstanding the description of a "V" shape, it is not intended to preclude the back-to-back location of two sign faces in a billboard as opposed to the "V" design.

Notwithstanding the above paragraph, three-sided billboards shall be permitted when the subject billboard is situated such that the third side is directed toward an on or off ramp accessing Interstate 75 onto a local or state road. No billboards shall be allowed to be located within 1000' of a three sided billboard on the "same side of the street" adjoining Interstate 75.

5.6.10. The use of LEDs or other types of lights to produce sign copy on billboards are permitted provided they conform to the requirements of section 5.2.1.K. of the zoning ordinance. LED billboards shall additionally have a spacing distance of 750 linear feet on the traveled roadway between digital billboards on the same road and traveling in the same direction. Furthermore, LED billboards shall not be permitted within five hundred feet (500') of any historic zoning district. Billboards may be internally or externally lighted. The lighting of billboards shall not produce glare or excessive light on adjacent properties or public rights-of-way or interfere with motorists' vision. No flashing or intermittent light source shall be used on a billboard, and neither shall any lighting that creates the appearance or motion. Billboards are allowed to incorporate changeable copy through mechanical means.

5.6.11. No billboard shall incorporate any sign copy that has been determined by a court of competent jurisdiction to be obscene under the laws of Tennessee.

Section 2. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

Section 3. In the event that any part of this ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

Section 4. This ordinance shall take effect immediately upon passage on second reading, the public necessity requiring it.

./s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved that Ordinance No: 2017-04 be voted for passage on first reading. The motion was seconded by Councilman Cassada. Councilman Banks asked for comments from staff on this ordinance. Mr. Jobe stated this amendment clarifies the ordinance and this particular amendment will apply to an existing sign at Exit 27. It will restrict 3-sided billboards within 1,000ft of each other. Upon roll call the motion unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-05

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTION 2.1, 2.11.1 AND TABLE 1 TO CLARIFY THE EXEMPTIONS WITHIN THE ZONING FOR PUBLIC SERVICES; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS the City Council of the City of Cleveland, Tennessee, having considered the comments of the Cleveland Municipal Planning Commission, has recognized the ambiguity of the existing language concerning public facilities; and

WHEREAS the City Council has determined that emergency services facilities and other public service facilities owned and operated by governmental entities are necessary to serve the public welfare within all zoning districts should not be encumbered and limited to specific zoning districts; and

WHEREAS the existing zoning regulations should be revised to allow for the location of public facilities throughout the city as necessary to maintain a high degree of public safety and public service;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 2.1 to read as follows:

2.1 General Provisions.

No Building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted in the district in which it is located, except as hereafter provided. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose including but not limited to emergency service facilities such as buildings, garages, and/or dispatch centers for ambulances, fire police and rescue and the like and other public services and facilities owned and operated by a governmental entity.

2. 2.11.1 shall remove the following language under letter H:

H. Emergency service facilities such as buildings, garages, and/or dispatch centers for ambulances, fire police and rescue;

Section 3. Table 1 within the Zoning Ordinance shall reflect the following:

“Emergency services facility and/or dispatch center” shall be amended to also include “and other public facilities and services”. This uses shall be amended to be reflected as a permitted use within all zoning districts.

Section 4. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

Section 5. In the event that any part of this ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

Section 6. This ordinance shall take effect immediately upon passage on second reading, the public necessity requiring it.

./s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-05 be voted for passage on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

Councilman Hughes moved to develop a Senior Citizens Advisory Committee, which was discussed at the community district meetings. This would involve no money and no output from the City. It would consist of seven senior citizens, who would like to have the ear of the Council periodically, to share senior citizen needs. He proposed each district, as well as the at-large Council members choose a member and Mr. Fivas outline the details. The motion was seconded by Councilman McKenzie; and upon roll call, unanimously passed.

Mayor Rowland stated the event celebrating Cleveland’s 175th birthday on February 4th was held to also raise funds for the Taylors Springs project. Councilman Banks stated the committee is meeting Wednesday and they will announce the amount raised and pledges received.

Mayor Rowland stated City offices will be closed on Monday, February 20th in observance of Presidents’ Day.

Councilman Hughes amended his motion on the Senior Citizens Advisory Committee to include appointment of Mayor Rowland as Chairman. The amendment to the motion was seconded by Councilman McKenzie; and upon roll call, unanimously passed.

Several Lee University students from Professor Finch's Digital Media class addressed the City Council and asked questions of the Mr. Fivas, Mayor Rowland and the City Council about the vision of the City, how to encourage growth and public safety. Mayor Rowland stated it is about quality of life in the community and downtown revitalization is important to keep the area vibrant. Councilman Banks encouraged the class to go online and complete the citizen survey.

There being no future business the meeting was adjourned at 3:46 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, FEBRUARY 27, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Vice Mayor Avery Johnson was absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Sue Zius, Assistant to the Mayor/Legislative Liaison; Christy Bryant, Support Services Manager, Beverley Lindsey, Executive Secretary II; Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Brian Moran, Social Media Coordinator; Marshall Stinnett with Cleveland Utilities; Bethany McCoy with Lee University; Doug Berry and Gary Farlow with the Chamber of Commerce; City Reporter Randall Higgins; School Board Members Dawn Robinson and Charlie Cogdill; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Dr. Jay McCluskey with North Cleveland Baptist Church, the following business was then entered into:

WAIVE READING OF MINUTES

Councilman May moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on February 13, 2017 and approve them as written. The motion was seconded by Councilman Hughes; and upon roll call the motion unanimously passed.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Final Passage to Deny Zoning Ordinance No: 2017-03** – heretofore denied on first reading February 13, 2017 and found in Minute Book 28, Page 330; rezoning 0.31 acres located on 20th Street NW and Caywood Dr NW from R1 Single Residential Zoning District to R3 Multi-Family Residential Zoning District (Planning Commission: Denied; 7-0; 2 members absent).
- **Final Passage - Ordinance No: 2017-04** – heretofore passed on first reading February 13, 2017 and found in Minute Book 28, Page 331; amending Section 5.6 of the Zoning Regulations to create provisions governing the establishment of three sided billboards (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Ordinance No: 2017-05** – heretofore passed on first reading February 13, 2017 and found in Minute Book 28, Page 333; amending Sections 2.1, 2.11.1 and Table 1 of the Zoning Regulations to clarify the language relative to the development of public facilities in various zoning districts (Planning Commission: Approved 7-0; 2 members absent).

Councilman Hughes moved to approve the Consent Agenda. The motion was seconded by Councilman Cassada; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman McKenzie inquired about the old burned building off Euclid and 6th Street. Mr. Jobe stated the owners have a demolition permit and are currently working to clean the lot.

Councilman Cassada welcomed all the new city employees that were present at the meeting. He appreciates all they have and will do for the citizens.

Councilman May stated he has received numerous phone calls from residents on Blueberry Hill, west of Ocoee Street, asking the City to look at a possible 4-way stop sign at the first intersection off of Ocoee Street to help slow traffic. Staff will review the area.

Councilman Hughes complimented Bryan Turner, Josh Holder, Adam Donegan, Tina Bishop and Ryan Stephens for their work on enhancing the Development and Engineering Annex office, where the Tree Board now meets. They did all the work in-house and made it a great facility.

Councilman Banks commented on the new look and format of the front page of the *Cleveland Daily Banner*. He continued that he appreciates the attendance at the Mainstreet meeting at the Elk's Lodge today, where Mayor Rowland gave a presentation. He is like a cheerleader for the City and spoke of the city, staff, future projects, plans, and the redevelopment of downtown, which Mayor Rowland views as the heart of the City. He appreciated the presentation.

Mayor Rowland asked Chief Gibson if he'd ever thought about the use of drones for the department. Cleveland Utilities has one and it is amazing what they have seen and done with it. Chief Gibson stated yes, they have discussed it and have been offered the use of one.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-06

AN ORDINANCE TO AMEND TITLE 2 OF THE CLEVELAND MUNICIPAL CODE TO ADD A NEW CHAPTER TO BE DESIGNATED AS CHAPTER 8 AND TO ESTABLISH A NEW ADVISORY COMMITTEE TO BE DESIGNATED AS THE CITY OF CLEVELAND SENIOR CITIZEN ADVISORY COMMITTEE

WHEREAS, the City Council desires to amend Title 2 of the Cleveland Municipal Code to add a new chapter to create an advisory committee to be designated as the City of Cleveland Senior Citizen Advisory Committee.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, IN REGULAR SESSION ASSEMBLED, THAT:

SECTION 1:

Title 2. Chapter 8 Senior Citizen Advisory Committee

Section 2-801. Creation

Section 2-802. Membership

Section 2-803. Term

Section 2-804. Meetings

Section 2-805. Duties

Section 2-806. Expenditures

Section 2-807. Attendance Requirements

2-801. Creation. There is hereby created a Senior Citizen Advisory Committee for the City of Cleveland, Tennessee to be designated as the "Senior Citizen Advisory Committee."

2-802. Membership. The Senior Citizen Advisory Committee shall consist of seven members who at least 62 years of age. Each member must be a resident of the City of Cleveland at the time of their appointment.

The Mayor will serve as the Chairman of the seven-member committee. The City Manager shall appoint a staff member to be a liaison and a secretary/clerk for the Committee.

The committee will be composed of one resident from each of the five City Council districts, and two additional residents of the City who shall serve at large. The members of the Senior Citizen Advisory Committee shall serve without compensation.

Each council member shall select one member to serve on the committee.

2-803. Term. Initially, the committee members from districts 1, 2, 3 and 4 will serve a two-year term, and the member from district 5 and both at large members will serve a three-year term. All subsequent appointments will serve a two-year term.

Should a member of the committee cease to be a resident of the City of Cleveland during their term, they shall automatically cease to be a member of the committee and they shall be replaced with a substitute member who is a resident of the City.

2-804. Meetings. After all committee members are appointed, the committee shall meet monthly for four consecutive months, and on such other dates as the committee deems necessary.

2-805. Duties. The duties of the Senior Citizen Advisory Committee are:

- (a) to make recommendations to the City Council concerning the perceived needs of Cleveland's senior citizens;
- (b) to make recommendations to the City Council concerning the establishment of priorities that are of importance or concern to Cleveland's senior citizens; and
- (c) to make recommendations to the City Council on those issues referred to the advisory committee by the City Council.

2-806. Expenditures. The Senior Citizen Advisory Committee shall not have the power or authority to expend any public funds.

2-807. Attendance Requirements. Members of the committee are subject to the attendance requirements of Section 2-601 of the Cleveland Municipal Code.

SECTION 2. BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved that Ordinance No: 2017-06 be voted for passed on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-07

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, AMENDING TITLE 7, CHAPTER 2, SECTIONS 7-201 THROUGH 7-211 OF THE CLEVELAND MUNICIPAL CODE RELATING TO FIRE CODES

WHEREAS, the provisions of the Cleveland Municipal Code which pertain to the Fire Code are codified in Title 7, Chapter 2 of the Cleveland Municipal Code; and

WHEREAS, the provisions of the Cleveland Municipal Code need to be updated to bring the code provisions into conformity with the Fire Codes that have already been adopted by the City of Cleveland; and

WHEREAS, the City Council desires to delete the current sections of the Cleveland Municipal Code numbered 7-201 through 7-210, and replace these existing sections with the following provisions which will be codified in Title 7, Chapter 2 of the Cleveland Municipal Code as Sections 7-201 through 7-211.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled:

Section 1. That Title 7, Chapter 2, Sections 7-201 through 7-210 of the Cleveland Municipal Code be deleted in their entirety and replaced with the following sections to be numbered Sections 7-201 through 7-211.

CHAPTER 2

FIRE CODE

SECTION

- 7-201. Definitions
- 7-202. Authority Having Jurisdiction
- 7-203. Enforcement of Chapter
- 7-204. Fire Codes Adopted
- 7-205. Amendments
- 7-206. Ordinances Not Covered by Adopted Codes
- 7-207. Conflicts
- 7-208. Violations and Penalties
- 7-209. Appeals
- 7-210. Rules
- 7-211. Fees

7-201. Definitions. The following terms, when used in the adopted codes referenced in §7-204 and in this chapter shall have the meanings indicated in this section:

- (1) “Authority Having Jurisdiction (AHJ)” shall be held to mean the fire chief or whoever is assigned by the Cleveland City Council to be the “Assistant to the Commissioner.”
- (2) “Corporate Limits” shall be held to mean the City of Cleveland city limits.
- (3) “Fire Code Official” shall be held to mean the fire marshal.
- (4) “Deputy Fire Code Official” shall be held to mean any state certified fire inspector under the fire marshal’s charge.

7-202. Authority Having Jurisdiction (AHJ). Pursuant to the authority granted by Tennessee Code Annotated §68-102-108, the fire chief of the City of Cleveland Fire Department is hereby designated by the Cleveland City Council as the “Assistant to the Commissioner” and thus is hereby considered the Authority Having Jurisdiction (AHJ) over this entire chapter.

7-203. Enforcement of Chapter. The fire chief and/or his state certified fire inspector designees shall have the authority to enforce the provisions of this chapter. Any fire inspector certified by the State of Tennessee and designated by the fire chief shall be considered a “fire inspector” as referenced in 3-302 of this city code and have the authority to enforce this chapter and write citations in lieu of arrest for violations of this chapter or anything referenced in this chapter.

7-204. Fire Codes Adopted. Pursuant to the authority granted by Tennessee Code Annotated §6-54-502, the following codes are adopted and incorporated by reference as fully as if set out verbatim herein, and the provisions thereof shall be controlling within the corporate limits of the city:

- (1) The International Fire Code¹, 2012 edition, as prepared by the International Code Council to including its referenced publications listed in Chapter 80 as well as Appendices A, B, C, D, F, and I.
- (2) The NFPA 101 Life Safety Code², 2012 edition, as prepared by the National Fire Protection Association, Chapters 15, 17 and their references.

Pursuant to the requirement of Tennessee Code Annotated, §6-54-502, one (1) copy of the adopted codes have been filed with the city clerk and is available for public use and inspection. Said codes are adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.

Any matters in said fire codes which are contrary to existing ordinances of the City of Cleveland, Tennessee shall prevail and to that extent any existing ordinances to the contrary are hereby repealed in that respect only.

¹ Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206

² Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101

7-205. Amendments. The following sections of the adopted codes are amended as follows:

- (1) IFC Section 101.1 Title, 2012 edition inserted in place of brackets shall read “the City of Cleveland, Tennessee”
- (2) IFC Section 109.4 Violation penalties, 2012 pursuant to §T.C.A. 6-54-504 IFC section 109.4 is hereby deleted.
- (3) IFC Section 505 Premises Identification, 2012 edition shall have the following sections added:
 - “505.1.1 New or existing multi-tenant buildings and/or multiple buildings that have fire separation, but are still connected by fire walls provided with secondary exits to the exterior or exit corridor shall provide tenant identification by business address and/or suite number. This identification shall be Arabic numerals or alphabet letters and shall be contrasting with their background. Letters or numbers shall be a minimum of two inches high and be located 60 inches above the bottom of the door.”
 - “505.1.2 When a single tenant assumes more than one lease space in a new or existing multi-tenant building, and eliminates use of a door, including spot welding the door in the closed position, a sign stating ‘FALSE DOOR, NO ENTRY’ is required.”. Letters or numbers shall be a minimum of two inches high and be located 60 inches above the bottom of the door.”
- (4) IFC Section 912 Fire Department Connections, 2012 edition have the following section added:
 - “912.1.1 New fire department connections for water-based fire protection systems shall be provided with a 5 inch locking connection and cap. Locking type caps shall be approved by the AHJ.”
- (5) NFPA 13 Standard for the Installation of Sprinkler Systems, 2010 edition referenced by the adopted codes, section 6.9.3.1 shall be changed to read “The alarm apparatus for detecting water flow for all new sprinkler systems and existing facilities with multiple risers that in the opinion of the AHJ could be confusing to arriving fire crews, shall be a combination horn/strobe device that is listed for water flow detection and outside use.

7-206. Ordinances Not Covered by Adopted Codes.
(Reserved for future use)

7-207. Conflicts. In the event of a conflict or an inconsistency between the codes adopted by reference and listed amendments:

- (1) The provisions of the International Fire Code shall prevail if such conflict or inconsistency relates to administration of the fire code(s).
- (2) If the adopted codes reference the same code but different editions, the latest edition will be the referenced code used.

7-208. Violations and Penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the codes as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50). Each day a violation is allowed to continue shall constitute a separate offense.

7-209. Appeals. Board of Appeals shall be established in order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of the adopted code.

7-210. Rules. The AHJ shall have the authority to make rules for the proper administration of the adopted codes that are not contrary to the adopted codes.

7-211. Fees. All fees permitted by the adopted codes or ordinances of this chapter shall be approved by Resolution of the Cleveland City Council. The current fee schedule is set forth in Resolution 2003-39, and those fees are incorporated herein by reference. That fee schedule shall constitute the fee schedule until and unless those fees are modified by the City Council.

Section 2. That this Ordinance shall become effective from and after its passage on final reading, the public welfare requiring it.

./s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Banks moved that Ordinance No: 2017-07 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

RESOLUTION NO: 2017 – 08

**A RESOLUTION AMENDING THE PERSONNEL POLICIES
OF THE CITY OF CLEVELAND, TENNESSEE**

THAT WHEREAS, the City Council of the City of Cleveland has previously established and adopted by Resolution on February 22, 2016 a revised Personnel Rules and Regulations document entitled “The City of Cleveland Personnel Rules and Regulations”; and

WHEREAS, this document contains the personnel policies of the City of Cleveland; and

WHEREAS, the Human Resources Committee, Department Heads and the City Manager will review the personnel manual and submit any recommended amendments to the City Council for their consideration by the end of February each year; and

WHEREAS, the City Manager, Department Heads, and the City’s Human Resources Committee are recommending the following amendment to the City’s Personnel Rules and Regulations.

NOW, THEREFORE, BE IS RESOLVED by the City Council of the City of Cleveland, Tennessee in Regular Session assembled this 27th day of February, 2017 that the document entitled “The City of Cleveland Personnel Rules and Regulations” is hereby amended as follows:

Section 1: Amend the City’s Personnel Rules and Regulations as follows:

Section IV. – EMPLOYMENT, as follows:

- Subsection W. STANDBY AND CALL BACK PROVISIONS, as follows:

Amend the 6th paragraph “Public Works Department” to read as follows:

Public Works Department – 2 employees having Commercial Drivers License (CDL) paid for 10 hours per week to be on standby for after-hours calls. Any non-exempt employee of the Public Works Department on standby called back after-hours will be guaranteed a minimum of two hours for said call.

Section VI. – BENEFITS, as follows:

- Subsection T. LIFE INSURANCE, as follows:

City employees and retirees are covered under the City of Cleveland’s current benefit. Rules are established by the City Council.

Section VIII. – MISCELLANEOUS POLICIES, as follows:

- Subsection J. USE OF CITY VEHICLES AND EQUIPMENT, by amending the 11th paragraph to read as follows:

Vehicles and equipment shall be marked with a City insignia approved by the City Manager and equipped with GPS at the discretion of the Department Head.

- Subsection N. INCLEMENT WEATHER LEAVE, by amending the 2nd paragraph, deleting the words “non-exempt”, to read as follows:

All essential employees shall be paid at the regular rate of pay for all hours worked. In addition, during the period of time the City Manager determines the inclement weather policy is in effect, all essential employees who have worked during that period shall be given one hour of pay or compensatory time off for each hour actually worked. The City reserves the right to either give compensatory time off or pay for this additional time, depending upon scheduling requirements of each department. If the City chooses to pay for the hours not actually worked, these hours shall not be considered hours worked for purposes of calculating overtime under the FLSA.

- Subsection R. DISCIPLINARY ACTION FOR AT-FAULT ACCIDENTS, to be titled and read as follows:

Subsection R. REPORTING ACCIDENTS/INCIDENTS

All accidents/incidents resulting in injury and/or damage to city vehicles or equipment, shall be reported immediately to the Risk Manager and will be reviewed on a monthly basis by the Safety Committee. All persons involved in the accident/injury as well as the employee’s Supervisor and Department Head may be subject to discipline and/or corrective measures. The Committee is charged with reviewing all documents and associated information pertaining to the accident/incident, to ascertain findings and recommend disciplinary actions or corrective actions through the Human Resources Director to the Department Head. In order to provide a fair and consistent set of guidelines for the City of Cleveland, the current policy for disciplinary action will be followed for all employees unless the specific circumstances surrounding the offense are such that suspension or termination are deemed appropriate. Part-time and temporary employees are not subject to conditions of employment and may be terminated by the City Manager at any point, including first offense.

If remedial driving training is required, the supervisor, Department Head and Risk Manger will make arrangements for training. The City of Cleveland will pay any expenses incurred. Employees will be paid for hours spent attending the training if the Department Head is unable to give them time off in the same workweek. Should additional training on equipment be required, the training will be provided by a senior operator or supervisor and documented by the Department Head.

Employees, Supervisors and Department Heads who fail to immediately report an accident/incident resulting in damage and/or injury may be subject to disciplinary action, up to and including termination.

Section 2. That this Resolution shall become effective from and after its approval by the Cleveland City Council.

Adopted this 27th day of February, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Resolution No: 2017-08 be approved as presented. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

RESOLUTION NO: 2017-09

A Resolution Approving an Emergency Solutions Grant Application to the Tennessee Housing Development Agency

WHEREAS, the Tennessee Housing Development Agency (THDA) administers funds provided by the U.S. Department of Housing and Urban Development for an Emergency Solutions Grant Program; and

WHEREAS, the program is intended to restrict the increase of homelessness through the provision of preventive programs by assisting individuals and families who are homeless to move into permanent and safe housing; and

WHEREAS, the City of Cleveland, Tennessee, will prepare an application for funding and will allocate such funds to the nonprofit agency of the Cleveland Emergency Shelter, Inc. for such prevention activities;

WHEREAS, the Emergency Solutions Grant Program requires a 100% match. Said match will be provided by the Cleveland Emergency Shelter, Inc. and stated in the application;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that City staff are authorized to submit the aforementioned application to the Tennessee Housing Development Agency on behalf of the Cleveland Emergency Shelter, Inc. for funding up to \$150,000.00;

BE IT FURTHER RESOLVED by the City Council that the Mayor be and hereby is authorized to submit the application and all forms necessary for applying for the above referenced grant. If said grant is approved, the Mayor is hereby authorized to accept (on behalf of the City of Cleveland) said grant and the Mayor is hereby designated as Cleveland's representative to act in connection with the application and to provide additional information as may be required.

Approved this 27th day of February, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved that Resolution No: 2017-09 be approved as presented. The motion was seconded by Councilman Estes. Councilman Banks inquired about the grant match. Mr. Fivas stated it comes from the value of the building they use, which they lease from us, so there are no funds required from the City. Upon roll call the motion unanimously passed.

Mayor Rowland stated they will not hold a Council meeting on March 13th due to Spring Break. The next City Council meeting will be held on March 27th.

There being no future business the meeting was adjourned at 3:17 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MEET IN A REGULAR SESSION ON MONDAY, MARCH 13, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

The Mayor and City Council were absent due to Spring Break.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MARCH 27, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Sue Zius, Assistant to the Mayor/Legislative Liaison; Christy Bryant, Support Services Manager, Beverley Lindsey, Executive Secretary II; Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Brian Moran; Social Media Coordinator; Marshall Stinnett and Tad Bacon with Cleveland Utilities; Bethany McCoy with Lee University; Doug Berry and Gary Farlow with the Chamber of Commerce; City Reporter Randall Higgins; Scott Rymer; Sharon Marr with Mainstreet Cleveland; Preston Goforth; Charlotte Peak; Jeanie Lipke; Judy and Kenneth Gaston; John Corum; Jeff Cocks; Miley Rutledge; Stacia Crye Shahan; Jason Tickel; Louann Wright; Tom Gibson; Rebekah Chaffin; David Chaffin; Mickey Gaston; School Board Members Dawn Robinson and Charlie Cogdill; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on February 27, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today we are swearing-in two new Police Officers to the Cleveland Police Department. He stated officers sometimes can be the first line of greeting someone in our community and you never get a second chance at a first impression. He reminded each officer that he, as well as the City Council and department managers support the police officers and wished them well and safety. Mayor Rowland then administered the Oath of Office to Police Officers Jesse Jones and Dax McGowan and welcomed them to the Cleveland Police Department. Chief Gibson introduced each officer and gave a brief background of their qualifications and welcomed them to the department.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request to rezone approximately 74.3 acres located at Paul Huff Parkway and North Lee Highway from CH Commercial Highway Zoning District to Planned Unit Development PUD Zoning District (Tax Map 34 Parcel 64.03). Mayor Rowland asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition to the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request to rezone approximately 0.98 acres from R1 Single Family Residential Zoning District to R2 Low Density Single & Multi-Family Residential Zoning District located on Stephens Rd NE (Tax Map 42K Group K Parcel 18.00 & 21.00). Mayor Rowland asked if anyone would like to speak in favor of the rezoning. Charlotte Peak stated she purchased the two lots last year, which was zoned R1. In the County you can build a duplex on R1 so she didn't think anything of it when she bought them and she was not aware of the

previous zoning requests. The Planning Department was not opposed to the rezoning of the lots, even the two previous time this occurred. In 1992, the subdivision was submitted and approved by the City and to be zoned R1, which at the time you could build duplexes or triplexes. One end of the road has multi-family and the other end has single family and multi-use in between. In her opinion it was zoned incorrectly. In 2015, the new state law on vested property rights, which is not retroactive but we had to create this law to keep things like this from happening again. Once a subdivision is approved you can't go back in and change it. The Planning Commission realized there is really no reason why this shouldn't have been rezoned to begin with. She applied for a permit on August 1 for both lots and received permits to build duplexes. Then a few weeks later she received a stop-work order. She is asking for the lots to be rezoned so she can build, not rental property, but duplex townhouses. She has an agreement with the Clairmont neighborhood, who were concerned about the density of the area and rentals. She understands their concerns and is willing to work with them. Our goal is not to create something ugly to bring the property value down. She has a reputation to uphold in the community. These are to be duplex townhouses and will be sold, as stated in the agreement with the residents. She then thanked the City Council for their consideration. Jeff Cocks stated they have been opposed to the two previous attempts to rezone the property. There was some confusion as to what takes precedence in zoning as far as subdivision zoning or city planning zoning and it was a pretty close vote at the Planning Commission but since that time he has communicated with Charlotte numerous times and with the residents of Clairmont. He appreciates her listening and agreeing to some of their terms. Their civil agreement states she will build single duplex townhomes, with a total value to exceed \$300,000. Townhomes have strict construction regulations and as previously stated she will not rent them but they will be sold as individual homes. This is compatible with that section of Stephens Road and after looking at Charlotte's previous construction, it is high quality and feel it will be a match along Stephens Road. Clairmont, for the most part, is 100% in agreement with supporting the rezoning for the intent for townhouses to be built on the two lots and it will fit with the longterm goal of resident style housing on Stephens Road. He's been asked about the difference in this request from others and previous attempts were for rentals. These will be sold and feels a better quality and less density. He then thanked the Mayor and Council for listening to his concerns over the years. Again, he is in support of building duplex townhomes on these lots. Mayor Rowland stated 22 names have been submitted in support of the agreement. Ms. Peak then stated contrary to what some of the Council has been told she did speak with previous land owners of the lots and they seek no retribution again the City Council. Mayor Rowland asked if anyone would like to speak in opposition to the rezoning. Tom Gibson of 3800 Stephens Road stated he didn't see any changes from four years ago, except they took down all the trees and put a big sign up about mobile home for rent. He feels it should stay single family residential. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Final Passage - Ordinance No: 2017-06** – heretofore passed on first reading February 27, 2017 and found in Minute Book 28, Page 337; amending Title 2 of the Municipal Code to add a new chapter to create the Senior Citizen Advisory Committee.
- **Final Passage - Ordinance No: 2017-07** – heretofore passed on first reading February 27, 2017 and found in Minute Book 28, Page 338; amending Title 7, Chapter 2, Section 7-201 through 7-211 of the Municipal Code relating to Fire Codes.
- **Resolution No: 2017-10** - Authorizing the Mayor to sign a grant application for the High Visibility Enforcement Grant (\$5,000; to purchase in-car camera systems).

RESOLUTION NO: 2017-10

**AUTHORIZING THE CITY OF CLEVELAND TO APPLY
FOR A GRANT THROUGH THE GOVERNOR’S HIGHWAY SAFETY PROGRAM**

WHEREAS, the Cleveland Police Department would like to apply for the Governor's Highway Safety - High Visibility Enforcement Grant; and

WHEREAS, the grant is for one year beginning October 1, 2017, and based upon the grant’s program requirements, the City, if approved, would be eligible for up to a maximum of \$5,000 of grant funding which would be used by the Cleveland Police Department to purchase in-car camera systems; and

WHEREAS, the City Council desires to apply for this grant, and to authorize the Mayor to sign all documents that may be necessary or appropriate in connection with the grant application.

NOW, THEREFORE, BE IT RESOLVED that the City of Cleveland is hereby authorized to apply for funding through this grant program, and the Mayor is hereby authorized to sign all documents that may be necessary or appropriate for the completion of the grant application.

Approved this 27th day of March, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved to approve the Consent Agenda. The motion was seconded by Councilman May; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman McKenzie asked if bids had been received for Fire Station 6. Mr. Fivas replied he had a discussion this morning with Chief Harrison and Ms. Carroll. We are going forward with putting the notification out this week, with the full understanding that at the Budget Retreat there could possibly be further discussion. Mayor Rowland stated his opinion was even though we wouldn’t be able to staff it immediately we would have a building there that would send a strong message to potential tenants in the area and to those who are there now.

Councilman Cassada asked for an update on the new elementary school. Dr. Dyer stated the project is on pace and moving along as it should. Currently they are finishing the drawing and the School Board should be updated next week. Mayor Rowland then asked if he spoken with Dr. Cash concerning the American Uniform building. Dr. Dyer stated yes he had.

Councilman May inquired about the stated of a 4-way stop on Blueberry Hill Road. Mr. Jobe stated an all-way stop was not warranted but they did recommend reducing the speed limit to 25, improving the signage in the area and encourage more speed enforcement.

Councilman May then moved to try the three recommendations on Blueberry Hill Road. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

Councilman Hughes stated previously we discussed enhancing the egress at Mouse Creek and Paul Huff Parkway and asked about the status of a project. Mr. Jobe stated the developer that is interested in the property is in the process of developing their design and when that’s completed we will meet with them for a possible partnership at that intersection. Councilman

Hughes then stated on the sign at Exit 25, if we add the words Welcome To then it needs to be the same color and texture, so we don't have two different finishes to take care of yearly. Possibly the brushed aluminum would be a good fit. He would like it to just be Cleveland but he's just one vote.

Councilman Hughes then moved to begin the bidding process to tear down the Moore Building for additional parking spaces. The motion died for a lack of a second. Councilman Hughes restated his motion to follow through with what we approved on May 9, which was to tear the building down for additional parking. Vice Mayor Johnson stated he understands the building is unsafe to even get inside to inspect. Mayor Rowland stated yes. Vice Mayor Johnson stated it is our building however. Councilman Cassada stated we have one more payment to make. Mr. McKay concurred. The motion was then seconded by Vice Mayor Johnson. Councilman Estes stated it was discussed we have to remove the asbestos before doing anything else. Mr. Fivas stated yes, all the asbestos will have to be removed and we've already received a quote. Councilman Estes asked if we were moving forward with tearing it down then. Ms. Carroll stated the asbestos has to be removed no matter what you decide to do with the building. Councilman McKenzie asked if there were funds to tear the building down. Ms. Carroll stated no, not at this time. Councilman May stated he understands the estimate for asbestos removal is about \$45,000. Mayor Rowland stated the last motion was to tear down the building so no further action is needed. Councilman May stated Mainstreet came before us, wanting us to renovate the building, correct. Sharon Marr with Mainstreet then asked the Council to look at additional options before moving forward. There is an option for 27 spaces behind the Museum, which is far better than 12-13 at this historic building site. If we could focus energy and money to help the Museum to gain additional spaces that will help more people and gives us a chance to put this building back on the market and on the tax rolls. It is important to keep these buildings. That is the uniqueness of downtown, the buildings and once they are gone, we can't replace it. Mayor Rowland asked what could the building be used for. Ms. Marr stated we have more than one person willing to purchase the building and turn it into apartments with retail space on the bottom. The building is sound structurally. It is in need of a roof. There is space for additional parking right off Edwards Street, right behind the emergency monument. She felt making a parking lot there would be a minimal cost compared to taking down the building. Also that additional parking is in the master plan. Councilman May stated it would be parking the café could use. Ms. Marr replied absolutely. We have a lot of parking that is just not being utilized and the City could partner with the Museum to help construct this parking lot. Councilman May asked if we could move forward and look into partnering with Bradley County Emergency Services and the Museum for additional parking. Ms. Marr stated she would begin working on it. Councilman Hughes and Vice Mayor Johnson withdrew their motion. Councilman May asked about the dry cleaners on Inman and possible use of their parking. Mayor Rowland stated if the family offers it for sale the City has first right of refusal.

Councilman Banks asked Charlotte Peak about the two prior owners of the property and if there is a written agreement or release about them not suing the City. Ms. Peak stated she only received a verbal agreement. She stated presented a new plan with lower density for duplex townhomes with no rentals for this zoning request. Councilman Banks then asked if all residents in Clairmont was aware of today's meeting. Mr. Cocks stated yes. Councilman Banks stated these are not to be used for rental purposes but if you sell to a third party this would not be binding. Ms. Peak stated correct, but she can put something in the restrictions. Judy Gaston, who lives at 3860 Stephens Road which is directly across from lot 4 stated her concerns is what the homes will look like. Ms. Peak stated it will be brick and rock, one level with garages in the front. She then gave Ms. Gaston a photo. Councilman McKenzie asked about the other side of Stephens Road. Mr. Jobe stated it is already zoned R2. Mayor Rowland asked Ms. Gaston if she was okay with the picture. Ms. Gaston stated it looks alright. Her concern is a mixed use with apartments and making the area unsafe. Councilman Hughes asked Ms. Peak the cost of her townhomes. Ms. Peak stated the estimated cost to build is \$160,000 each side and she could sell for \$340,000. Councilman Hughes asked Ms. Gaston if that changed her opinion. Ms. Gaston stated it does. Councilman Hughes stated she is going to sell these and the purchaser would not

be able to rent them, does that statement help. Ms. Gasteon stated yes that is a big concern. Councilman Banks asked Mr. Gibson if he agreed with that statement. Mr. Gibson stated yes. Councilman Estes asked Mr. Kimball to speak to the agreement. Mr. Kimball stated it is a private agreement and if Ms. Peak puts a restriction in the deed, the City cannot change a private deed. That would be up to Ms. Peak. He continued this has come before you twice, with different owners and denied. Now the entire neighborhood is for the rezoning. Before they were going to be rented and now they will be sold. Ms. Gaston stated that was acceptable. Councilman Banks clarified with Ms. Peak she is going to include a restriction to run with the land that you or any future owner of the property would have to be there as owner occupied. Ms. Peak stated yes.

Councilman Banks then asked about the timeline on LIC North. Mr. Jobe stated we are still under condemnation with one property owner. TDOT is trying to relocate the owners and if that doesn't happen they will set a court date and then the owners will have 90 days from the court date to vacate the property. He feels we are at least 120 days from bidding the project. Councilman Banks asked if the process could be expedited. Mr. Jobe replied the 90 days is federal law but we could possibly speed up the relocation time and get a court date set. Mayor Rowland stated we don't need to hold up the interchange. Mr. Jobe then stated it takes TDOT 21 days to bid a project and then it could be 30-40 days for a contract and notice to proceed. Councilman Banks asked about the funds, since we borrowed funds from the south side. Mr. Jobe stated we are good but would like to get started soon since costs will continue to go up. Councilman Banks then asked about the shoulders on the south side which have never been put in, whose responsibility is it. Mr. Jobe stated he thought the shoulders were in. They aren't paved and will be gravel. It was designed for when the industrial park has a tenant that, if needed, that would become a third lane and it would get paved. It was never designed to pave the shoulders originally.

Charlotte Peak stated Todd Duggan was on the phone and verbally agreed on speaker phone to the City Council to waive rights to sue the City of the property was rezoned R2.

Vice Mayor Johnson stated he received a call about Woodcrest Drive, the property with the fence easement. The neighbor is complaining the owner is parking work vehicles on the City's property. Mr. Kimball stated the easement you gave them has a clause that states he cannot adversely possess the property by using the easement and you have a right to take the easement away. He is not adversely possessing the property by leaving the fence there. Vice Mayor Johnson asked if staff would look at the property. Councilman Hughes stated that is a continuation of a barb between two neighbors and he doesn't think they will ever be completely satisfied.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-08

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS "PUD 13" ON PROPERTY DESCRIBED AS TAX MAP 34 PARCEL 64.03, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 13; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING LISTS OF PERMITTED USES AND PROHIBITED USES; ESTABLISHING DEVELOPMENT STANDARDS AND PROCESSES AND RELATED REQUIREMENTS; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; PROVIDING FOR ERRORS AND OMISSIONS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS the City of Cleveland, Tennessee, hereinafter “City”, desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter “PUD”, process as an alternative development standard whereby to accomplish such development; and whereas it is intended that the developers of the property or any subsequent owners, shall hereinafter be referred to as “Developers” and; and whereas the City desires to establish a unique zoning district with special use restrictions and development standards for the property described herein through the adoption of this PUD, NOW THEREFORE BE IT ORDAINED:

Section 1. ZONING PLAN AND MAP AMENDMENT.

The zoning plan and map are hereby amended so as to zone the property described in Section 2 herein as “PUD 13” subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 13 zoning district are those uses outlined in this ordinance. The location of existing facilities and the next phase of proposed redevelopment within the PUD 13 Bradley Square development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit A. There are no conditional uses within the PUD 13 district. The development standards for the PUD13 district are those outlined in this ordinance, including requirements for plan approval, and compliance with applicable permitting requirements.

Section 2. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES.

Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 3. PROPERTY DESCRIPTION.

3. OVERALL

3.A PROPERTY DESCRIPTION. PUD 13, Bradley Square, includes property generally identified as Tax Map 34 Parcel 64.03. The subject property contains 74.28 acres, more or less, and is generally located between Paul Huff Parkway and North Lee Highway. The property is more particularly described in deed book 2007 page 995 as recorded in the Bradley County Register of Deeds. Property is further illustrated in Exhibits A and B.

3.B EXISTING CONDITIONS AND PURPOSE. PUD13 is intended to facilitate the redevelopment of a portion of the existing Bradley Square Mall facility. The portion of the building which housed the former K-Mart facilities and approximately an additional 80’ of the existing mall building will be demolished. This area will primarily be redeveloped into a parking area while the existing parking area directly to the west of the former K-Mart facility will be redeveloped into a new retail complex. This entire area will be located on a separate 15.17-acre parcel.

Section 4. PERMITTED USES.

4.A PERMITTED USES. The following uses are permitted with exceptions as noted:

Except as otherwise provided, commercial and residential uses allowed by right within the CH Commercial Highway Zoning District are permitted within PUD13.

For any future phases which may include residential uses, accessory structures and amenities ordinarily and customarily associated with residential developments including garages, carports, storage sheds, recreational amenities (swimming pools, shuffleboard courts, basketball courts, and similar facilities intended for the enjoyment of residents and their guests), walking trails or sidewalks, landscape and garden areas, community buildings or club houses, driveway and parking facilities, mail boxes, community message boards, entry signs and other types of signage ordinarily permitted in the R2 zoning district, streets, utilities, and drainage structures are permitted.

Home occupations may be permitted subject to the requirements of the zoning ordinance regarding home occupations; however, nothing herein is to prohibit the Developer from further restricting the type and character of home occupations allowed.

Uses other than those described above are not permitted in the PUD13 zoning district.

4.B PROHIBITED USES. No use shall be permitted in Bradley Square which is inconsistent with the operation of a first-class development. Without limiting the generality of the foregoing, the following uses shall not be permitted:

- a. Any "second hand" store, "surplus" store, or pawn shop.
- b. Any mobile home park, trailer court, labor camp, junkyard, or stockyard; provided, however, this prohibition shall not be applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance.
- c. Any dumping, disposing, incineration or reduction of garbage; provided, however, this prohibition shall not be applicable to garbage compactors located near the rear of any building.
- d. Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation.
- e. Any automobile or truck body shop repair operation.
- f. Any veterinary hospital or animal raising or boarding facility with outdoor facilities; provided, however, this prohibition shall not be applicable to pet shops.
- g. Any establishment selling or exhibiting "obscene" material as determined by final decree of a Court of competent jurisdiction or any establishment classified as a sex outlet by City ordinance.
- h. Any establishment selling or exhibiting illegal drug-related paraphernalia or which exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff.
- i. Any gambling facility or operation, including but not limited to: off-tract or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not be applicable to government sponsored gambling activities or charitable gambling activities, so long as such activities are incidental to the business operation being conducted by the Occupant.
- j. Except home occupations described in the City of Cleveland's zoning regulations where these are not otherwise prohibited by private restrictions.

Section 5. PLATTING AND DEVELOPMENT PLAN. A Conceptual Development Plan ("CDP") prepared by Hodges Architecture is shown as Exhibits A, C and D and the PUD will be developed in accordance with that plan. PUD13 will utilize the existing infrastructure where feasible including, but not limited, to existing drainage and storm water facilities as approved by the City Engineer. In addition, existing utilities and internal street networks will be utilized to access internal lots and provide cross access with appropriate recorded easements as necessary. The major lots shown on the CDP will be platted in accordance with City regulations. Future redevelopment of other areas within the PUD boundary which are not shown on the site plan but consistent with this ordinance will be reviewed and approved by the Planning Commission.

Section 6. FLOOD PREVENTION. The proposed development is not within a 100-year floodplain or regulatory floodway per FIRM Community Panel Number 47011C0136E dated February 2, 2007.

Section 7. UTILITIES. Any changes to water, sanitary sewer, and electric utilizes are to be designed and installed as approved by Cleveland Utilities who are to receive all necessary easements for the maintenance of these utilities and these easements are to be indicated on the plat(s). Street lighting will be as approved by Cleveland Utilities in accordance with normal City standards. Any additional or upgraded lighting will be at the cost of the Developer for installation, maintenance, and operation. Other utilities may be provided as planned by the developer and accommodated within utility easements.

Section 8. TRANSPORTATION FACILITIES AND RELATED ISSUES. Primary traffic circulation will be addressed by the existing ring road illustrated on Exhibits A & B. The site will maintain access to the public street network through the existing access locations onto North Lee Hwy and Paul Huff Parkway. Future ingress or egress points which are not contemplated by the attached site plans will be reviewed by staff and approved by the Planning Commission consistent with existing City policy. No other street improvements from the Developer are required. The developer and subsequent owners are to keep the "ring road" free from obstruction by parked vehicles or other obstructions at all times such that accessibility for emergency vehicles can be maintained. On-site parking shall be provided for in accordance with the attached site plan. Any future redevelopment within the PUD13 boundary must provide adequate parking through evidence provided by the developer and approved by the City Transportation Engineer. Any future redevelopment of the site which may include residential uses shall provide pedestrian facilities including sidewalks or bicycle lanes as appropriately feasible.

Section 9. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING & GENERAL APPEARANCE. T

9.A STORMWATER MANAGEMENT The PUD13 development is to be carried out in a manner that allows the City to remain in compliance with federal and state stormwater requirements. All construction within PUD13 will be carried out in a manner that complies with the City's stormwater regulations and approved by the City Engineer. All design or re-design of drainage facilities is to be performed by a Tennessee registered engineer.

9.B IMPERVIOUS AREA. Total impervious area within the PUD13 boundaries shall not to exceed 75% of the total land area.

9.C LANDSCAPING. Landscaping in PUD13 must be continuously maintained in good repair by the developer and subsequent owners. Developer or designee is to provide for a program of regular maintenance for the common areas including mowing, pest/weed control, removal of litter and debris, and regular maintenance and replacement of dead or diseased plants. Landscaping will be in accordance with a City-approved landscape plan consistent with the requirements of City ordinances as to the types and amounts of plant materials, and taking into account the overall project design and the developer's proposals for tree preservation and replacement.

GENERAL APPEARANCE All areas within the boundary of PUD13 shall be developed aesthetically consistent with the renderings shown in exhibit C. All facades shall be developed with high quality materials including brick or stone and no metal buildings shall be allowed. All areas for refuse collection must be constructed of material consistent with the primary structures.

Section 10. BUILDING SETBACKS. Buildings shall maintain a setback minimum of 50' from property lines adjoining either Paul Huff Parkway or North Lee Highway right-of-way. Building setbacks on internal lot lines, including lines along internal drives and private roads, may have a zero lot line but must meet all requirements applicable within the adopted building code. In addition, any structure with a setback of less than 15' must be approved by the City Transportation Engineer to ensure safe and adequate sight distances. Setbacks for property lines adjoining all other external lot lines shall maintain a 20' setback.

Section 11. TREE PRESERVATION. The existing tree growth adjoining residential areas including Sequoia Grove to the north shall be maintained in its current condition and shall not be disturbed or removed. The tree preservation and replacement for the project will be consistent with the requirements of the City's tree preservation ordinance.

Section 12. SIGNAGE. All future ground signs must be consistent in size and scale with the existing signage as approved by permit number 13-721 recorded in the records of the office of the City of Cleveland Building Inspections Division. Any lighting of the aforementioned sign shall be installed so as to minimize glare and light on the surrounding roadway and other property. This does not preclude the installation of decorative features, such as decorative pillars, with small decorative signs of four square feet or less bearing the name or emblem of the development. This also does not preclude informational kiosks or other small signs less than four square feet inside the development. No sign advertising a business shall be placed inside the development so as to be visible from outside the development but this prohibition is not intended to preclude otherwise lawful real estate signs advertising the properties within the development. Wall signs shall not exceed 30% of the area of the façade they are located on.

Section 13. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS. The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed PUD. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued. Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

Section 14. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD. This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Revisions to plans and drawings which are consistent with this ordinance and attached exhibits, and that yield improved or substantially similar quality of results affecting the public, can be approved by review of City staff without amending the PUD ordinance or review by the Planning Commission. Future revisions or redevelopment of the site not contemplated within the attached exhibits but consistent with the ordinance may be approved by a simple majority vote of the Planning Commission. Other minor errors and omissions in this ordinance can be corrected or resolved as necessary by the Planning Commission to substantially comply with ordinance. Where not addressed specifically in this ordinance, the property shall comply with the CH Commercial Highway development standards.

Section 15. BINDING UPON OTHERS. This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD13 zoning district and is binding upon City's regulation of these activities in this location. This ordinance shall be binding upon the Developer and its assigns, lessees, tenants, or successors in title unless amended by a future ordinance. Compliance with this ordinance and Development Order shall be a condition of all deeds, leases, or other instruments that convey a right to own or occupy all or a portion of the subject property. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance.

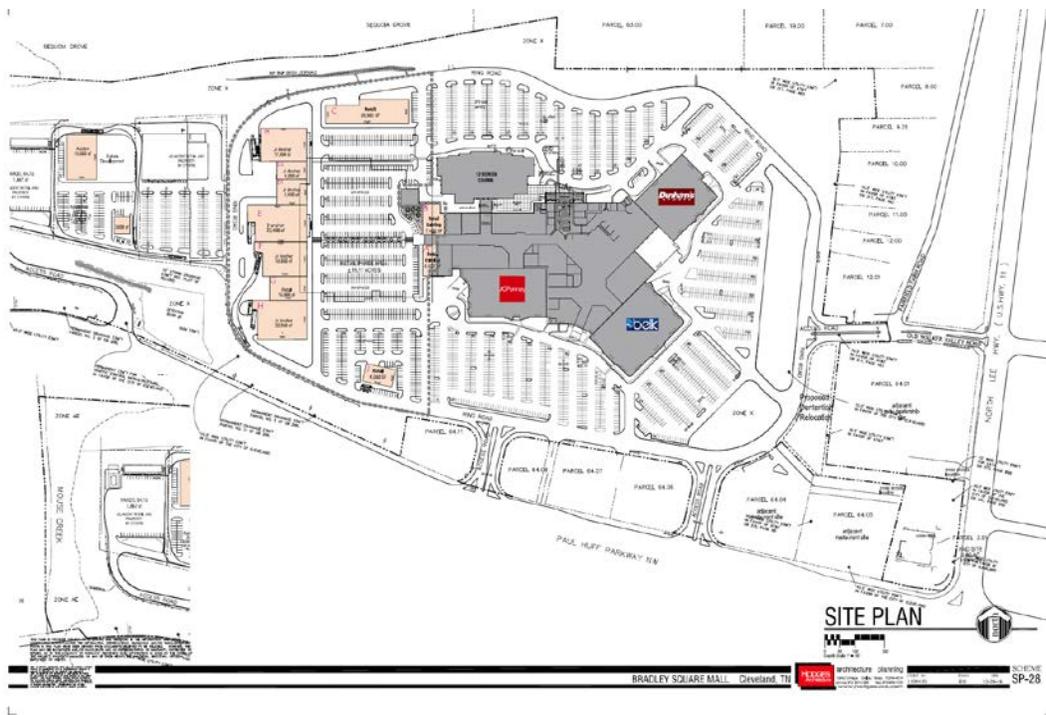
Section 16. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE. Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Ordinance No: 2017-08 be voted for passed on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ZONING ORDINANCE NO: 2017-09

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R1 Single Residential to R2 Low Density Single & Multi-Family Residential Zoning District.

Approximately .98 acres, more or less, located at Stephens Rd as shown on the attached map.

For reference, see Book 345 Page 178 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 42K Group K Parcels 18 & 21, in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Councilman Hughes moved that Zoning Ordinance No: 2017-09 be voted for passage on first reading. The motion was seconded by Councilman Cassada. Councilman McKenzie asked if everyone was happy. Ms. Gaston replied if she does what she says. Councilman Banks stated it is on the record what Ms. Peak has said she’d do and anyone that wants a copy of the minutes to see Ms. Carroll after the meeting. Upon roll call the motion unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-10

AN ORDINANCE AMENDING TITLE 15, CHAPTER 1 OF THE CLEVELAND MUNICIPAL CODE TO ADD A NEW SECTION TO BE NUMBERED 15-142 REGULATING THE USE OF ENGINE COMPRESSION BRAKING DEVICES

WHEREAS, City engineering staff have been in contact with representatives of the Tennessee Department of Transportation about the issue of obtaining appropriate signage for Compression Brake Signage on appropriate streets within the City of Cleveland; and

WHEREAS, City engineering staff have also obtained information from the Municipal Technical Advisory Service (MTAS) concerning municipal regulation of engine compression braking devices; and

WHEREAS, the City Council desires to adopt an ordinance consistent with the sample ordinance provided by MTAS.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, IN REGULAR SESSION ASSEMBLED, THAT:

Section 1:

TITLE 15, CHAPTER 1 OF THE CLEVELAND MUNICIPAL CODE IS HEREBY AMENDED TO ADD A NEW SECTION DESIGNATED AS SECTION 15-142:
15-142: ENGINE COMPRESSION BRAKING DEVICES

(a) All truck tractor and semi-trailers operating within the City of Cleveland shall conform to the visual exhaust system inspection requirements, 40 C.F.R. 202.22, of the Interstate Motor Carriers Noise Emission Standards.

(b) A motor vehicle does not conform to the visual exhaust system inspection requirements referenced in Section (a) if inspection of the exhaust system of the motor carrier vehicle discloses that the system:

(i) Has a defect that adversely affects sound reduction, such as exhaust gas leaks or alteration or deterioration of muffler elements. (Small traces of soot on flexible exhaust pipe sections shall not constitute a violation.); or

(ii) Is not equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust by gases); or

(iii) Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

(c) Violations of this section shall subject the offender to a civil penalty of \$50 per offense, plus applicable litigation taxes and court costs.

Section 2. This section shall be supplemental to other noise control ordinances and regulations of the City of Cleveland.

Section 3. This Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Vice Mayor Johnson moved that Ordinance No: 2017-10 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-11

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 12, CHAPTER 1, SECTION 12-106 BE AMENDED SO AS TO MODIFY CERTAIN REGULATIONS CONCERNING TENTS

WHEREAS a significant weather event occurred in the City of Cleveland on March 21, 2017 involving large hail; and

WHEREAS, several residents of the City of Cleveland are believed to have suffered significant hail damage to their automobiles and other property; and

WHEREAS, subsequent to March 21, 2017 the City Manager has been contacted by representatives of the automobile insurance industry, specifically State Farm Insurance Company, about setting up a tent where they can perform auto inspections for hail damage and process claims relating to the same; and

WHEREAS, according to State Farm, the tents are needed to perform the hail inspections because of the use of ultraviolet light; and

WHEREAS, State Farm's representative has advised the City Manager that these tents need to be in place for more than ten (10) days as currently allowed by the Cleveland Municipal Code; and

WHEREAS, Section 12-106 (e) of the Cleveland Municipal Code currently limits transient vendor tent permits to ten (10) days, which permits cannot be renewed for the same property until six (6) months have passed; and

WHEREAS, the City Council desires to amend the Cleveland Municipal Code to allow for these specific type of tent permits to remain at the same location for a period of time not to exceed 30 days to allow for these type of auto inspections and claim resolutions to occur for the benefit of the citizens of Cleveland; and

WHEREAS, in light of the foregoing, the City Council desires to amend Title 12, Chapter 1, Section 12-106 to add a new subsection to be numbered 12-106 (k).

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. The Cleveland Municipal Code Title 12, Chapter 1, Section 12-106 of the Cleveland Municipal Code be amended to add a new subsection which will read as follows:

12-106 (k). A tent used by a properly license insurance business solely for the otherwise lawful inspection of motor vehicles with potential hail damage and the resolution of claims relating to the same; and further provided that the size of the tent does not exceed 30% of the size of any permanent structure located on the same property; and further provided that the tent shall not be located within 100 feet of any roadway edge of pavement on any urban interstate, freeway, or expressway, or within 50 feet of the roadway edge of pavement of any other public roadway; and further provided that the use, location, and installation of the tent must comply with all other applicable laws, policies, and procedures for the protection of public health, safety, and welfare,

including any orders of the building official or fire inspector. Tents installed under this paragraph require a permit and that permit is valid for up to 30 days.

Section 2. In the event that any part of this Ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

Section 3. This Ordinance shall take effect immediately upon passage on final reading, the public necessity requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Cassada moved that Ordinance No: 2017-11 be approved on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed. A representative with Cleveland Tent Company stated the hail damage guys are asking for up to 90 days. Mr. Kimball stated the only person that contacted the City Manager wanted 30 days. The Ordinance can be amended before first readings to add a sentence that simply states they can be renewed once or twice if you'd like to extend the timeframe.

The following surplus equipment request was presented:

MEMO:
TO: MAYOR & CITY COUNCIL
FROM: Melinda B. Carroll
DATE: March 21, 2017
SUBJECT: Surplus Equipment

I respectfully request the City Council declare the playground equipment located at the Blythe Old Field which is part of the Parks & Recreation Department, surplus and to be donated to the Boys & Girls Club. The original request was for the satellite location on Lay Street. This location is currently being renovated and is not ready for any playground equipment, therefore, this will be utilized at their location in Dayton.

The City is in the process of removing this playground equipment and replacing new with funding from Community Development Block Grant.

Councilman Estes moved that the surplus equipment request be approved. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

Jeff Cocks asked that the Council and Planning Commission consider making a change to zoning request to extend the timeframe something can be brought back, if denied, to at least three years. It takes a lot of effort to mobilize an opposition and at 3:00 you have a great number of us that are working and it definitely favors the person making the zoning request. Councilman Banks moved that the Planning Commission come up with a proposal consistent with Mr. Cocks' request. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

There being no future business the meeting was adjourned at 4:25 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, APRIL 10, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., and Richard Banks. Dale Hughes was absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Sue Zius, Assistant to the Mayor/Legislative Liaison; Christy Bryant, Support Services Manager, Beverley Lindsey, Executive Secretary II; Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Jeff Davis, Personnel Director, Kris Miller, IT Director; Brian Moran; Social Media Coordinator; Kim Spence, Safety and Wellness Manager; Marshall Stinnett and Tad Bacon with Cleveland Utilities; Bethany McCoy with Lee University; City Reporter Randall Higgins; Sharon Marr with Mainstreet Cleveland; Charlotte Peak; Eddie and Jane Rice; Cecily Maney; Troy and Michelle Maney; David and Cindy Veach; Tia Hicks; Tim and Patsy Murphy; Betty Philpott; Brandon Cissom; Sheila Cair; Timothy Bass; Sam White; Carolyn Cannatella; Steve Hixson; Jim Strassburg; Kenneth Mantooth; Sandra Mantooth; Debbie and Barry Jenkins; Mike Shreve; Dorothy Beavers; Richard Stubblefield; Sarah Beavers; Freddie Burton; John and Deane Green; Jason Scroggins; Eugene and Carol Hoskins; Zandra Welch; Brandi and Richie King; Lake Mantooth; Cameron Fisher; School Board Members Dawn Robinson, Peggy Pesterfield, Carolyn Ingram and Charlie Cogdill; Michael Kahrs; Hal Taylor; Dr. Russel Dyer; Doug Moore; David Turner; Jim Burton; Cathy Goodman; Joy Hudson; Susan Miller; Vanessa Hammond; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American flag and prayer by Vice Mayor Johnson, the following business was then entered into:

Councilman Banks moved to excuse Councilman Dale Hughes from today's meeting. The motion was seconded by Councilman McKenzie; and upon roll call, unanimously passed.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on March 27, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Ellissa Lawson, Boys and Girls Club Cleveland Youth of the Year Speaker, gave her speech before the City Council. She spoke of her life testimony and struggles and how the Boys and Girls Club helped her through many difficult times and is teaching her many life skills. After graduating from Bradley Central High School she will attend ETSU to major in Criminal Justice. Mayor Rowland thanked Ms. Lawson and stated he will continue to work for her to meet with Larry Wallace to discuss her career path. He also thanked the Boys and Girls Club for changing one life at a time.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request to rezone 2.97 acres located on Pleasant Grove Church Rd (Tax Map 56 Parcel 51.10) from R1 Single Family Residential Zoning District to CH Commercial Highway Zoning District. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition to the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request by the adjoining property owners to abandon a portion of unopened right-of-way running parallel to Church St SE and South Ocoee St and between 13th St SE and 14th St SE. Mayor Rowland asked if anyone would like to speak in favor of the abandonment. No one spoke. Mayor Rowland then asked if anyone would like to speak in opposition to the abandonment. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is also being held as a public hearing to hear public comments concerning a resolution to annex about 5.1 acres located at Michigan Avenue Rd and Foxfire Dr NE and a resolution to adopt a Plan of Service for the annexation area. Mayor Rowland asked if anyone would like to speak in favor of the annexation and Plan of Service. Attorney Travis Henry, who is representing the property owner, stated the front portion of the property is currently located inside the city and the back portion is the county. The owner is asking for annexation so it will all be in the city. The front part is currently zoned R2. The back part is zoned FAR. Under the FAR zoning in the county his client can currently construct duplexes, two family dwellings, install mobile homes, single family double-wide and even certain commercial businesses, which includes a drug store, laundry mat or carwash, which are all currently permitted in the FAR zoning. His client is seeking to make this a low-density R2 zoning that is fully in the city. This would, in some way offer protection for the residents. Our position is it would be positive for everyone, the city for tax revenue, for his client to be able to have a uniform zoning and a parcel that is fully in the city and positive for the adjoining property owners to prevent the other possible uses that are available today. We are respectively asking that this property be annexed and zoned R2. Councilman Banks stated he has received comments from residents of Foxfire Subdivision that this is just a step towards the City annexing their subdivision. He asked for Mr. Henry to explain annexation law. Mr. Henry stated the property owner has to be willing and it has to be contiguous to what is currently in place. In this situation this is something that his client is asking to do. He appreciates the concerns of the residents but I don't believe that is a legitimate concern to be annexed into the City. Councilman Banks stated a referendum would have to be held. Mr. Henry stated yes. Mayor Rowland asked if anyone would like to speak in opposition to the annexation and Plan of Service. Tim Murphy stated his lives in Foxfire and this is his home. There is one way in and one way out. He can understand why the property owner wants it all in the city, so he can probably get more for his property but it's not going to be a plus for Foxfire. That road is a county owned road. He doesn't want a bunch of junky condos. We have paid good money for our homes and we want to keep the value. If they wanted something like that they need to put their own road in and not use Foxfire. He is against this and will always be against annexation. Mayor Rowland stated it seems as if most of you have the same message and let's try to hear from more people. Brandi King stated she lives in Foxfire and represents the folks here and the folks from Millcreek, and wouldn't say we disagree with this gentleman's idea but we want to expand upon what Mr. Murphy has said. She then asked Mr. Mopkin to speak. Mr. Mopkin stated the neighborhoods have been on an information gathering tirade over the last few days. This recently came to our attention that it was proposed for zoning and since it is part of the county they were not required to put signage on the property. It was posted in the paper but not everyone saw it and that's why it wasn't fought at the Planning Commission. The annexation isn't so much of the issue for us as it is the zoning. The annexation into the city is fine. We are pushing for R1 zoning, which is for single family homes. If you drive out there and see the property you clearly see the intent that it should be single family housing, which is what everything around it is. So our big push is for R1 zoning. This area was originally intended to be a community area for Foxfire neighborhood but wasn't within the deed. Residents of the neighborhood are concerned about all of the effects. The other thing is it was approved at the Planning Commission stage for 100 units and 250 residents on a two-lane road that already sees a lot of traffic. It is alarming to us. He is sure there are other points but wanted to clarify that annexation isn't the issue, it's just the zoning. Mayor Rowland stated to be clear, this public hearing is not for the zoning, it is for the annexation. The public hearing coming up next is for zoning. This is strictly for the annexation. Ms. King added

certainly safety is also a concern. She then asked for everyone in opposition to raise their hand. We are very concerned. Mayor Rowland asked if they were opposed to the annexation or zoning. The audience replied both. Barry Jenkins stated he spoke with recent developers in the area who are creating single family units. Timbercreek has 38 existing units with 40 additional units planned. Mike Lee has 19 lots that are being developed in the area as single family residential. Magnolia Lea has 19 units recently built in the last 18 months. All together nearly 100 single family residential units being built. That is greater than \$20 million in value. Some of those are inside the city, some is in the county and the area doesn't want to be diminished. Think about the areas you see, an area of single family dwellings and this zoning should be continuity to the zoning. Also, there are many accidents on Michigan Avenue Road, Peach Orchard Hill and 20th Street. The area has excess traffic than it has in the past and changing the zoning to R2 will increase the accidents and traffic. Steve Hixson stated in reference to the apartments he could build, where people can stay one month and leave there is not going to be anyone there that would want to come into the area and buy a home. This is a good quiet neighborhood and we don't want anything that will drive our property down and increase crime. Single family dwellings would be fine. That wouldn't hurt the neighborhood but the other avenue will hurt this area. Councilman McKenzie asked if the subdivision on the left has duplexes. Mr. Hixson stated there are some but they have their own access and are the kind people buy. They are not rentals. Mr. Henry stated there is an assumption there are going to be apartments. His client has no intent of building apartments. He has looked at a plan for townhomes and that has fallen through. There are no immediate plans to build anything at this time. Secondly, it is already R2. The development down from the property already has duplexes and triplexes but the bigger picture is he can already build those things under FAR. In a way this will restrict the property that will benefit surrounding property owners. All the objections to building apartments, he is not prohibited to do that now. The big picture is this makes sense for him to be able to be fully in the City and go with the R2 to be a consistent zone for what is already in the City. Councilman Estes asked if his client only wants annexation if we zone it R2. Mr. Henry replied yes. That is important. There are no immediate plans to develop but wants the options and feels R2 is consistent with the rest of the property. Councilman Estes then asked if he were in the city and accessible to water and sewer would that not increase the density he could put on the acreage where, right now there are certain perks he would have to have for septic. Mr. Henry stated yes it is his understanding it would increase potential density. But it is already, the first 3 acres is already in the city. If you're concerned about traffic and density issues, it is already there. Councilman May asked if a portion of the property was wetland. Mr. Henry stated yes but doesn't know the exact measurements but it is along the back portion. Councilman Cassada stated the land was cleared off in one day. Mr. Jobe stated the owner did receive a notice of violation from TDEC and if this is annexed it would carry over to us and he would receive a violation from the City Stormwater program. Mr. Henry stated his client does respect the concerns of the neighbors but at the same time this property has been for sale for a long time. He is not sure how he wants it to be developed but being a part of the City allows him options. Barry Jenkins stated the owner lives in Florida and we know what he is interested in building, which is multi-family units. We hear the near-threats of various things he could build but the full intention is to build multi-family units. Charlotte Peak stated she just came from a meeting about FAR and currently this developer, in FAR zoning he can put duplexes, which can be rented. She just wanted to clarify. Also, he can do everything else that Mr. Henry has stated in FAR unless they protest at the County Planning Commission or County Commission meeting. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the zoning of about 5.1 acres located at Michigan Avenue Rd and Foxfire Dr NE from the unincorporated county to R2 Low Density Single and Multi-Family Residential Zoning District. Mayor Rowland then asked if anyone would like to speak in favor of the zoning. Mr. Henry stated he stands by his earlier comments. A portion of the property is already in R2 and he can already build duplexes. It just makes sense that this be consistent and have his options available. R2 is all around the property. The Chelsea development is all duplexes and triplexes, which is just down from here. Respectfully, it makes sense that this be R2 and that is

what we are requesting. Mayor Rowland asked if anyone would like to speak in opposition to the zoning. Mr. Jenkins stated yes Chelsea is nearby but when you consider Foxfire, Millcreek and the front part of Powhatan Drive the continuity is clear, it's single-family residential. There are occasional multi-family units but when you consider what all three neighborhoods have, single family, over \$20 million dollars that is something not to easily discount at all and recommends the Council vote no. Mayor Rowland stated we have received communication from Gerald Williams, 1816 Foxfire Road who is opposed to the zoning. Mayor Rowland then declared the public hearing to be closed.

Mayor Rowland stated today's meeting is also being held as a public hearing to hear public comments concerning a resolution to annex about 110.9 acres located at Urbane Rd and Tillie Rd NE and a resolution to adopt a Plan of Service for the annexation area. Mayor Rowland asked if anyone would like to speak in favor of the annexation and Plan of Service. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition to the annexation and Plan of Service. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the zoning of about 110.9 acres located at Urbane Rd and Tillie Rd NE from the unincorporated county to MU Mixed Use Zoning District. Mayor Rowland asked if anyone would like to speak in favor of the zoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition to the zoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Final Passage – Zoning Ordinance No: 2017-08** – heretofore passed on first reading March 27, 2017 and found in Minute Book 28, Page 350; rezoning approximately 74.3 acres located at Paul Huff Parkway and North Lee Highway from CH Commercial Highway Zoning District to Planned Unit Development PUD Zoning District (PUD13) (Tax Map 34 Parcel 64.03) (Planning Commission: Approved 8:0; 1 member absent).
- **Final Passage - Zoning Ordinance No: 2017-09** – heretofore passed on first reading March 27, 2017 and found in Minute Book 28, Page 357; rezoning approximately .98 acres, more or less, from R1 Single Family Residential Zoning District to R2 Low Density Single & Multi-Family Residential Zoning District located on Stephens Rd NE (Tax Map 42K Group K Parcel 18.00 & 21.00) (Planning Commission: Approved 5:3; 1 member absent).
- **Final Passage - Ordinance No: 2017-10** – heretofore passed on first reading March 27, 2017 and found in Minute Book 28, Page 358; amending Title 15, Chapter 1 of the Municipal Code to add a new section 15-142 regulating the use of engine compression braking devices.
- **Final Passage – Ordinance No: 2017-11** – heretofore passed on first reading March 27, 2017 and found in Minute Book 28, Page 359; amending Title 12, Chapter 1, Section 12-106 to modify certain regulations concerning tents.
- **Resolution No: 2017-11** – Accepting a donation of property from D'Alton Properties, LLC to be used for the Greenway and approving an agreement with D'Alton Properties, LLC concerning the same property.

RESOLUTION NO: 2017-11

A RESOLUTION ACCEPTING A DONATION OF PROPERTY FROM D'ALTON PROPERTIES LLC TO BE USED FOR THE GREENWAY, AND APPROVING AN AGREEMENT WITH D'ALTON PROPERTIES LLC CONCERNING THE SAME PROPERTY AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, D'Alton Properties LLC is in the process of developing property owned by it adjacent to Inman Street more specifically identified as Tax Map 049N, Group D, Parcel 011.00, and

WHEREAS, in connection with the development of its property, D'Alton Properties LLC has graciously offered to donate a portion of its real property to the City of Cleveland; and

WHEREAS, the land to be donated to the City, both in fee simple, as well as permanent easements, will provide the City with land to construct an additional trailhead for the Greenway; and

WHEREAS, City staff have been working with the donor to prepare an agreement between the City and D'Alton Properties LLC relative to this project; and

WHEREAS, the proposed agreement between the parties is attached hereto and incorporated herein by reference; and

WHEREAS, the City of Cleveland greatly appreciates the donor's proposed gift to the City, and desires to accept the same; and

WHEREAS, the City Council desires to approve of the agreement between the City of Cleveland and D'Alton Properties LLC which is attached hereto and incorporated herein by reference, and the City Council further desires to authorize the Mayor to sign the agreement on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cleveland, Tennessee does hereby accept the donation of the land described in the attached documents and it hereby extends its sincere appreciation to D'Alton Properties LLC for its gift to the City.

BE IT FURTHER RESOLVED that the City Council of the City of Cleveland, Tennessee does hereby extend its sincere appreciation to Robert Dee Burriss, Jr. who has spent countless hours on this project on behalf of D'Alton Properties LLC.

BE IT FURTHER RESOLVED that the City Council hereby approves of the proposed agreement between the City of Cleveland and D'Alton Properties LLC which is attached hereto and incorporated herein by reference, and the City Council further authorizes the Mayor to sign the agreement on behalf of the City. [On file in the City Clerk's Office.]

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-12** - Authorizing a loan agreement in the principal amount of not to exceed \$1,000,000 for Water Facilities Project.

AUTHORIZING RESOLUTION NO: 2017-12

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the City of Cleveland is a public and governmental body in Cleveland, Tennessee (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a water facilities project, Department of Environment and Conservation Number DW6 2017-192 (the "Project"), in and for the Local Government; and

WHEREAS, Drinking Water Revolving Loan Fund Act of 1997, Tennessee Code Annotated, Sections 68-221-1201 et seq., provide for the lending of moneys in the water facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

Section 1. Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of ONE Million Dollars (\$1,000,000) by the obtaining of a Project Loan.

Section 2. The execution and delivery of the Application for a Project Loan in the principal amount of ONE Million Dollars (\$1,000,000) for the purpose of funding all or a portion of the total estimated cost of the Project ONE MILLION ONE HUNDRED NINETY FIVE THOUSAND Dollars (\$1,195,000), by Tim Henderson, President and CEO of Cleveland UB of the Local Government, is hereby ratified and approved in all respects.

Section 3. The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved.

Section 4. The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

Section 5. The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

Section 6. The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the water system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

Section 7. The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

Section 8. The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

Section 9. The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

Section 10. The President and CEO of Cleveland UB of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments or supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may

consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

Section 11. All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this _____ day of _____, 2017.

Tom Rowland, Mayor

WITNESS:

(Affix Seal As Appropriate)

(Signature and Title)

- **Resolution No: 2017-13** - Authorizing a loan agreement in the principal amount of not to exceed \$195,000 for Water Facilities Project.

AUTHORIZING RESOLUTION NO: 2017-13

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the City of Cleveland is a public and governmental body in Cleveland, Tennessee (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a water facilities project, Department of Environment and Conservation Number DWF 2017-193 (the "Project"), in and for the Local Government; and

WHEREAS, Drinking Water Revolving Loan Fund Act of 1997, Tennessee Code Annotated, Sections 68-221-1201 et seq., provide for the lending of moneys in the water facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

Section 1. Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of ONE HUNDRED NINETY FIVE THOUSAND Dollars (\$195,000) by the obtaining of a Project Loan.

Section 2. The execution and delivery of the Application for a Project Loan in the principal amount of ONE HUNDRED NINETY FIVE THOUSAND Dollars (\$195,000) for the purpose of funding all or a portion of the total estimated cost of the Project ONE MILLION ONE HUNDRED NINETY FIVE THOUSAND Dollars (\$1,195,000), by Tim Henderson, President and CEO of Cleveland UB of the Local Government, is hereby ratified and approved in all respects.

Section 3. The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved.

Section 4. The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

Section 5. The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

Section 6. The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the water system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

Section 7. The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

Section 8. The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

Section 9. The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

Section 10. The President and CEO of Cleveland UB of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments or supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

Section 11. All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this _____ day of _____, 2017.

Tom Rowland, Mayor

WITNESS:

(Affix Seal As Appropriate)

(Signature and Title)

- **Bid Report** – Casteel Connector Greenway Project.

BID SUMMARY
CASTEEL CONNECTOR GREENWAY PROJECT
March 28, 2017

1. Adams Contracting Co. Lexington, KY	<u>\$1,864,679.00</u>
2. B & W Contractors, Inc. Cleveland, TN	<u>\$1,573,354.86</u>
3. Greenstar, LLC Cleveland, TN	<u>No Bid</u>
4. Thomas Brothers Construction Hixson, TN	<u>\$1,854,413.13</u>

Recommendation is to accept B & W Contractors, Inc. of Cleveland, TN with a bid of \$1,573,354.86. This project is funded with Federal, State and Local funds. This recommendation is pending TDOT approval.

- **Update** - Surplus Vehicles sold on GovDeals for the Police Department.

MEMO:
TO: MAYOR & CITY COUNCIL
FROM: Melinda B. Carroll
DATE: April 3, 2017
SUBJECT: Surplus Vehicles

The vehicles listed below were declared surplus with the approval to be sold on GovDeals.com at the February 11th City Council meeting. The City received a total amount from this sale of \$5,490 for the Police department.

Vehicles

1996 Chevrolet Lumina (72205)	Police	\$ 355
1996 Jeep Cherokee (64514)	Police	\$3,315
2000 Chrysler LHS (79263)	Police	\$1,820

The revenue received from this sale will assist in funding for replacement vehicles or equipment.

Councilman Estes moved to approve the Consent Agenda. The motion was seconded by Councilman Banks; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Estes asked for an update via email on sidewalk extensions at 17th/20th Streets. He then asked for an email update from Bryan Turner after the court date on 50 1st Street. He has also received complaints on 70/80 Church Street with the dumpster sitting there, taking up parking and it appears no work is being done. He asked for staff to stay on top of that situation. Lastly, he thanked Joel Prince with Codes Enforcement for his work on Aurora Street.

Mayor Rowland stated the Fire Marshall is downstairs and not allowing anyone else to come upstairs unless someone leaves due to overcrowding.

Vice Mayor Johnson invited everyone to the Bike/Walk Cleveland meeting on April 24th at 6:00 p.m. at the Museum Center. Greg Thomas then spoke about the Walkability Program workshop with the CDC. It is a citizen led group and they will be working on the action plan to give citizens the ability to walk throughout the community. Vice Mayor Johnson agreed that the goal is to connect the greenway to schools, downtown and other areas. It will be a great opportunity for our community.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

ZONING ORDINANCE NO: 2017-12

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R1Single Residential Zoning District to CH Commercial Highway.

Approximately 2.97 acres, more or less, located on Pleasant Grove Church Rd SW as shown on the attached map.

For reference, see Book 2356 Page 382 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 56 Parcel 51.10, in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Councilman May moved that Zoning Ordinance No: 2017-12 be voted for passed on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-13

WHEREAS the owner(s) of all parcels of land fronting on or having their access from the section of City of Cleveland right-of-way described herein, those parcels and owners being identified in the records of Bradley County, Tennessee, have requested that the City of Cleveland abandon its right-of-way in the aforementioned section of right-of-way; and

WHEREAS the need for the subject right-of-way has been reviewed, including the need for any utility easements that were identified by the responsible utilities; and

WHEREAS the proposed right-of-way abandonment has been reviewed and approved by the Cleveland Municipal Planning Commission; and

WHEREAS the proposed right-of-way abandonment has been properly posted and advertised and the procedural requirements of Section 16-123 of the Cleveland Municipal Code for the abandonment of city rights-of-way have otherwise been met; and

WHEREAS the City Council has determined that it is appropriate to approve the requested right-of-way abandonment identified herein, subject to any easements for utilities and/or other conditions as identified herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

1. DESCRIPTION RIGHT-OF-WAY TO BE ABANDONED: Subject to the retention of utility easements and/or any other conditions described in Section 2 below, the City of Cleveland, Tennessee intends to and does hereby abandon its public right-of-way interest in the following section of right-of-way:

Located between lots 22 and 23 on the west and lots 55 and 56 on the east in Walker Hardwick Addition as recorded in Plat Book 1 Page 44 in the Bradley County Register of Deeds.

2. AREA TO BE ZONED: The area hereby abandoned shall be understood as zoned in the same zoning district as the adjoining zone extending to the centerline of the abandoned right-of-way.

3. CONFLICTS AND SEVERABILITY: All ordinances in conflict herewith are repealed to the extent of said conflict. In the event that any part of this ordinance is ruled to be unlawful by a court of competent jurisdiction, all other parts of the ordinance shall remain in full force and effect.

4. EFFECTIVE DATE: this ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A

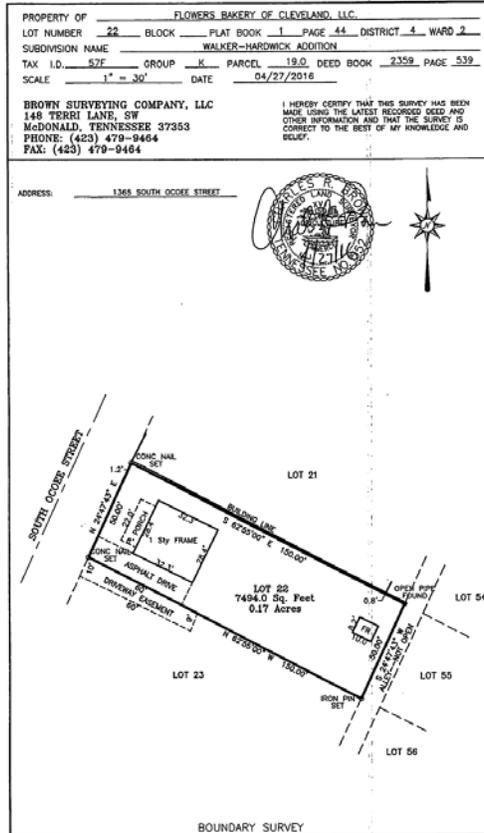


Exhibit B

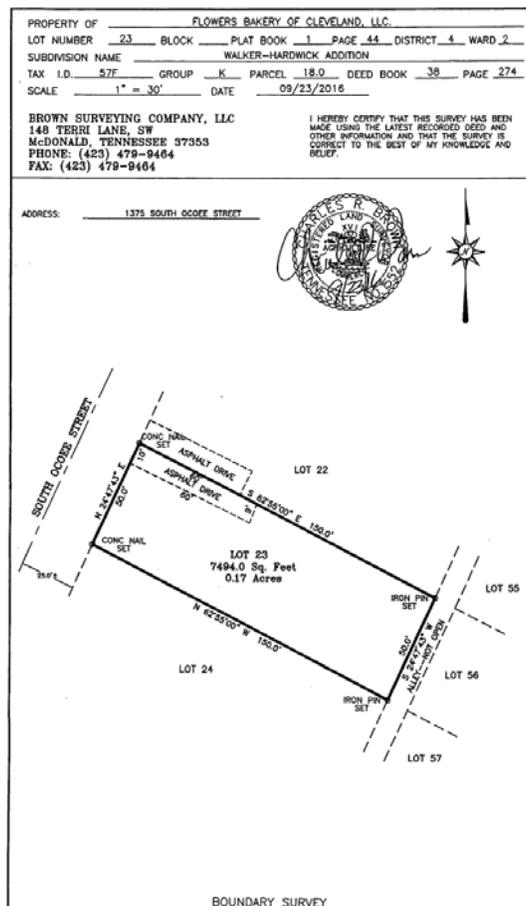


Exhibit C



Councilman Estes moved that Ordinance No: 2017-13 be voted for passed on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Mayor Rowland stated we have Resolution No: 2017-14 adopting a Plan of Service for the annexation area of about 5.1 acres located at Michigan Avenue Rd and Foxfire Dr NE. Mayor Rowland then declared the item dies due to lack of motion.

Mayor Rowland stated we have Resolution No: 2017-15 concerning annexing about 5.1 acres located at Michigan Avenue Rd and Foxfire Dr NE. Mayor Rowland then declared the item dies due to lack of motion.

Mayor Rowland stated we also have Zoning Ordinance No: 2017-14 concerning zoning of about 5.1 acres located at Michigan Avenue Rd and Foxfire Dr NE from the unincorporated county to R2 Low Density Single and Multi-Family Residential Zoning District. Mayor Rowland declared the item dies due to lack of motion.

Councilman Banks moved to send the annexation request of 5.1 acres located at Michigan Avenue Rd and Foxfire Dr NE back to the Planning Commission for further consideration for two reasons; we have a duty to increase the tax base so taxes don't have to be raised to pay for essential services and generally we don't turn down annexation requests, especially since the State Legislature changed the law. It would be in everyone's best interest to send this back to the Planning Commission and let you voice your concerns and let the developer present what he plans to do and it might be a good thing for everyone. The motion was seconded by Councilman McKenzie. Councilman Estes asked if this issue had to wait a year. Mr. Kimball stated no that is for rezoning request only that is denied. Upon roll call the motion unanimously passed.

The following Resolution was then presented in full:

RESOLUTION NO: 2017-16

A RESOLUTION APPROVING A PLAN OF SERVICES FOR A PROPOSED ANNEXATION OF TERRITORY INTO THE CITY OF CLEVELAND BY OWNER CONSENT

URBANE RD AND TILLIE RD NE ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries by owner consent; and

WHEREAS, a Plan of Services for the territory proposed for annexation by owner consent has been reviewed by the Cleveland Municipal Planning Commission; and

WHEREAS, the governing body desires to conduct a public hearing on the proposed annexation and plan of services;

NOW THEREFORE BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That a public hearing is hereby held at 3:00 pm on April 10, 2017 at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning at an iron pin located the southeast corner of the lands of Voice of Evangelism Outreach Ministries, Inc, as recorded in BCROD deed book 2238 page 425; thence north 66 degrees 5 minutes 23 seconds west, 2479.75 feet to an iron pin located at the southwest corner of the lands of Voice of Evangelism Outreach Ministries, Inc; thence continuing with the same heading 60 feet, more or less, to a point in the western right of way of Urbane Road; thence with the right of way of Urbane Road in the northerly direction, 245 feet, more or less, to the northwest corner of the intersection of Urbane Road and Tillie Drive; thence in a southeasterly direction with the northern right of way of Tillie Drive 1745 feet, more or less, to an iron pin located at the southwest corner of the lands of James Calfee, as recorded in BCROD PB 10 page 342; thence with the eastern line of the lands of Calfee, thence north 31 degrees 51 minutes 52 seconds east, 282.54 feet to an iron pin; thence north 63 degrees 19 minutes 46 seconds west, 386.37 feet to an iron pin; thence with a line of Voice of Evangelism Outreach Ministries, Inc North 25 degrees 54 minutes 25 seconds east, 528.73 feet to an iron pin; thence along Mulberry subdivision south 65 degrees 12 minutes 35 seconds east, 651 feet, more or less, to the southeast corner of lot 22 of Mulberry subdivision, as recorded in PB 11 page 88; thence in a northeasterly direction 412 feet ,more or less, to the northeast corner of lot 21 of Mulberry subdivision; thence in a south easterly direction 532 feet, more or less, to the southeast corner of lot 24 of Rolling Meadows Phase III Subdivision, as recorded in BCROD PB 11 page 49; thence crossing the railroad right of way with the same bearing 112 feet ,more or less, to a point in the eastern right of way of the railroad, said point being located in the existing right of way; thence in a southwesterly direction with the eastern line if the railroad right if way and the existing City Limits, 2295 feet, more or less, to a point where if the southern line of the lands of Voice of Evangelism Outreach Ministries, Inc were extend, it would intersect the eastern railroad right of way; thence leaving the railroad right of way and the existing City Limits north 66 degrees 5 minutes 23 seconds west, 112 feet, more or less, to the point of beginning.

B. That a copy of this Resolution shall also be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland.

C. That notice of the time and purpose of a public hearing on the proposed annexation by owner consent and the Plan of Services shall be published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing.

WHEREUPON, the Mayor declared the Resolution adopted, affixed a signature and the date thereto, and directed that the same be recorded.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk



**MARCH 17, 2017
URBANE RD ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE**

The City of Cleveland, Tennessee is pursuing the annexation of approximately 111.3 acres located Urbane Rd and Tillie Rd NE as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2017.

This report begins with a brief overview of the annexation process and the report then turns to a proposed Plan of Services (POS) for the annexation area. The services described are those that would be necessary for the City to provide under Tennessee law. This area is proposed to receive city services in accordance with the POS.

Introduction

Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service requirements in a fifty square mile urban fringe area. The UGB was amended in January 2010, expanding it near I-75 Exit 20 and in the vicinity of the new airport site near Dry Valley Road. Cleveland can annex property within its UGB by resolution.

PC 1101 Section 19 requires a “Plan of Services” (POS) prior to annexation and these services must include: police and fire protection; water, electrical and sanitary sewer services; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning services. Public Chapter 225 adopted by the Tennessee General Assembly and signed by Governor Bredesen on June 2, 2003, amended TCA 6-51-102 to include impact on school attendance zones.

This property is currently the site of Omega Center International, which operates various ministries under the direction of Reverend Perry Stone. The site currently includes a large event space that hosts religious services as well as other events. Eventually, the ministry would like to expand ministry opportunities, including but not limited to, lodging and additional event space.

Urbane Rd and Tillie Rd NE



Legal Description

Beginning at an iron pin located the southeast corner of the lands of Voice of Evangelism Outreach Ministries, Inc, as recorded in BCROD deed book 2238 page 425; thence north 66 degrees 5 minutes 23 seconds west, 2479.75 feet to an iron pin located at the southwest corner of the lands of Voice of Evangelism Outreach Ministries, Inc; thence continuing with the same heading 60 feet, more or less, to a point in the western right of way of Urbane Road; thence with the right of way of Urbane Road in the northerly direction, 245 feet, more or less, to the northwest corner of the intersection of Urbane Road and Tillie Drive; thence in a southeasterly direction with the northern right of way of Tillie Drive 1745 feet, more or less, to an iron pin located at the southwest corner of the lands of James Calfee, as recorded in BCROD PB 10 page 342; thence with the eastern line of the lands of Calfee, thence north 31 degrees 51 minutes 52 seconds east, 282.54 feet to an iron pin; thence north 63 degrees 19 minutes 46 seconds west, 386.37 feet to an iron pin; thence with a line of Voice of Evangelism Outreach Ministries, Inc North 25 degrees 54 minutes 25 seconds east, 528.73 feet to an iron pin; thence along Mulberry subdivision south 65 degrees 12 minutes 35 seconds east, 651 feet, more or less, to the southeast corner of lot 22 of Mulberry subdivision, as recorded in PB 11 page 88; thence in a northeasterly direction 412 feet ,more or less, to the northeast corner of lot 21 of Mulberry subdivision; thence in a south easterly direction 532 feet, more or less, to the southeast corner of lot 24 of Rolling Meadows Phase III Subdivision, as recorded in BCROD PB 11 page 49; thence crossing the railroad right of way with the same bearing 112 feet ,more or less, to a point in the eastern right of way of the railroad, said point being located in the existing right of way; thence in a southwesterly direction with the eastern line if the railroad right if way and the existing City Limits, 2295 feet, more or less, to a point where if the southern line of the lands of Voice of Evangelism Outreach Ministries, Inc were extend, it would intersect the eastern railroad right of way; thence leaving the railroad right of way and the existing City Limits north 66 degrees 5 minutes 23 seconds west, 112 feet, more or less, to the point of beginning.

Plan of Services**1. Police Protection**

Patrolling, radio response to calls and other routine police services using the City's personnel and equipment will be provided on the effective date of the annexation.

There is no additional cost expected from this annexation.

2. Fire Protection

There is only one fire hydrant on Tillie Road. This hydrant is located near the mid-point between Urbane and Old Tasso RD. There is no hydrant on Old Tasso. There are two residential structures located at the intersection of Tillie and Old Tasso, as well as the two structures located at the dead end of Old Tasso. Securing a water supply to combat potential structure fires at these locations would require extensive lays of large diameter supply lines from this hydrant of over 1000' to the residential structures and over 2000' to the structures at the end of Old Tasso. To ensure adequate water supply to combat potential structure fires at these locations, we recommend the addition of a hydrant at the intersection of Tillie Road and Old Tasso Road prior to, or coinciding with, annexation.

There is a hydrant at the end of Mulberry Lane that could be accessed from the end of Old Tasso. However, this hydrant services that neighborhood and is blocked from this parcel by a privately owned chain-link fence.

3. Domestic Water, Sanitary Sewer Service, and Fire Hydrants

- A. Domestic Water--- Water will need to be extended on Tillie Road to serve parcel at end of Tillie Road. To provide water service, it is estimated to cost \$18,000 and can be completed within eight (8) years after annexation.
- B. Sanitary Sewer--- Sanitary sewer facilities will need to be extended to serve the parcel at the end of Tillie Road. To provide sanitary sewer facilities, it is estimated to cost \$5,000 and can be completed within eight (8) years after annexation.
- C. Fire Hydrants--- To provide fire protection to the parcels at the end of Tillie Road, a fire hydrant would need to be installed at the end of the 6-Inch water main extension. It is estimated to cost \$4,500 and would be available in eight (8) years.

SUMMARY OF COSTS

	Water	Sanitary Sewer	Total
Urbane Rd at Tillie Rd NE Annexation Area	\$22,500	\$5,000	\$27,500

4. Electric Service

- 1) Street Lighting cost to the City of Cleveland to provide street lighting on Urbane Rd. and Tillie Dr. NE

Street Lighting: Total cost for CU to install facilities: **\$39,794.36**
 Monthly charges to the City of Cleveland:

Facilities charge: \$298.56/month
 Energy charge: \$16.63/month
Total: \$315.19/month *Monthly charge to the City of Cleveland

- 2) Estimated cost for Cleveland Utilities to install new facilities to serve existing meeting complex, small house and barns. \$147,000
- 3) Estimated depreciated cost to purchase VEC facilities. \$22,500
Total upfront investment from Cleveland Utilities = \$169,500.00
- 4) Estimated payment of lost revenue to VEC for 10 years. Total = \$108,000.00
\$10,800.00 per year payment to VEC

5. Public Works

A. Refuse Collection

- a. Current city policies regarding residential, commercial and industrial refuse will apply in all proposed areas per the terms of the City’s contract with Waste Connections of Tennessee, Inc.

- b. The City no longer provides curbside recycling and this service will not be provided in the proposed areas, unless the City Council initiates a program in the future.

B. Route Collection Services

- a. Current city policies regarding residential debris, brush, and white good collections will apply in all proposed areas and will begin at the time of annexation. Each residence will be included in the City's ten route collection system. No additional equipment or manpower will be needed at this time.
- b. The current city policies regarding residential leaf collection will be provided annually for a period of approximately three months and will apply in all proposed areas.

C. Street Repair and Maintenance

- a. Emergency maintenance of city streets (i.e. repairing hazardous potholes) within the proposed areas will begin at time of annexation.
- b. Routine maintenance of local streets in the proposed areas will be scheduled on the same basis as such maintenance in the rest of the City.
- c. Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such substantial improvements in the proposed areas (where identified as needed by the governing body) will be accomplished in accordance with the priorities and policies established for the entire city.
- d. It appears that no street name signs or street striping/painting is needed at this time for the proposed areas.

D. Stormwater and Drainage Services

No major drainage problems were identified in these areas. Emergency drainage maintenance (i.e. cleaning catch basins, unstopping tile, installing drainage tile and/or catch basins) within these areas will begin at time of annexation.

E. General Rights-of-Way Maintenance (i.e. street sweeping, snow removal)

- a. Current city policies for routine street sweeping will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.
- b. Current city policies for snow removal and salting will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.

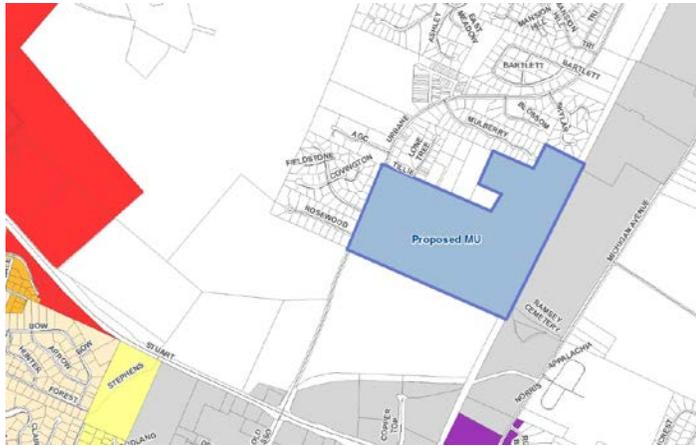
6. Schools

The annexation of this area does not anticipate any impacts on the City School system.

7. Planning and Zoning

- A. The planning and zoning jurisdiction of the City will extend to the annexation areas upon the effective date of annexations and all municipal planning activities will encompass the needs of the annexed areas.

- B. This property is currently zoned FAR Forestry/Agricultural/Residential in the unincorporated County. It is recommended the post-annexation zoning on this property be MU Mixed Use Zoning District.



- C. In the case of lots of record that are recorded prior to the effective date of annexation, if there are prevailing deed or subdivision restrictions on record, these deed or subdivision restrictions shall apply if in conflict with City zoning or subdivision regulations.

8. Animal Shelter

The City operates a full-time animal control program including an animal shelter. The Animal Shelter is located on Hill Street SE. Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

9. Voting Rights and City Elections

- A. If an eligible voter’s permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.
- B. If an eligible voter is in the category of a property rights voter then that voter must register at the Election Commission Office prior to voting in a City election.
- C. This annexation will add approximately 0 residents to the 4th City Council District as it is currently used.

Revenue

This property would be tax exempt and not contribute any property tax revenue to the City of Cleveland, however there would be storm water fees associated with this property based on the total impervious area.

Councilman Banks moved that Resolution No: 2017-16 be approved as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Resolution was the presented in full:

RESOLUTION NO: 2017-17

A RESOLUTION TO ANNEX CERTAIN TERRITORY UPON WRITTEN CONSENT OF THE OWNERS AND TO INCORPORATE THE SAME WITHIN THE BOUNDARIES OF THE CITY OF CLEVELAND, TENNESSEE

URBANE RD AND TILLIE RD NE AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries; and

WHEREAS, the owners of all property within the territory proposed for annexation have given their written consent by notarized petition so that a referendum is not required; and

WHEREAS, this Resolution was also published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland; and

WHEREAS, a Plan of Services for the area proposed for annexation is attached as *Exhibit A* hereto, which Plan of Services addresses the same services and timing of services as required in Tennessee Code Annotated § 6-51-102; and

WHEREAS, the proposed annexation and Plan of Services were submitted to the Cleveland Municipal Planning Commission for study, and it has recommended the same; and

WHEREAS, notice of the time and purpose of a public hearing on the proposed annexation and the Plan of Services was published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing; and

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on April 10, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That the following territory is hereby annexed and incorporated into boundaries of the City of Cleveland, to wit:

Beginning at an iron pin located the southeast corner of the lands of Voice of Evangelism Outreach Ministries, Inc, as recorded in BCROD deed book 2238 page 425; thence north 66 degrees 5 minutes 23 seconds west, 2479.75 feet to an iron pin located at the southwest corner of the lands of Voice of Evangelism Outreach Ministries, Inc; thence continuing with the same heading 60 feet, more or less, to a point in the western right of way of Urbane Road; thence with the right of way of Urbane Road in the northerly direction, 245 feet, more or less, to the northwest corner of the intersection of Urbane Road and Tillie Drive; thence in a southeasterly direction with the northern right of way of Tillie Drive 1745 feet, more or less, to an iron pin located at the southwest corner of the lands of James Calfee, as recorded in BCROD PB 10 page 342; thence with the eastern line of the lands of Calfee, thence north 31 degrees 51 minutes 52 seconds east, 282.54 feet to an iron pin; thence north 63 degrees 19 minutes 46 seconds west, 386.37 feet to an iron pin; thence with a line of Voice of Evangelism Outreach Ministries, Inc North 25 degrees 54 minutes 25 seconds east, 528.73 feet to an iron pin; thence along Mulberry subdivision south 65 degrees 12 minutes 35 seconds east, 651 feet, more or less, to the southeast corner of lot 22 of Mulberry subdivision, as recorded in PB 11 page 88; thence in a northeasterly direction 412 feet ,more or less, to the northeast corner of lot 21 of Mulberry subdivision; thence in a south easterly direction 532 feet, more or less, to the southeast corner of lot 24 of Rolling Meadows Phase III Subdivision, as recorded in BCROD PB 11 page 49; thence crossing the railroad right of way with the same bearing 112 feet ,more or less, to a point in the eastern right

of way of the railroad, said point being located in the existing right of way; thence in a southwesterly direction with the eastern line of the railroad right of way and the existing City Limits, 2295 feet, more or less, to a point where if the southern line of the lands of Voice of Evangelism Outreach Ministries, Inc were extend, it would intersect the eastern railroad right of way; thence leaving the railroad right of way and the existing City Limits north 66 degrees 5 minutes 23 seconds west, 112 feet, more or less, to the point of beginning.

B. That the Plan of Services for this territory which is attached as *Exhibit A* hereto is approved and the same is hereby adopted. [on file in the City Clerk’s Office.]

C. That the City Clerk’s office will cause a copy of this Resolution to be forwarded to the Mayor of Bradley County including the Plan of Services.

D. That a copy of this Resolution shall be sent to the Tennessee Comptroller of the Treasury and the Bradley County Assessor of Property.

E. That a copy of this Resolution, as well as the portion of the Plan of Services related to emergency services and a detailed map of the annexed area, shall be sent to any affected emergency communication district.

WHEREUPON, the Mayor affixed a signature and date thereto and directed that the same be recorded.

EFFECTIVE DATE: Be it further resolved that this Resolution shall only become effective at the time of the final passage of the ordinance zoning the aforementioned property within the City of Cleveland.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Banks moved that Resolution No: 2017-17 be approved as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Zoning Ordinance was the presented in full:

ZONING ORDINANCE NO: 2017-15

AN ORDINANCE TO ZONE THE “URBANE RD AND TILLIE RD NE ANNEXATION AREA” WITHIN THE CORPORATE BOUNDARIES OF CLEVELAND, TENNESSEE

WHEREAS, a public hearing before this body was held on the 10th day of April 2017 a notice thereof published in the *Cleveland Daily Banner* on March 26, 2017 and

WHEREAS, a Plan of Service, including a zoning plan consistent with this ordinance, for this property was adopted by resolution 2017-16; and,

WHEREAS, this property was annexed by resolution 2017-17; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, zoned from FAR Forestry/Agricultural/Residential within the unincorporated County to MU Mixed Use Zoning District within the corporate limits of the City of Cleveland.

Section 2. The property shown in Exhibit “A” and shall be zoned in accordance with the legal description described in Exhibit “B”, attached hereto and made a part hereof by reference, upon the effective date of this ordinance.

Section 3. Be it further ordained that this Ordinance shall take effect immediately on final reading the public welfare requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Exhibit B
Legal Description

Beginning at an iron pin located the southeast corner of the lands of Voice of Evangelism Outreach Ministries, Inc, as recorded in BCROD deed book 2238 page 425; thence north 66 degrees 5 minutes 23 seconds west, 2479.75 feet to an iron pin located at the southwest corner of the lands of Voice of Evangelism Outreach Ministries, Inc; thence continuing with the same heading 60 feet, more or less, to a point in the western right of way of Urbane Road; thence with the right of way of Urbane Road in the northerly direction, 245 feet, more or less, to the northwest corner of the intersection of Urbane Road and Tillie Drive; thence in a southeasterly direction with the northern right of way of Tillie Drive 1745 feet, more or less, to an iron pin located at the southwest corner of the lands of James Calfee, as recorded in BCROD PB 10 page 342; thence with the eastern line of the lands of Calfee, thence north 31 degrees 51 minutes 52 seconds east, 282.54 feet to an iron pin; thence north 63 degrees 19 minutes 46 seconds west, 386.37 feet to an iron pin; thence with a line of Voice of Evangelism Outreach Ministries, Inc North 25 degrees 54 minutes 25 seconds east, 528.73 feet to an iron pin; thence along Mulberry subdivision south 65 degrees 12 minutes 35 seconds east, 651 feet, more or less, to the southeast corner of lot 22 of Mulberry subdivision, as recorded in PB 11 page 88; thence in a northeasterly direction 412 feet ,more or less, to the northeast corner of lot 21 of Mulberry subdivision; thence in a south easterly

direction 532 feet, more or less, to the southeast corner of lot 24 of Rolling Meadows Phase III Subdivision, as recorded in BCROD PB 11 page 49; thence crossing the railroad right of way with the same bearing 112 feet ,more or less, to a point in the eastern right of way of the railroad, said point being located in the existing right of way; thence in a southwesterly direction with the eastern line of the railroad right of way and the existing City Limits, 2295 feet, more or less, to a point where if the southern line of the lands of Voice of Evangelism Outreach Ministries, Inc were extend, it would intersect the eastern railroad right of way; thence leaving the railroad right of way and the existing City Limits north 66 degrees 5 minutes 23 seconds west, 112 feet, more or less, to the point of beginning.

Councilman May moved that Zoning Ordinance No: 2017-15 be voted for passage on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Resolution was the presented in full:

RESOLUTION NO: 2017-18

A RESOLUTION AUTHORIZING THE CLEVELAND CITY SCHOOLS TO PURCHASE ARTIFICIAL TURF FOR THE CLEVELAND HIGH SCHOOL FOOTBALL FIELD

WHEREAS, the Cleveland City School Board has approved of the installation of artificial turf for the football field at Cleveland High School; and,

WHEREAS, at its March 9, 2017 board meeting, the Cleveland City School Board approved of an agreement with Greenfields, an East Tennessee manufacturer of outdoor athletic field coverings, to install this turf for the football field at a significant discount; and

WHEREAS, this agreement and purchase is further described in a letter dated April 6, 2017 from Attorney Charles W. Cagle, the attorney for the Cleveland City Schools Board of Education, to Dr. Russell Dyer, the Director of Schools; and

WHEREAS, the letter dated April 6, 2017 from Attorney Charles W. Cagle to Dr. Russell Dyer is attached hereto and incorporated herein by reference to this Resolution; and

WHEREAS, the agreement and purchase of the turf is for a total dollar amount of \$774,628.00, which amount will be paid by the Cleveland City Schools to Greenfields out of the City schools' fund balance over the next three 3 years as follows:

Payment 1 on or before June 30, 2017:	\$274,628.00
Payment 2 on or before June 30, 2018:	\$250,000.00
Payment 3 on or before June 30, 2019:	<u>\$250,000.00</u>
TOTAL	\$774,628.00

WHEREAS, the City Council of the City of Cleveland is required to approve of this purchase as the funding body for Cleveland City schools because installment payments create a contingent liability for the school system for which future budget appropriations will be required.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Cleveland, Tennessee that the Cleveland City Schools be authorized to enter into an agreement with Greenfields for the acquisition and installation of the turf for the Cleveland High School football field.

Adopted this 10th day of April, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Estes moved that Resolution No: 2017-18 be approved as presented. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Mayor Rowland stated City Offices will be closed Friday, April 14 in observance of Good Friday. Also, the Old Timers Banquet will be held that same evening at 6:00 p.m. at the Museum. On May 8 at 11:30 a.m. there will be the joint City Council/County Commission meeting.

There being no future business the meeting was adjourned at 3:56 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, APRIL 24, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Vice Mayor Avery Johnson. Also present were Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Mayor Tom Rowland was absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Bryant, Support Services Manager, Beverley Lindsey, Executive Secretary II; Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Pettitt, Director of Parks and Recreation; Jeff Davis, Personnel Director, Kris Miller, IT Director; Brian Moran; Social Media Coordinator; Kim Spence, Safety and Wellness Manager; Bethany McCoy with Lee University; City Reporter Randall Higgins; Max Phillips; Chris Townsend; Doug Berry and Gary Farlow with the Chamber of Commerce; School Board Member Dawn Robinson; Demetrius Ramsey; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson, who remembered Mayor Tom Rowland and his family during the recent loss of his daughter Cynthia Rowland Grant, the following business was then entered into:

WAIVE READING OF MINUTES

Councilman May moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on April 10, 2017 and approve them as written. The motion was seconded by Councilman Estes; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Vice Mayor Johnson stated the following letter was received by Chairman Louie Alford concerning the former American Uniform property.



BRADLEY COUNTY COMMISSION
LOUIE ALFORD, CHAIRMAN
Post Office Box 1167
Cleveland, TN 37304-1167
Phone (423) 728-1105
Fax (423) 728-1161

April 18, 2017

Mayor Tom Rowland
190 Church Street
Cleveland, TN 37311

Dear Mayor Rowland:

As you know the Bradley County Commission has endeavored, at the request of the Bradley County School Board, to purchase the property known as the former American Uniform for the purpose of housing a school and a STEM hub. Yesterday, the Commission passed resolution 2017-17 authorizing County Mayor D. Gary Davis to enter into a conditional sale agreement to purchase the property for an amount of \$2,200,000. The conditional sale agreement, which I have included for your perusal, requires a formal agreement approved by resolution from the City of Cleveland recognizing any and all rights to all or part of any funds that may be due the City of Cleveland as a result of borrowing funds for the financing of the property pursuant to Tennessee Code Annotated 9-21-129 shall not be paid until July 15, 2019. We respectfully request that you approve the agreement by resolution within 120 days of the execution of the conditional sale agreement. Please note Section 2 of the conditional sale agreement requires the County to pay the full purchase price and interest on July 15, 2019. Bradley County has no plans to borrow funds prior to this aforementioned purchase date.

Tom, we are excited about the potentiality of this project. We believe it will provide industry with an opportunity to work with our Bradley County School System to equip our students with the necessary career skills to graduate one day and step into a skilled industrial position the next day. The scope of this project is not limited to just our Bradley County students or our local industry, but to our region as a whole. We hope you, Cleveland City Council and Cleveland City School Board will share our enthusiasm and our eagerness to catalyze a change in the way we educate and equip our students for their futures.

Sincerely,

A handwritten signature in blue ink, appearing to read "Louie".

Louie Alford, Chairman

cc: County Mayor D. Gary Davis
Director of Bradley County Schools Dr. Linda Cash

City Manager Joe Fivas reminded the Council of what Mr. Kimball stated during the Work Session, that we should wait for a formal request or agreement from the Commission so we know the exact terms. Councilman Cassada stated he doesn't have a problem delaying the payment until July 15, 2019 as requested but asked that the Council attach to the request that the estimated portion of \$1.18 million received on July 15, 2019 be put towards paying the debt down for the new elementary school. Councilman Estes asked Mr. Kimball if this was necessary if they are not going to complete the sale until later. Mr. Kimball stated they say they have no plans to borrow money prior to July 15, 2019 but if they change their minds and borrow money for capital projects then it would make a difference. Councilman Estes stated if they change their mind then they would pay us at that time. Mr. Kimball stated correct, but they are asking you to defer receipt of money until July 15, 2019, if they did borrow money. Councilman Estes stated he felt they didn't need to respond. Mr. Kimball state they've asked you to approve a formal agreement, by resolution. However, the letter was dated last week and they have not presented you with a formal agreement. He suggests if you are willing to work with them you ask them to prepare a formal agreement that your School Board and yourselves could review and decide if you want to approve it by resolution or not. You have nothing to vote on at this point. Their letter also asks that you do something within 120 days, so you have time. The next step is for them to send what they want you to approve. Councilman Estes stated he is not sure the City Schools has any claim to anything until money is borrowed or spent. Mr. Kimball stated he has a legitimate point, however because it says they have no plans to borrow funds doesn't mean they might not. It is a contingency they've placed in the agreement. That's why they need you to act, otherwise the agreement is not enforceable with the County. Councilman May asked whether they bond or pay for a project through their capital budget, the City Schools will still get their money. Mr. Kimball replied not necessarily. If they don't borrow money and bond it for capital projects and only put money aside they can pay for it over time. He continued Councilman Estes may be correct but he doesn't read the letter as they are not going to bond money for the project, it simply says they have no plans at this time to do that. If they do before that date they are asking you to defer the share you are legally entitled to until July 15, 2019. Councilman Estes stated he appreciates Mr. Kimball asking for something formal but he's not ready to make a decision to tie our hands. Councilman Cassada stated its not tying our hands. The County School Board approached the City School Board about this idea and it may come down the road they may or may not but the Council doesn't set the precedence for the School Board, criteria or anything else but as a City Council member paying down debt is important and if there are any funds at that time I ask those funds be used towards paying the debt down on the elementary school. Councilman Estes stated if we borrow money for the new school at a fixed rate and we have variable debt on other school bonds that are more than 3%, I'd rather that money go towards that. Don't tie our hands now let's wait till we have money in hand, get some advice on our debt and look at where to apply it. Councilman Cassada asked a motion was needed to ask for the formal request. Mr. Kimball stated the City Manager can request the County to provide a formal agreement without a motion. Councilman Cassada then asked if the bond issue for the new school, if it was fixed or variable. Mr. McKay stated it is a variable rate with a 5-year cap. Councilman Cassada stated in general he'd like to see the proceeds pay debt down. Mr. Fivas stated he would contact the County for a formal agreement so the Council can continue discussion at a later date. Councilman Estes asked that the School Board review the agreement once received. Councilman Cassada stated he feels this is a good olive branch with the County to move forward.

CONSENT AGENDA

Vice Mayor Johnson reviewed the items on the consent agenda.

- **Final Passage - Zoning Ordinance No: 2017-12** – heretofore passed on first reading April 10, 2017 and found in Minute Book 28, Page 370; rezoning 2.97 acres located on Pleasant Grove Church Rd (Tax Map 56 Parcel 51.10) from R1 Single Family Residential Zoning District to CH Commercial Highway Zoning District (Planning Commission: Approved 8-0; 1 member absent).

- **Final Passage - Ordinance No: 2017-13** – heretofore passed on first reading April 10, 2017 and found in Minute Book 28, Page 371; abandoning a portion of unopened right-of-way running parallel to Church St SE and South Ocoee St and between 13th St SE and 14th St SE (Planning Commission: Approved 8-0; 1 member absent).
- **Final Passage - Zoning Ordinance No: 2017-15** – heretofore passed on first reading April 10, 2017 and found in Minute Book 28, Page 381; zoning of about 110.9 acres located at Urbane Rd and Tillie Rd NE from the unincorporated county to MU Mixed Use Zoning District (Planning Commission: Approved 8-0; 1 member absent).
- **Resolution No: 2017-19** – Firehouse Grant application.

RESOLUTION NO: 2017-19

A RESOLUTION AUTHORIZING THE SUBMISSION OF THE 2017 FIREHOUSE SUBS PUBLIC SAFETY GRANT

WHEREAS, the City Council of the City of Cleveland, Tennessee desires to provide the Cleveland Fire Department with equipment which enhances safety for the firefighters employed by the City of Cleveland; and

WHEREAS, the City is eligible to apply for a \$20,000 Firehouse Subs Public Safety Grant, which grant, if approved, does not require any matching funds from the City; and

WHEREAS, if this grant is approved, the grant funding shall be used to purchase two washing machines for two fire stations, which machines are used to clean bunker gear; and

WHEREAS, the City Council desires to apply for this grant.

NOW, THEREFORE, BE IT THEREFORE RESOLVED by the City Council that the Mayor be, and hereby, is authorized to submit an application on behalf of the City, including all the understanding and assurances contained therein, for the Firehouse Subs Public Safety Grant.

BE IT FURTHER RESOLVED that if said grant application is approved and the City is awarded the grant, then the Mayor is further designated to act as Cleveland’s representative in connection with the acceptance of the grant, which designation includes the Mayor providing any additional information that may be necessary, the execution of any documents, and to take any other actions that may be necessary or required in order for the City to receive the grant.

Adopted this 24th day of April, 2017

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-20** – Animal friendly spay/neuter Grant application.

RESOLUTION NO: 2017-20

A RESOLUTION AUTHORIZING THE SUBMISSION OF ANIMAL FRIENDLY SPAY/NEUTER GRANT APPLICATION FOR FISCAL YEAR 2018

WHEREAS, the City Council of the City of Cleveland, Tennessee desires to promote the spaying and neutering of animals which are adopted from the Cleveland Animal Shelter; and

WHEREAS, the City is eligible to apply for an Animal Friendly Spay/Neuter Grant through the Tennessee Department of Health which grant, if approved, does not require any matching funds from the City; and

WHEREAS, if this grant is approved, the grant funding shall be used to subsidize the cost and fees associated with animals receiving spay/neuter services provided by veterinarians that participate in the Cleveland Animal Control Veterinary Services program; and

WHEREAS, the City Council desires to apply for this grant.

NOW, THEREFORE, BE IT THEREFORE RESOLVED by the City Council that the Mayor be, and hereby, is authorized to submit an application on behalf of the City, including all the understanding and assurances contained therein, to the Tennessee Department of Health for the Animal Friendly Spay/Neuter Grant.

BE IT FURTHER RESOLVED that if said grant application is approved and the City is awarded the grant, then the Mayor is further designated to act as Cleveland’s representative in connection with the acceptance of the grant, which designation includes the Mayor providing any additional information that may be necessary, the execution of any documents, and to take any other actions that may be necessary or required in order for the City to receive the grant.

Adopted this 24th day of April, 2017

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-21** – Accepting Emmyllie Court and the northern section of Eveningside Drive as city streets.

RESOLUTION NO: 2017-21

WHEREAS, Emmyllie Court and Eveningside Drive are streets shown by a plat recorded on 12/9/2015 in Plat Book 29, page 136, in the Register of Deeds’ Office of Bradley County, Tennessee; and

WHEREAS, Emmyllie Court and Eveningside Drive are located inside the City limits of the City of Cleveland; and

WHEREAS, the developer of Ocoee Landing Townhomes has requested that the City accept Emmyllie Court and the northern section of Eveningside Drive as City streets; and

WHEREAS, City engineering staff have inspected Emmyllie Court and the northern section of Eveningside Drive to confirm that construction of these streets are to City of Cleveland street construction standards; and

WHEREAS, City engineering staff is now recommending that the City accept Emmyllie Court and the northern section of Eveningside Drive as City streets.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, in regular session assembled, that the City does hereby accept Emmyllie Court and the northern section of Eveningside Drive as City Streets.

This 24th day of April, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Appointment** – *Library Board* – Kelvin Bishop to replace Phil Jacobs for a term to expire July 2018.
- **Reappointment** – *Animal Shelter Board* – Dr. Sally Poston for another 3-year term to expire April 2020.
- **Appointment** – *Wrecker Board* – Ronnie Carroll as an alternate to replace Harvey Templeton for a 5-year term to expire April 2022.

Councilman Banks moved to approve the Consent Agenda. The motion was seconded by Councilman Cassada; and upon roll call, the motion to approve the consent agenda unanimously passed.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

RESOLUTION NO: 2017-22

WHEREAS, Legacy Parkway, Heritage Place Drive and Providence Lane are all streets located within the Heritage Place subdivision, which subdivision is located in northwest Cleveland off Candies Lane; and

WHEREAS, the developer of Heritage Place Subdivision has requested that the City accept these streets as City streets; and

WHEREAS, the attached e-mail from Brian Beck, City Engineer, indicates that the City's engineering staff has inspected Legacy Parkway (from Candies Lanes to Heritage Place Drive – total of 1150 feet), Heritage Place Drive (approximately 350 feet in length), and Providence Lane (approximately 510 feet), and the City's Development and Engineering staff are now recommending that City Council accepts the described streets into the City's street network.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, in regular session assembled, that the City does hereby accept Legacy Parkway (from Candies Lanes to Heritage Place Drive – total of 1150 feet), Heritage Place Drive (approximately 350 feet in length), and Providence Lane (approximately 510 feet), into the City's street network.

This 24th day of April, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved that Resolution No: 2017-22 be approved as presented. The motion was seconded by Councilman Cassada and upon roll call, unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Cassada thanked City Staff and Department Heads for all they do for the City. He has met with some staff and they speak highly of their Department Heads. He then asked for clarification on the fire training building. Mr. Fivas stated we have the property already at 8th/Gaut Street and minimal work will need to be done but the \$200,000 we have budgeted is to start construction. The current training tower property will be sold and those funds will be used to finish the new training building. Hopefully by the end of next fiscal year it will be completed and operational. Councilman Cassada stated later we will discuss staffing needs, like assistant chiefs as we go through the process and discuss at a later date.

Councilman Hughes stated he saw a video that had surfaced of the Sheriff's Department refusing to take in a person arrested by a city officer. He understands there will be disagreements but felt the county officer was pretty egregious. If a person has attitude it is difficult to have harmony between the two departments. Chief Gibson stated that was an incident that happened back in March and they have worked together and addressed the issue.

Councilman Banks asked when the Foxfire area annexation/zoning would be presented to the Planning Commission. Mr. Jobe stated May 16. Councilman Banks encouraged all Planning Commission members to attend. He continued he has received a complaint of high grass in the 600 Block of Broad Street, across from Andrew Johnson Bank. He then asked for an update on 70/80 Church Street property. Mr. Turner stated the next court date is May 18. Councilman Banks stated in the departmental monthly reports it shows the Police department had no formal complaints filed. Chief and his department should be commended. Also, the Cleveland Fire Department had 400 inspections. It is important the public knows the Fire Department responds to more than fires, they answer a lot of concerns.

Vice Mayor Johnson stated he recently saw a video where a kid opened the back door of a bus and fell out onto the roadway. An EMT was traveling behind the bus and stopped to help the young girl. Vice Mayor Johnson wanted to give a shout-out to all EMT's, Police and Fire for dealing with all the emergency issues that arise in our community. He appreciates all they do.

Councilman McKenzie asked for staff to review north bound on Wildwood at 18th and Spring Place Road the possibility of a left turn lane. Mr. Jobe stated staff will take a look. Councilman McKenzie then asked about the bids for Firehall #6. Ms. Carroll stated bid openings are May 2. Councilman Cassada asked how many local contractors. Ms. Carroll replied 3 local general contractors.

Councilman Estes thanked Mr. Fivas, Mr. McKay and Ms. Carroll for the way the budget has been packaged. It has done wonderful things for conversations with the public on tying money to projects. Secondly, on May 5-6 Lee University will hold a large graduation and wanted to Police Department to be aware of the dates. Lastly, he thanked Mr. Turner for the updates on Joe V. Williams properties and if anything had changed since the last memo. Mr. Turner stated only that court was held on 70/80 Church Street and the new court date is May 16. Councilman Estes then asked how many of the almost a dozen properties condemned in District 2 will come down this year. Mr. Turner replied it depends. Councilman Estes stated the monthly report is wonderful and we are getting so close to following through. Mr. Turner stated if the homeowner is willing to work with us we do what we can. If we see no activity from the owners, then we proceed with demolition. Councilman Estes stated he will get with him on specific properties to check the status.

Councilman Banks stated the ribbon cutting for the Mayor Tom Rowland interchange will be held on May 5 at 10:30 a.m.

ANNOUNCEMENTS

Vice Mayor Johnson announced the arrangements for Mayor Rowland's daughter would be this evening at East Chapel of Chattanooga in Ease Ridge from 6-9 p.m. Also, a Walkability meeting will be held tonight at 6:00 p.m.

Councilman Hughes announced a groundbreaking ceremony for Legacy Village tomorrow at 11:00 a.m. It will be similar to Garden Plaza and including rooms for Alzheimer's patients.

There being no future business the meeting was adjourned at 3:35 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MAY 8, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Bryant, Support Services Manager, Beverley Lindsey, Executive Secretary II; Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Pettitt, Director of Parks and Recreation; Jeff Davis, Personnel Director, Kris Miller, IT Director; Brian Moran, Social Media Coordinator; Kim Spence, Safety and Wellness Manager; Bethany McCoy and Marah Whitaker with Lee University; City Reporter Randall Higgins; Max Phillips; Chris Townsend; Jonathan Carroll; Tad Bacon with Cleveland Utilities; Teresa Torbett, CDBG Coordinator; Dustin Tommey; Jane Stum; Kim Lorello and Kathryn Alhindi with Friends of Blythe Oldfield Park; Sharon Marr with Mainstreet Cleveland; Joyce Stapek; Charlotte Peak; Brooklynn Townsend; Doug Berry and Gary Farlow with the Chamber of Commerce; School Board Members Dawn Robinson and Krista McKay; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on April 24, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Chris Townsend thanked the City Council and City Manager for taking time meeting with Lt. Jonathan Carroll concerning staffing needs at the Cleveland Fire Department, specifically a Deputy Chief. The position has been frozen for five years. As they began compiling statistics to validate their request, they realized staffing, within the City of Cleveland for essential services, which are considered public works, police and fire has lagged behind city growth. In the Police Department it is nearly staffed 15% less than it was ten years ago. The Fire Department is staffed about 21% less than ten years ago. He had two questions for the City Manager, specifically their initial request was to find the funding for a Deputy Chief so, administratively, the department has the support necessary to continue to provide a high level of service and they make that request for July, FY2018. Second request is that the City Council and our City Manager place the appropriate positions for essential services, as well as other departments which certainly have needs, but placing them into perspective when we look at new initiatives, such as downtown redevelopment. The second request we can see overtime but the first request is more pressing. They would like it staffed in July 2018. Mayor Rowland stated everyone has received a copy of the presentation. [Copy on file in the City Clerk's Office]

Mayor Rowland stated Alvin Word had previously approached him concerning property he owns that would be suitable for fire station 7. He understands Mr. Word is about to go commercial with the property if the City does not take action. Mr. Word stated the property is located at 37th Street/Tasso Road. It was set aside for building of a fire hall. We approached, and Mr. Fivas received information last time we were here and did not get a response. If the City is interested in the property it is available for a couple more days. It was carved out of a piece of land for the Fire Department. It was done for them and if they don't want it, we're ready to start with another project and would like to move forward. He would like to have a final yes or no

today. Mayor Rowland asked Chief Harrison if he was familiar with the piece of property. Chief Harrison stated yes. Mayor Rowland asked if the location would fit into the current plans they have. Chief Harrison stated yes, it is quite unusual to find a piece of property exactly where you need it, which is where they will need Station 7. Mayor Rowland asked about any arrangements or pricing. Mr. Word asked if that was to be done at this level. Mayor Rowland asked Mr. Fivas if he had any comments. Mr. Fivas stated not at this time. Councilman McKenzie stated we need to know the price of it before we try to buy it. Councilman May asked if we voted would it not be to vote to start negotiations. Councilman Banks replied it would have to be appraised. Councilman May agreed. Max Phillips stated this property was divided into a development they've had and ready to start building. Mr. Townsend and the Fire Chief approached them and they resurveyed and drew the property out to their specifications for a Firehall. It was all the intent that they felt they were going to buy it for a Firehall. The developer felt it would be good for the City to go ahead and sell it as a fire station site. Nothing came about and Mr. Word bought the property and now we are saying we've waited long enough and will have to proceed with something else. The developers want it to be a firehall. Councilman Banks stated we need two weeks to do a little due diligence. This was the first he's heard about it so he couldn't vote without knowing more about it. Councilman May asked if we could vote to have the City Manager get an independent appraisal and report back in two weeks. Mr. Word stated our first responsibility is to the City and we need to move forward. Basically, the property is \$200,000. Mayor Rowland asked how big is the lot. Mr. Word stated 1.04 acres. He then stated he would wait two weeks until the May 22 meeting for an answer. Councilman May asked the City Manager to look at the property and obtain an independent appraisal so they will have further information at the next meeting.

Mayor Rowland stated a request was received from Mt. Olive Ministries for a donation of \$5,000 to assist with the city fireworks. Councilman May stated he understand Mt. Olive pays \$15,000 from their budget. Mayor Rowland stated the Church handles all the insurance, licensing and professionals to prepare the show. Councilman May moved to fund \$5,000 for the July 4th city fireworks. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning an amendment to section 3.1.B of the Zoning Regulations to create provisions which allow for review and approval for greater densities of development on properties which are allowed to be developed to the R3 Multi-Family Residential Zoning District standards. Mayor Rowland asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the amendment. No one spoke.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning rezoning 1.9 acres located at Tennessee Nursery Rd and Martin Dr NW (Tax Map 49 Parcel 1.04 and Tax Map 049B Group E Parcel 28.00 from R1 Single Family Residential Zoning to MU Mixed Use Zoning District (Planning Commission: Denied; 0-9). Mayor Rowland asked if anyone would like to speak in favor of the rezoning. Mr. Calfee stated he was not at the Planning Commission and has heard what he could and couldn't do with the property. At the time of the Planning Commission he was not the owner nor the requestor. His interest is to make it more attractive and has already cleaned the property, laid gravel and will put up a fence. He would like to store tools and equipment there, like the skid steer and dump truck out of the rain. He wants it to look better and understands nothing additionally could be built. He has no intention of building apartments, townhomes or ministorage units but would like to make improvements to look better for the entire subdivision. He would like to build a shed and would need to be rezoned commercial. Councilman Estes stated at one time there was an attachment to the building. Is that grandfathered in? Mr. Jobe stated no. If something happened to the building it couldn't be rebuilt. Councilman Banks asked Mr. Calfee if he attended the Planning Commission. Mr. Calfee stated no he purchased the lot after the Planning Commission meeting. Councilman Estes asked about what the city stance was. Mr. Jobe stated everything

around it is R1. It is too small for Mixed Used Zoning. It should stay R1. Councilman Cassada stated he received a number of calls in opposition to the rezoning. City Attorney John Kimball stated the vote at the Planning Commission was denied because there was no plan to make the rezoning worthwhile. There is a change of circumstances with a new owner. Councilman Banks stated if he withdraws his planning request he won't have to wait a year to ask for rezoning. Mayor Rowland stated Mr. Calfee did not make the request to the Planning Commission. It was the previous owner. Councilman Banks asked when he bought the property did he buy the pending rezoning request. Mr. Kimball stated the applicant is the owner. Councilman Banks asked why are we hearing this request today. Mr. Kimball stated this is the first he's heard that Mr. Calfee bought the property but items automatically come to your agenda for a vote. Councilman Banks stated he feels Mr. Calfee should have the opportunity to appear before the Planning Commission as the property owner and an opportunity to meet with the neighbors. Charlotte Jones stated you have an adjoining property the city owns and if it burnt down you would be in the same zoning situation and nothing could be rebuilt. That is why there are two parcels in this zoning request. Mr. Jobe stated the City building can be rebuilt no matter the zoning. If the Planning Commission had rezoned the property they were going to include the city's parcel as well. Mayor Rowland asked if the city should rezone our parcel. Mr. Jobe stated if you don't it would be considered spot zoning. Councilman Cassada stated he felt this could open potential spot zoning requests. Councilman Hughes stated the biggest battle will be the neighborhood. Councilman May stated while we are discussing it, the city needs to enhance what they've got. Mr. Fivas stated we have money budgeted to do just that. Councilman May stated we need to make sure we spend it this year. Mr. Fivas stated we have funds to replace the fence and clean up the area. Mr. Calfee stated the city uses a portion of his property to turn the trailers around and asked if there were any plans to install a gate. It seems the city installed gates and do utilize them. Dan Hartman stated yes we do use his property to help back the equipment in and the previous owner did not object. We will certainly look and discuss with Mr. Calfee to work together. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Resolution No: 2017-23** – Authorizing the Mayor to sign contract amendment #8 with WSP USA, Inc. (formerly Parson Brinkerhoff, Inc.) for MPO projects.

RESOLUTION NO: 2017-23

RESOLUTION TO APPROVE AN AMENDMENT TO A TRANSPORTATION PLANNING CONTRACT WITH WSP USA, INC., FORMERLY PARSONS BRINKERHOFF, INC. IN SUPPORT OF THE CLEVELAND URBAN AREA METROPOLITAN PLANNING ORGANIZATION

WHEREAS, the City of Cleveland serves as the contracting entity on behalf of the Cleveland Urban Area Metropolitan Planning Organization (MPO) in order to plan and implement transportation improvements within the Cleveland MPO area; and,

WHEREAS, the City of Cleveland has maintained a contract with parsons Brinkerhoff, Inc. for transportation planning services on behalf of the Cleveland Urban Area MPO and additional services are anticipated to be needed above the current "not to exceed" amount established by a prior contract amendment,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cleveland, Tennessee does hereby:

Authorize the Mayor to sign an amendment (attached) to the existing contract with WSP USA, Inc. for transportation planning services.

Approved this 8th day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Street Light Recommendation** – Ryan Hodges at 3420 Dogwood Trail NW (Cleveland Utilities recommends the addition of one 51-watt LED cobra street light fixture at the requested location).
- **Surplus Property** – Items from 3745 and 3765 Sycamore Drive NW be declared surplus and donated to Habitat for Humanity of Cleveland Home Store.

MEMO:

TO: MAYOR & CITY COUNCIL
 FROM: Melinda B. Carroll
 DATE: May 2, 2017
 SUBJECT: Surplus/Salvage Items for Donation

The City of Cleveland was awarded a Flood Hazard Mitigation Grant from FEMA to remove the homes at 3745 and 3765 Sycamore Drive NW as they had been classified “Severe Repetitive Loss Properties”. The homes must be removed and the property will be kept perpetually as open green space to avoid future flooding hazards.

Therefore, I respectfully request that the City Council declare any items that remain in the homes surplus and donate to the Habitat for Humanity of Cleveland Home Store.

- **Bid Report** – Blythe Oldfield Park Playground.

BID SUMMARY
BLYTHE OLDFIELD PARK PLAYGROUND
PARKS & RECREATION DEPARTMENT
April 26, 2017

1. Game Time Knoxville, TN	<u>\$365,890.71</u>
	<u>\$265,494.81 – Alternate Bid</u> (Did not include all items per specifications)
2. Great Southern Recreation Murfreesboro, TN	<u>\$226,935.46</u>
	<u>\$274,994.00 – Alternate Bid</u>
3. Miracle Recreation Clarkson, KY	<u>NO BID</u>
4. Recreational Concepts Cookeville, TN	<u>NO BID</u>

Recommendation is to accept the alternate bid from Great Southern Recreation of Murfreesboro, TN with a total bid of \$274,994.00.

Committee Recommendation: Great Southern Recreation
 Assistant City Manager’s Approval: Melinda B. Carroll
 Department Head’s Approval: Patti Petitt

Councilman Hughes moved to approve the Consent Agenda. The motion was seconded by Councilman Estes; and upon roll call, the motion to approve the consent agenda unanimously passed.

Councilman Banks had removed the following item from the Consent agenda stating he doesn't feel we shouldn't accept such a low bid under the appraisal value. Ms. Carroll stated she doesn't recommend to accept the bid.

MEMO:

TO: MAYOR & CITY COUNCIL
FROM: Melinda Carroll
DATE: May 8, 2017
SUBJECT: Surplus Property - Update

A sealed bid was received today (May 8, 2017), from Mr. Steve Dixon with an amount of \$1,111.11. This is for the sale of property, located at the corner of Old Michigan Avenue and Benton Pike. This lot was the remaining ROW from the Whirlpool SIA project.

The appraisal for the lot is \$12,900.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Banks stated Mr. Fivas mention during the Work Session about designating someone to meet with Whirlpool to begin discussion on purchasing property. He then moved to encourage the City Manager and/or whoever he delegates to start discussions with Whirlpool about some of the redevelopment of the area. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-16

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTION 3.1B TO CREATE PROVISIONS FOR HIGHER ALLOWABLE DENSITIES WITHIN ZONES WHERE MULTI-FAMILY USES ARE PERMITTED; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS the City of Cleveland has experienced unprecedented growth over the last several years; and

WHEREAS there is little evidence that recent growth patterns will not continue over the foreseeable future; and

WHEREAS the State of Tennessee has limited the ability of the City of Cleveland to expand housing opportunities through annexation of new territory; and

WHEREAS the supply of housing units must keep pace with demand in order to maintain the existing low cost of living which the residents of Cleveland enjoy; and

WHEREAS the City Council has determined that the existing zoning regulations provide adequate consideration by the Board of Zoning Appeals for conditional uses; and

WHEREAS the City Council has considered that an increase in the allowable densities may be appropriate in areas where multi-family residential uses are permitted;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 3.1B to read as follows:

3.1.B. Maximum Allowable Density

Where requirements are otherwise met, this ordinance generally allows for the development of multiple structures on a common site. For multiple buildings on a common site or for a subdivision of two or more lots, the maximum allowable density is a function of the required minimum lot size. R1 and RA land cannot exceed a maximum of 1 residential unit per 7500 square feet, including any common open space if developed as a cluster subdivision. R2 land, or land in any other zoning district where allowed to be developed residentially at R2 standards cannot exceed one (1) unit per five thousand (5,000) square feet for single family, or two (2) units per seven thousand five hundred (7,500) square feet for duplex structures, or three (3) units per ten thousand (10,000) square feet for triplex structures, or four (4) units per twelve thousand five hundred (12,500) for quadruplex structures, including any common open space if developed as a cluster subdivision, townhouse subdivision, or other type of development. R3 land, or land in any other zoning district where allowed to be developed residentially at R3 standards, requires seven thousand five hundred (7,500) square feet for the first unit and two thousand five hundred (2,500) feet for each additional unit on the same lot or parcel regardless of structure type, adjusted for any common open space if developed as a cluster subdivision, townhouse subdivision, or other type of development. As an alternative where a lot otherwise allowed to be developed residential at R3 standards is less than 1 acre that and is not a flag lot, if designed to include a minimum 5 foot greenspace buffer area along the lot's street frontage except for not more than 2 driveways not exceeding 24 feet in width for both driveways, and otherwise meeting the landscaping and buffering requirements of zoning and stormwater ordinances, can be designed to the R2 density standard. R4 residential development density is regulated by the standards for mobile home parks and subdivisions. R5 residential development must provide adequate parking and otherwise conform to the requirements of the R5 district. Density for residential development in the UC zone is to be guided by Table 2. Residential development in mixed use development projects, such as with ground floor commercial with residential above, shall provide adequate parking and otherwise be governed by the height, lot coverage, and setback requirements of the zoning district in which they are located. Non-residential development does not have a density limit, but the intensity of the use in terms of its overall developed floor area is restricted by height, setback, lot coverage, greenspace, parking requirements, and other requirements of the zoning and stormwater ordinances. (as added by Ord. #2009-49, June 2009)

In any zone where multi-family residential uses are permitted, the Board of Zoning Appeals may grant approval of the R5 density standards as a conditional use where appropriate. The same considerations outlined in section 1.7.2 of the zoning ordinance shall be applied.

Section 2. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

Section 3. In the event that any part of this ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

Section 4. This ordinance shall take effect immediately upon passage on second reading, the public necessity requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-16 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ZONING ORDINANCE NO: 2017-17

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R1 Single Residential to Mixed Use Zoning District.

Approximately .98 acres, more or less, located on Tennessee Nursery Rd and Martin Dr NW as shown on the attached map.

For reference, see Book 1736 Page 641 and Book 318 Page 604 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 49B Group E Parcel 28 and Tax Map 49 Parcel 1.04, in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Councilman Banks moved to send the item back to Planning Commission due to new ownership by Greg Calfee so he can apply for the rezoning and go through the process if he desires. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

Councilman Hughes left the meeting.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-18

AN ORDINANCE ADOPTING THE ANNUAL BUDGET OF THE CITY OF CLEVELAND, TENNESSEE

BE IT ORDAINED by the City of Cleveland as follows:

Whereas, the Municipal Budget Law of 1982 requires that the governing body of each municipality adopt and operate under an annual budget ordinance including a financial plan with at least the information required by that state statute;

Whereas, Section 6-22-124, Tennessee Code Annotated, requires the city council to adopt an appropriation ordinance including all funds before the first day of the fiscal year;

Whereas, the budget process is one of the most important activities undertaken by governments for the public welfare. With the budget process being used to make program, service and capital decisions and allocate scarce resources to programs, services and capital;

Whereas, the financial plan developed in this process being the document to communicate the plan the City of Cleveland has decided to implement for the coming fiscal year;

SECTION 1: **REVENUES.** That the City of Cleveland estimates anticipated revenues of the municipality from all sources including current and delinquent taxes, nontax revenues, and proceeds from the sale of debt to be \$268,393,581. All of these sources are available for appropriation.

Anticipated Revenues	2015-2016 (ACTUAL)	2016-2017 (ESTIMATED)	2017-2018 PROPOSED
Revenues:			
General Fund	\$41,668,152	\$42,450,898	\$47,017,400
Special Revenue Funds:			
Solid Waste Management	2,481,275	2,505,192	2,521,800
State Street Aid	1,136,363	1,142,000	1,151,000
General Purpose School	38,503,658	39,851,441	41,518,181
Schools Food Service	3,321,282	3,574,416	3,646,618
Cleveland Public Library	992,264	1,187,200	779,800
Drug Enforcement	45,408	10,100	10,100
2015 Byrne Mem. Justice Asst. Grant	39,515	0	0
2016 Byrne Mem. Justice Asst. Grant	0	39,340	0
Community Dev. Block Grant	389,100	792,140	350,000
E-Ticketing	15,345	10,000	0
Recycling Grant	17,962	0	0
Schools Federal Projects	3,583,075	0	0
Metropolitan Planning Organization	208,367	200,000	200,000
Debt Service	269,884	164,950	151,900

Anticipated Revenues, cont'd:	2015-2016 (ACTUAL)	2016-2017 (ESTIMATED)	2017-2018 PROPOSED
Revenues:			
Capital Projects Funds:			
Fletcher Park	0	0	0
Greenway Fund	5,552	4,400	0
Capital Improvements Program	4,337,095	9,941,347	0
Sales Tax Capital Projects Fund	3,999,456	3,795,800	3,894,000
Spring Branch Industrial Park Fund	18,952	18,600	0
Enterprise Funds:			
Stormwater Management	867,041	1,604,126	1,598,500
Cleveland Utilities Electric Division	97,229,486	102,225,949	104,060,254
Cleveland Utilities Water/Wastewater Division	27,293,206	26,285,859	26,286,654
Trust Funds:			
Meiler Trust Fund	1,216	1,500	1,500
Internal Service Fund:			
Fleet Management	643,538	650,550	0
Health Insurance Trust Fund	3,715,175	3,538,484	3,714,359
Total Revenues	230,782,367	241,994,292	239,802,066
Other financial sources			
Operating transfers in:			
General Fund:	2,390,243	2,343,623	2,881,085
Special Revenue Funds:			
Solid Waste Management	1,074,100	1,035,708	1,074,100
State Street Aid	0	0	0
General Purpose School	5,273,600	5,273,600	5,273,600
Cleveland Public Library	626,700	645,800	645,800
Community Dev. Block Grant	25,000	30,000	35,000
Recycling Grant	10,000	10,000	10,000
Metropolitan Planning Organization	57,000	57,000	57,000
Debt Service	5,992,273	6,166,519	6,875,930
Capital Projects Funds:			
Capital Improvement Program	302,579	762,518	2,485,000
Greenway Fund	0	0	0
Enterprise Funds:			
Stormwater Management	85,636	0	0
Total Operating Transfer In:	\$15,837,131	\$16,324,768	\$19,437,515

Anticipated Revenues	2015-2016 (ACTUAL)	2016-2017 (ESTIMATED)	2017-2018 PROPOSED
Other financial sources:			
Operating transfers in, cont'd:			
Capital Contributions			
Enterprise Funds:			
Stormwater Management	0	0	0
Cleveland Utilities Electric Division	0	0	0
Cleveland Utilities Water/Wastewater Division	926,313	0	0
Internal Service Funds:			
Fleet Management	19,498	0	0
Total Capital Contributions:	945,811	0	0
Bond & Note Proceeds and Capital Lease			
General Fund	0	0	0
General Purpose School Fund	0	0	0
Capital Improvement Program	6,040,200	8,494,865	9,054,000
Spring Branch Industrial Park	0	439,925	0
Debt Service	13,057,880	0	0
Total Bond & Note Proceeds:	\$19,098,080	\$8,934,790	\$9,054,000
Total Other Financing Sources	\$35,881,022	\$25,259,558	\$28,491,515
Total Revenues and Other Financing Sources	\$266,663,389	\$267,253,850	\$268,393,581

Details of these revenues and other financing sources are shown in the City of Cleveland's budget document by fund.

SECTION 2: **APPROPRIATIONS.** That the City of Cleveland appropriates from these anticipated revenues and unexpended and unencumbered funds the following:

Expenditures	2015-2016 (ACTUAL)	2016-2017 (ESTIMATED)	2017-2018 PROPOSED
General Fund	\$30,634,561	\$32,340,409	\$34,216,667
Special Revenue Funds:			
Solid Waste Management	3,460,379	3,667,679	3,550,000
State Street Aid	699,740	730,541	706,400
General Purpose School	42,202,000	44,956,278	46,236,862
Schools Food Service	3,165,139	3,574,416	3,646,618
Cleveland Public Library	1,608,659	1,931,700	1,425,600
Drug Enforcement	34,064	44,397	18,600
2015 Byrne Mem. Justice Asst. Grant	39,515	0	0
2016 Byrne Mem. Justice Asst. Grant	0	39,340	0
Community Dev. Block Grant	422,730	809,516	383,000
E Ticketing	0	28,700	0
Recycling Grant	22,547	20,068	10,000
Schools Federal Project	3,583,075	0	0
Metropolitan Planning Organization	257,694	243,200	257,000
Debt Service	18,721,711	6,317,112	7,027,030
Capital Projects Funds:			
Fletcher Park	0	5,403	0
Greenway Fund	3,387	16,233	0
Capital Improvements Program	9,750,499	22,176,543	11,026,621
Sales Tax Capital Projects Fund	4,203,025	5,801,627	3,840,032
Spring Branch Industrial Park Fund	108,218	404,504	0
Enterprise Funds:			
Stormwater Management	422,576	1,568,834	1,451,621
Cleveland Utilities Electric Division	93,218,798	97,307,022	99,078,750
Cleveland Utilities Water/Wastewater Division	22,164,244	22,976,631	24,592,920
Trust Funds:			
Meiler Estate Trust Fund	0	0	0
	-	-	-
Internal Service Fund:			
Fleet Management	673,004	692,108	0
Health Insurance Trust Fund	3,531,593	3,475,278	3,614,289
Total Expenditures	238,927,158	249,127,539	241,082,010
Nonoperating Revenues (Expenses)			
Enterprise Funds:			
Stormwater Management	0	0	0
Cleveland Utilities Electric Division	(457,643)	(510,921)	(511,205)
Cleveland Utilities Water/Wastewater Division	(1,524,614)	(1,716,560)	(1,504,858)
Internal Service Fund:			
Fleet Management	0	0	0
Total Nonoperating Revenues (Expenses)	(1,982,257)	(2,227,481)	(2,016,063)

Other Financing Uses	2015-2016 <u>(ACTUAL)</u>	2016-2017 <u>(ESTIMATED)</u>	2017-2018 <u>PROPOSED</u>
Operating Transfers Out			
General Fund	12,301,579	12,852,426	15,285,131
Special Revenue Funds:			
Solid Waste Management	10,000	10,000	10,000
State Street Aid	347,200	411,200	426,353
General Purpose School	557,919	559,119	554,919
Schools Federal Project	0	0	0
Debt Service			
	0	0	0
Capital Projects Funds:			
Capital Improvements Program	85,636	0	471,763
Spring Branch Industrial Park Fund	126,821	147,000	180,027
Enterprise Funds:			
Stormwater Management	17,733	1,400	0
Cleveland Utilities Electric Division	1,971,655	1,912,477	2,065,242
Cleveland Utilities Water/Wastewater Division	418,588	431,146	444,080
Nonexpendable Trust Funds:			
Meiler Estate Trust Fund	0	0	0
Total Operating Transfers Out	15,837,131	16,324,768	19,437,515
Total Other Financing Uses	17,819,388	18,552,249	21,453,578
Total Expenditures and Other Financing Uses	256,746,546	267,679,788	262,535,588

Details of these appropriated expenditures are shown in the City of Cleveland's budget document by fund.

Increase (Use) of Fund Balance or Net Assets	2015-2016 <u>(ACTUAL)</u>	2016-2017 <u>(ESTIMATED)</u>	2017-2018 <u>PROPOSED</u>
General Fund	1,122,255	(398,314)	496,687
Special Revenue Funds:			
Solid Waste Management	84,996	(136,779)	35,900
State Street Aid	89,423	259	18,247
General Purpose School	1,017,339	(390,356)	0
Schools Food Service	156,143	0	0
Cleveland Public Library	10,305	(98,700)	0
Drug Enforcement	11,344	(34,297)	(8,500)
2015 Byrne Mem. Justice Asst. Grant	0	0	0
2016 Byrne Mem. Justice Asst. Grant	0	0	0

Increase (Use) of Fund Balance or Net Assets	2015-2016 <u>(ACTUAL)</u>	2016-2017 <u>(ESTIMATED)</u>	2017-2018 <u>PROPOSED</u>
Special Revenue Funds cont'd:			
Commun. Development Block Grant	(8,630)	12,624	2,000
E Ticketing	15,345	(18,700)	0
Recycling Grant	5,415	(10,068)	0
Schools Federal Project	0	0	0
Metro. Planning Organization (MPO)	7,673	13,800	0
Debt Service			
	598,326	14,357	800
Capital Projects Funds:			
Capital Improvements Program	843,739	(2,977,813)	40,616
Fletcher Park	0	(5,403)	0
Greenway Fund	2,165	(11,833)	0
Sales Tax Capital Projects Fund	(203,569)	(2,005,827)	53,968
Spring Branch Industrial Park Fund	(216,087)	(92,979)	(180,027)
Enterprise Funds:			
Stormwater Management	512,368	33,892	146,879
Cleveland Utilities Electric Division	1,581,390	2,495,529	2,405,057
Cleveland Utilities Water/Wastewater Division	4,112,073	3,161,522	2,744,796
Internal Service Fund:			
Fleet Management	(9,968)	(41,558)	0
Trust Funds:			
Meiler Estate Trust Fund	1,216	1,500	1,500
Health Insurance Trust Fund	183,582	63,206	100,070
Total Incr. (Use) of Fund Balance or Net Assets	9,916,843	(425,938)	5,857,993

SECTION 3: **STATEMENT OF BALANCE/DEFICIT** At end of the current fiscal year, the City of Cleveland estimates that it will use \$398,314 of its \$10,847,062 General Fund fund balance and none of the \$4,360,3104 Debt Service fund balance.

SECTION 4: **CAPITAL IMPROVEMENT PROGRAM.** During the coming fiscal year the City of Cleveland has planned for capital projects and proposed capital projects for future implementation and has included a statement listing these capital projects and the sources of financing these projects.

SECTION 5: All ordinances or parts of ordinances in conflict with any provision of this ordinance are hereby repealed.

First Reading: May 8, 2017
Final Reading: May 22, 2017

APPROVED AS TO FORM:

City Attorney

Mayor

City Clerk

Mayor Rowland asked if the Deputy Chief position for the Fire Department was including in the FY2018 Budget. Mr. Fivas replied it was not submitted to us from the department head but if you will recall at the end of the budget planning session we are not opposed to the suggestion, which is what I commented to the people who came in and spoke with me. We need to look at the holistic standpoint, from an organizational standpoint for succession planning overall. Once you add the twelve new firefighters beginning next year that position would certainly be warranted and would be a better fit. That is my recommendation, to just wait until we do a succession planning and bring that back to the Council, when completed in January. We are not opposed to it. We feel when you add another station that it will be warranted but there is a process we should go through. Mayor Rowland stated for clarification the position is established but not funded. Mr. Fivas stated correct. Councilman Hughes stated we've not had the position for five years. Councilman May stated he didn't think that was something they were involved in. Chief Harrison stated when Chief Haun was promoted to Chief, he was promoted from the Deputy Chief position. Ms. Casteel chose not to fill that position. He continued that they are the only department that they benchmark with that doesn't have a Deputy Chief. Councilman May stated he was concerning about the ISO rating. Chief Harrison stated what they run into is they don't have administration to tackle all the issues, like building a fire station or buying fire trucks. We call the position a Deputy Chief and it is a pay grade 30. The Police Department has two pay grade 30 positions filled. Councilman May stated the ISO certainly looks at the staffing and how your management is set up. Chief Harrison stated yes they look at the entire department. Mayor Rowland asked if this was the only department with a vacant staff position that high up. Mr. Fivas stated he hasn't looked through all the positions that have ever been created but he wasn't aware of any. Councilman McKenzie asked Chief Harrison if he had any extra money. Councilman May stated that was to be a temporary agreement. Mayor Rowland stated he thought it was for one budget year. Councilman Banks asked Chief Harrison if there was anything in the budget to forgo to fund the position. Chief Harrison stated no, they have cut their operation budget close to 8% and really have no money. Councilman May stated we have asked all departments to cut their budget and that's probably the reason. The thinking behind Ms. Casteel's move, trying to save money. We asked them to cut 10%, fuel and utilities, that is when all this happened. It's never got back to be funded. He feels it does need to be funded. Mayor Rowland stated Mr. McKay has a sharp pencil. Mr. McKay stated no, not unless we generate more revenue. Councilman Cassada stated we need to take the recommendation of the City Manager into consideration. Councilman May stated he feels he is asking us to make the request. Mr. Townsend stated when the request was made they presented an option, a mechanism to fund the position. There is a lot of enthusiasm for downtown redevelopment and it could be really good. He then asked Mr. Fivas how much he requested in the initial budget presentation for downtown for the first year. Mr. McKay responded the first year money is what is paying for your firefighters in the second year. That is a one-year request. Mr. Townsend stated that is specifically for downtown, was it 6 cents, right? Mr. Fivas replied you know what the number is. Mr. Townsend stated yes I do and I also know it's \$600,000. We also know the number might be \$679,000 and when you factor in the property tax reassessment, which there will be a decrease in the effective tax rate, which means every penny will generate more tax dollars, according to Stanley Thompson. It could be between 11-12%. That means every penny would generate \$128,000. Mr. McKay stated you can't say that. Mr. Townsend replied can you say \$113,000. Councilman Banks asked what does this have to do with the Deputy Chief position. Mr. Townsend stated downtown revitalization is great but the City Manager wants \$600,000 then give it to him but there is an additional \$80,000 within that 6 cents. Councilman Banks responded he doesn't care if Mr. Townsend comes and asks for a Deputy Chief but when he starts talking about their job that maybe stepping over the line. Mr. Townsend replied I am not speaking as a city employee I am speaking as a city property owner. Respectfully, you were kind enough to meet with us and in that meeting Mr. McKay indicated the range for one penny. Mr. McKay stated correct, \$100,000. Mr. Townsend said you gave a range of \$90,000-\$106,000. Mr. McKay stated we always use \$100,000 per penny. The last property tax increase did not generate \$100,000 per penny, it generated less. So to say a penny increase will generate \$128,000 per penny is not correct. Mr. Townsend stated we want to support downtown revitalization but within that there should be a sensible position in regards to Public Works, Police and Fire. Mr.

Fivas asked if he understood we were hiring twelve police officers, twelve firefighters, fire training center, \$400,000 in apparatus for the Fire Department and \$265,000 in police cars, so please, I think the conversation should be focused more back on the Council's prerogative on whether they want to fund a Deputy Chief. We can certainly work with the Council on finding the funding if that's the direction they like to go. Mayor Rowland asked if one of the positions could be the Deputy Chief position. Mr. Fivas stated you could, but that would use one of the front line positions but that would certainly be up to Chief Harrison. He continued, his suggestion as previously stated he is not opposed and we need to do this but there should be a process. The Police Department might want to have an Assistant Chief and there are other department needs so we need to look at it from a holistic standpoint, do analysis and figure out what fits best for us. We can bring back a recommendation to Council, which will likely contain the Assistant Fire Chief. I don't think anyone is opposed to anything being suggested. It was not proposed in the budget and is a legitimate thing to talk about. As management, we need to do our due diligence and propose the information to the City Council and make decisions to move forward. At that time, we can work on the funding and if we need to add funding at this time it would be another penny. We appreciate the comments and suggestions but we need to focus on the assistant position that we've said we're not opposed we just need to go through a process. Mr. Townsend stated Public Works, Police and Fire have significant staffing needs and just ask for consideration for everybody involved. Mr. Fivas replied we have given consideration. Mr. Townsend continued with priority over downtown revitalization. Mr. Favis stated we are spending nearly \$4 million on public safety and thinks that is an unfair statement. Mayor Rowland stated the need is seen for the position and see if we can put it in the budget or wait until the new staffing comes around. Councilman Banks stated we can always amend the budget. Mr. Fivas stated yes. We believe there needs to be a process and once we establish it, we can amend the budget. We are not in opposition. Councilman Cassada stated he feels we should follow Mr. Fivas' recommendation of a process. He sees it as a need and we can amend the budget. Mr. Townsend thanked the Council and their support of the Fire Department.

Councilman Banks moved that Ordinance No: 2017-18 be accepted on first reading. The motion was seconded by Councilman Cassada. Councilman Estes thanked Mr. Fivas, Mr. McKay and Ms. Carroll for the good budget process. The last couple of months gently walking him through it have been great and he appreciates it. Upon roll call the motion unanimously passed.

Mayor Rowland stated the public hearing for the FY2018 Budget will be held on May 22. Also, we will be discussing the property at 37th Street/Tasso Road.

There being no future business the meeting was adjourned at 3:56 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MAY 22, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Bryant, Support Services Manager, Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Dan Hartman, Assistant Director of Parks and Recreation; Jeff Davis, Personnel Director, Kris Miller, IT Director; Brian Moran, Social Media Coordinator; Kim Spence, Safety and Wellness Manager; Bethany McCoy with Lee University; City Reporter Randall Higgins; Jonathan Carroll; Marshall Stinnett, Walt Vineyard and Tad Bacon with Cleveland Utilities; Teresa Torbett, CDBG Coordinator; Doug Berry and Gary Farlow with the Chamber of Commerce; School Board Member Dawn Robinson; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on May 8, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the FY2018 Budget. Mayor Rowland asked if anyone would like to speak in favor of the approval of the budget. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the approval of the budget. No one spoke.

Mayor Rowland then read the following Proclamation for Public Works Week.

“NATIONAL PUBLIC WORKS WEEK”

Whereas, public works services provided in our community are an integral part of our citizens' everyday lives; and

Whereas, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings, and solid waste collection; and

Whereas, the health, safety and comfort of this community greatly depends on these facilities and services; and

Whereas, the quality and effectiveness of these facilities, as well as their planning, design, and construction, are vitally dependent upon the efforts and skill of public works officials; and

Whereas, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people's attitude and understanding of the importance of the work they perform,

NOW THEREFORE, I, Tom Rowland, Mayor of the City of Cleveland, Tennessee do hereby proclaim the week of May 21-27, 2017 as National Public Works Week” in the City of Cleveland and call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort, and quality of life.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Final Passage - Ordinance No: 2017-16** - Amending section 3.1.B of the Zoning Regulations to create provisions which allow for review and approval for greater densities of development on properties which are allowed to be developed to the R3 Multi-Family Residential Zoning District standards (Planning Commission: Approved; 9-0).
- **Final Passage - Ordinance No: 2017-18** – Adopting the FY2018 Budget.
- **Resolution No: 2017-24** – Authorizing the Mayor to sign the FY2018 TDOT Highway Maintenance contract.

RESOLUTION NO: 2017-24

WHEREAS, the State of Tennessee Department of Transportation has submitted the attached contract for maintenance of State Highways through the City of Cleveland, Tennessee, to the City Council of the City of Cleveland for the purpose of providing for approval of said Contract; and

WHEREAS, the City Council of the City of Cleveland desires to approve said Contract.

NOW, THEREFORE, BE IT RESOLVED that the Mayor be, and hereby is, authorized to sign the Contract on behalf of the City of Cleveland. [On file in the City Clerk’s Office.]

Adopted this 22nd day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-25** – Authorizing the Mayor to sign a letter of engagement and a contract with Arnett, Kirksey, Kimsey, Sullivan, Lay & Hall to audit accounts of the City of Cleveland for the period July 1, 2016 through June 30, 2017.

RESOLUTION NO: 2017-25

A RESOLUTION AUTHORIZING AN ENGAGEMENT LETTER AND A CONTRACT WITH ARNETT, KIRKSEY, KIMSEY, SULLIVAN, LAY & HALL, PLLC TO AUDIT THE ACCOUNTS OF THE CITY OF CLEVELAND, TENNESSEE

WHEREAS, the City of Cleveland has received a proposal from the Certified Public Accounting firm of Arnett, Kirksey, Kimsey, Sullivan, Lay & Hall, PLLC, to audit the accounts for the period from July 1, 2016, through June 30, 2017, with a fee of \$49,000.00; and

WHEREAS, the City Council desires to enter into an engagement letter and a contract with Arnett, Kirksey, Kimsey, Sullivan, Lay & Hall, PLLC, and to further authorize the Mayor to execute the required engagement letter and the attached contract on behalf of the City of Cleveland. [On file in the City Clerk’s Office.]

BE IT THEREFORE RESOLVED by the City Council of the City of Cleveland, Tennessee that the Mayor be, and hereby is, authorized to sign the engagement letter and contract and all other necessary forms for said audit on behalf of the City of Cleveland for the above referenced contract.

Adopted this 22nd day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-26** – Approving the FY2018 Appropriations.

RESOLUTION NO: 2017-26

**CITY OF CLEVELAND
APPROPRIATION RESOLUTION**

WHEREAS, the City of Cleveland recognizes that its citizens have various needs which must be addressed; and

WHEREAS, the municipal government has neither the expertise or manpower to assist its citizens with all their special needs; and

WHEREAS, several not-for-profit organizations have been established over the years to help the citizens with their special needs; and

WHEREAS, the enclosed organizations have demonstrated, through their financial statements and by reputation, to be of service in enhancing the quality of life in this area;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee that these contributions be made for FY 2017-2018:

Adopted this 22nd day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

FUND 110-GENERAL FUND		DEPT-51500- APPROPRIATIONS				
OBJECT CODE		2014-2015 ACTUAL BUDGET	2015-2016 ORIGINAL BUDGET	2015-2016 AMENDED BUDGET	2016-2017 REQUESTED BUDGET	2016-2017 PROPOSED BUDGET
Operating expenditures:						
General government:						
700	JOINTLY FUNDED	0	9,321	4,321	9,300	9,300
701	CLEVE/BRAD REG MUSEUM	42,300	42,300	42,300	42,300	42,300
702	MTAS - BENCHMARKING	3,500	4,000	4,000	4,000	4,000
703	MUNICIPAL LEAGUE DUES	9,102	9,200	9,200	9,200	9,200
704	CHAMBER-ECONOMIC DEV	45,000	45,000	45,000	45,000	45,000
705	SE TN DISTRICT DUES	8,257	8,000	8,000	8,000	8,000
706	MAINSTREET CLEVELAND	25,000	25,000	25,000	25,000	25,000
707	CEMETERY ASSOCIATION (50%)	10,000	10,000	10,000	10,000	10,000
708	COURTS COMMUNITY SVC (50%)	48,365	59,400	59,400	59,400	59,400
709	KEEP AMERICA BEAUTIFUL(50%)	28,200	28,200	28,200	28,200	28,200
710	JUVENILE COURT MATCH	1,100	1,100	1,100	1,100	1,100
711	UNITED WAY SUPPORTERS	1,100	1,000	1,000	1,000	1,000
712	SETHRA-TRANSIT	135,000	135,000	140,000	135,000	135,000
719	HVAC @ MUSEUM	10,000	12,000	12,000	12,000	12,000
	Total General government	366,924	389,521	389,521	389,500	389,500
Public safety:						
713	CLEVE/BRAD COMM CTR (49.5%)	450,000	450,000	450,000	550,000	550,000
714	EMERGENCY MGMT (20%)	82,024	87,300	87,300	87,300	87,300
715	MAINSTREET PROJECTS	6,107	4,000	4,000	4,000	4,000
716	SETDD LEGAL FEES	0	1,000	1,000	1,000	1,000
	Total Public Safety	538,131	542,300	542,300	642,300	642,300
Health & welfare:						
717	VETERANS AFFAIRS (20%)	23,693	22,600	22,600	22,600	22,600
718	BEHAVIORAL RESEARCH	2,000	2,000	2,000	2,000	2,000
720	LIFE BRIDGES (20%)	6,200	6,200	6,200	6,200	6,200
721	COMMUNITY SVCS AGCY (50%)	94,376	94,400	94,400	94,400	94,400
	Total Health & welfare	126,269	125,200	125,200	125,200	125,200
Parks & recreation:						
726	AQUA TIGER EQUIPMENT	2,000	2,000	2,000	2,000	2,000
727	BOYS AND GIRLS CLUB	13,923	14,000	14,000	14,000	14,000
728	BRADLEY/CLEV FOOTBALL	3,500	3,500	3,500	3,500	3,500
729	YOUTH BASEBALL	5,000	0	0	0	0
730	CLEVELAND YOUTH SOFTBALL	4,000	4,000	4,000	4,000	4,000
731	SOCCER ASSOCIATION	5,000	5,000	5,000	5,000	5,000
733	LAND PAYMENT-SOCCER	5,000	5,000	5,000	5,000	5,000
	Total Parks & recreation	38,423	33,500	33,500	33,500	33,500
Education:						
735	VOCATIONAL SCHOOL (20%)	22,236	22,236	22,236	22,236	22,236
	Total Education	22,236	22,236	22,236	22,236	22,236
	TOTAL DEPARTMENT 51500	1,091,983	1,112,757	1,112,757	1,212,736	1,212,736

- **Resolution No: 2017-27** – Directing the payment by the Cleveland Utilities Board to the City of Cleveland Tax Equivalent Payment for the Cleveland Utilities Board’s Electric System.

RESOLUTION NO: 2017-27

A RESOLUTION DIRECTING THE PAYMENT BY THE CLEVELAND UTILITIES BOARD TO THE CITY OF CLEVELAND TAX EQUIVALENT PAYMENTS FOR THE CLEVELAND UTILITIES BOARD’S ELECTRIC SYSTEM

WHEREAS, section 7-52-304 of the Tennessee Code annotated empowers a municipality’s governing body, after consultation with the supervisory body of an electric system, to determine the amounts of tax equivalents to be paid to the taxing jurisdiction (municipality) in the service area of the electric system; and

WHEREAS, the City Council of the City of Cleveland, through its City Manager and Finance Director, has held such consultation with the supervisory body of the electric system of the City of Cleveland; and

WHEREAS, the necessary calculations of tax equivalents payable have been made in accordance with the provisions of Tennessee Code annotated Section 7-52-304;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND;

Section 1. The Cleveland Utilities Board electric system is hereby directed to pay to the City of Cleveland \$2,065,242 in tax equivalents for FY2018.

Section 2. This resolution shall become effective July 1, 2017 the public welfare requiring it.

Adopted this 22nd day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-28** - Directing the payment by the Cleveland Utilities Board to the City of Cleveland Tax Equivalent Payment for the Cleveland Utilities Board's Water System.

RESOLUTION NO: 2017-28

A RESOLUTION DIRECTING THE PAYMENT BY THE CLEVELAND UTILITIES BOARD TO THE CITY OF CLEVELAND TAX EQUIVALENT PAYMENTS FOR THE CLEVELAND UTILITIES BOARD'S WATER SYSTEM.

WHEREAS, section 7-34-115 of the Tennessee Code annotated empowers a municipality's governing body, after consultation with the supervisory body of a water system, to determine the amounts of tax equivalents to be paid to the taxing jurisdiction (municipality) in the service area of the water system; and

WHEREAS, the City Council of the City of Cleveland, through its City Manager and Finance Director, has held such consultation with the supervisory body of the water system of the City of Cleveland; and

WHEREAS, the necessary calculations of tax equivalents payable have been made in accordance with the provisions of Tennessee Code annotated Section 7-34-115;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND;

Section 1. The Cleveland Utilities Board water and wastewater system is hereby directed to pay to the City of Cleveland \$231,900 in tax equivalents for FY2018.

Section 2. This resolution shall become effective July 1, 2017 the public welfare requiring it.

Adopted this 22nd day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-29** – Directing the payment by the Cleveland Utilities Board to the City of Cleveland Tax Equivalent Payment for the Cleveland Utilities Board’s Wastewater System.

RESOLUTION NO: 2017-29

A RESOLUTION DIRECTING THE PAYMENT BY THE CLEVELAND UTILITIES BOARD TO THE CITY OF CLEVELAND TAX EQUIVALENT PAYMENTS FOR THE CLEVELAND UTILITIES BOARD’S WASTEWATER SYSTEM.

WHEREAS, section 7-34-115 of the Tennessee Code annotated empowers a municipality’s governing body, after consultation with the supervisory body of a wastewater system, to determine the amounts of tax equivalents to be paid to the taxing jurisdiction (municipality) in the service area of the water system; and

WHEREAS, the City Council of the City of Cleveland, through its City Manager and Finance Director, has held such consultation with the supervisory body of the wastewater system of the City of Cleveland; and

WHEREAS, the necessary calculations of tax equivalents payable have been made in accordance with the provisions of Tennessee Code annotated Section 7-34-115;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND;

Section 1. The Cleveland Utilities Board wastewater system is hereby directed to pay to the City of Cleveland \$212,180 in tax equivalents for FY2018.

Section 2. This resolution shall become effective July 1, 2017 the public welfare requiring it.

Adopted this 22nd day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-30** – Regarding the Cleveland City Schools Federal Project Fund.

RESOLUTION NO: 2017-30

A RESOLUTION REGARDING THE CLEVELAND CITY SCHOOLS FEDERAL PROJECT FUND

THAT WHEREAS, the Cleveland City Schools receive monies from the federal government to assist with the educational programs of the local school system; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee in regular session assembled this 22nd day of May, 2017, as follows:

Section 1. That the Cleveland City Schools General Fund is hereby approved, and the budget for the Cleveland City Schools Federal Project Fund shall be the budget for the separate projects approved within the fund by the Tennessee Department of Education and for the *No Child Left Behind* projects as approved by the Cleveland Board of Education.

Section 2. That a certified copy of this Resolution shall be furnished to the Director of Schools to forward to the Tennessee Department of Education as proof of compliance with its regulations regarding federal project funds.

Section 3. That this Resolution shall be and remain in full force and effect from and after its date of adoption.

Passed and adopted this 22nd day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-34** – Adopting the City’s Public Records Policy.

RESOLUTION NO: 2017-34

A RESOLUTION AUTHORIZING A PUBLIC RECORDS POLICY FOR THE CITY OF CLEVELAND

WHEREAS, the Tennessee Comptroller of the Treasury has issued provisions regarding the establishment of a public records; and

WHEREAS, the policy must be approved by July 1, 2017 by the City Council; and

WHEREAS, the attached policy has been prepared to meet the needs of the City and to meet the standards issued by the Office of Open Records Counsel; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cleveland, Tennessee does hereby adopt the attached public records policy and will review it on an annual basis for any necessary changes or modifications.

Approved 22nd day of May, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-35** – Authorizing the Mayor to sign a subscription agreement with Siteimprove, Inc., to assist staff with the City’s website.

RESOLUTION NO. 2017-35

WHEREAS, the City has received the attached subscription agreement from Siteimprove, Inc. and

WHEREAS, the City desires to enter into this agreement because the software program will assist city staff in managing the City’s website to help locate broken links, ADA accessibility, readability and other issues; and

WHEREAS, the City Council has reviewed the subscription agreement and now desires to accept the agreement and to enter into the attached agreement with Siteimprove, Inc., and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby accept and approve of the attached agreement with Siteimprove, Inc., and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 22nd day of May, 2017

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Motion** – Designating Depositories for the City of Cleveland (Mayor Rowland and Councilman McKenzie announced they were stock holders at Bank of Cleveland).

ANDREW JOHNSON BANK
 ATHENS FEDERAL COMMUNITY BANK
 BANK OF CLEVELAND
 BB&T BANK
 BOWATER CREDIT UNION
 FIRST TENNESSEE BANK
 SMART BANK (FSG BANK)
 PINNACLE BANK
 REGIONS BANK
 SOUTHEAST BANK AND TRUST
 SOUTHERN HERITAGE BANK
 SUNTRUST BANK
 TENNESSEE VALLEY FEDERAL CREDIT UNION
 UNITED COMMUNITY BANK

- **Bid Report** – Greenway Stage - Sound and Lighting Equipment

BID SUMMARY
SOUND & LIGHTING EQUIPMENT
FOR THE CITY OF CLEVELAND
April 19, 2017

- | | |
|--------------------------------------|---------------|
| 1. Bradley Services
Cleveland, TN | <u>No Bid</u> |
| 2. SB Electric
Cleveland, TN | <u>No Bid</u> |

- 3. Stage AVL
Cleveland, TN \$42,881.00

Recommendation is to accept the bid from Stage AVL of Cleveland, TN with a bid of \$42,881.00. This project is funded 70/30 by a Tourism Enhancement Grant. The Grant is for \$65,000 with the State funding \$45,500 and the City funding \$19,500.00. This will provide sound equipment and lighting as well as a storage area located on the Stage at Greenway Park.

Committee Recommendation: Stage AVL
 Assistant City Manager's Approval: Melinda B. Carroll
 Department Head's Approval: Patti Petitt

Councilman Banks moved to approve the Consent Agenda. The motion was seconded by Vice Mayor Johnson; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Hughes congratulated Walt Vineyard on his promotion with Cleveland Utilities to Executive Vice President, IT and Customer Connection.

Councilman Banks stated Mayor Rowland was recognized last week at the unveiling of the Tom Rowland Interchange. As suggested before, we should have a convention center in the old Whirlpool site and name it the Tom Rowland Convention Center for his service to the City of Cleveland.

Councilman McKenzie asked if they poured walls for the new fire hall would that money. Mayor Rowland stated once the bid is approved staff will negotiate with the contractor and see if that's something that could be done. Councilman McKenzie continued that we have buildings and houses in town that are abandoned and falling down. He is told no one can go into check them because the doors are locked. He suggested something be done to change the Code to help with the situation.

NEW BUSINESS AND ORDINANCES

The following bid summary was presented for Fire Hall #6.

BID SUMMARY
FIRE HALL #6
2190 WESTLAND DRIVE, S.W.
CLEVELAND FIRE DEPARTMENT
MAY 2, 2017

- 1. Hickory Construction
Alcoa, TN \$2,145,000.00
- 2. K & F Construction
Knoxville, TN \$2,165,000.00
- 3. Cherokee Construction
Cleveland, TN \$2,307,951.00

- 4. Evans-Ailey Construction
Clinton, TN \$2,338,700.00
- 5. P & C Construction
Chattanooga, TN \$2,350,000.00
- 6. Frizzell Construction
Bristol, TN No Bid

Recommendation is to accept Hickory Construction of Alcoa, TN and to negotiate a lower bid.

Committee Recommendation: Hickory Construction
 Assistant City Manager's Approval: Melinda B. Carroll
 Department Head's Approval: Chief Ron Harrison

Councilman May moved to accept the bid summary as recommended. The motion was seconded by Councilman Cassada. Councilman Banks asked if this was subject to negotiations. Ms. Carroll stated yes. You have to award it to a construction company then staff will meet with them to come up with some ideas to possibly save money. We previously had a meeting with the architect and we're trying to find way to get it down as much as we can. Councilman Hughes stated we are, counting the \$150,000 extra, still at \$600,000 over budget. Ms. Carroll stated that's correct with the additional furniture at \$150,000 that would need to be added. We haven't come up with a price. I am just asking you to approve a company that we can negotiate with and they were the low bidder. Councilman Cassada asked if this was a different concept than fire hall 5. Ms. Carroll stated there are some things from fire hall 5 they have modified. Councilman Cassada asked if we could get a plans where it is all the same instead of paying an architect every time. Ms. Carroll stated modifications were made and also the State requires you to have an architect over any project that exceeds \$5,000. Councilman Cassada asked would the architect sign off on existing plans. Ms. Carroll replied if you do not make changes. Mr. Fivas stated part of the process is we need to award it before we can negotiate. We will bring information to the Council since we are not accepting the price at this time. Vice Mayor Johnson asked if all fire halls should have the same blue print or depending on the area be different. Ms. Carroll stated there is some difference in the size. The State has mandated certain things, like turnout gear location and the washing machines are some of the differences between the two stations. Chief Harrison stated we wanted to allow for growth so we added four bedrooms for another crew. Councilman Cassada asked if this new blueprint could be used for #7. Chief Harrison stated he hoped so. Upon roll call the motion was unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-19

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE TO
AMEND THE 2016-2017 BUDGET FOR THE CITY OF CLEVELAND, TENNESSEE.

BE IT ORDAINED by the City Council of the City of Cleveland that the City of Cleveland, Tennessee budget for fiscal year 2016-2017 be amended according to the attached amendment.

BE IT FURTHER ORDAINED by the City Council of the City of Cleveland, Tennessee that all ordinances in conflict with the provisions of this ordinance are hereby repealed. This Ordinance shall take effect from and after its final passage, the public welfare of the City of Cleveland requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

City of Cleveland, Tennessee FY2017 Budget Amendment - May 2017			
	May 2017 Amendment	Increase (Decrease) from January 2017	Explanation
GENERAL FUND			
Tax Revenues:	34,032,936	337,500	Increase in Prop and Local Sales Tax
Licenses & permits:	369,859	81,350	Wino Inspection Fee
Intergovernmental:	5,817,033	35,333	Increase in Sales and Excise tax
Charges for services:	762,150	96,793	Contracted Services
Fines & forfeits:	963,900	(85,000)	Decrease in Traffic Fines
Interest Income:	23,000	12,000	
Miscellaneous:	477,932	338,725	TML Reimbursements
Public Enterprise Revenue:	254,833	31,000	Additional Grant
Subtotal:	42,561,634	847,701	
Other Funding Sources:	2,343,623	0	
Total revenues	44,905,257	847,701	
Legis. & Judicial			
	566,598	5,000	Donation - Mt. Olive
A&F			
	2,348,490	49,251	Vehicle Damage TML, Legal
Development & Engineering			
	1,501,885	11,115	Vehicle Damage TML
Police			
	9,864,242	196,448	Vehicle Damage TML, Radios
Fire			
	8,855,682	22,716	Vehicle Damage TML
PW Operations			
	2,355,296	17,236	Vehicle Damage TML
Street Lightings & Signals			
	1,456,338	0	
Stormwater			
	0	0	
Cleveland Regional Jeopard			
	254,420	1,600	Equipment
Animal Control			
	559,216	32,620	Increase Vet Exp, Vehicle
Safety Program			
	161,822	5,000	Property Conservation - Grant
Parks & Recr.			
	1,084,490	88,331	Light/Sound Greenway Stage
Landscaping			
	356,079	11,000	Memorial Trees
College Hill Rec Center			
	450,669	0	
Cleveland Comm Center			
	359,633	0	
Tinsley Park			
	437,933	96,433	Tinsley Playground TML
P&R - Leases			
	38,000	0	
Appropriations			
	1,212,736	0	
Subtotal:	32,459,529	536,650	
Transfers	12,853,126	490,826	Transfer to CIP - Elem. School
Total expenditures	45,392,655	1,027,476	
Increase (Use) of fund balance	(397,398)	179,775	

City of Cleveland, Tennessee FY2017 Budget Amendment - May 2017			
	May 2017 Amendment	Increase (Decrease) from January 2017	Explanation
SPECIAL REVENUE FUNDS:			
Solid Waste Mgmt. Fund			
Revenues	2,466,800	0	
Transfers from Other Funds	1,074,100	0	
Total Rev. & Transfers In	3,540,900	0	
Expenditures	3,677,579	142,583	Leaf Machines
Increase (Use) of Fund Balance:	(136,779)	(142,583)	
State Street Aid Fund			
Revenues	1,143,500	1,500	Interest
Transfers from Other Funds	0	0	
Total Rev. & Transfers In	1,143,500	1,500	
Expenditures	730,541	0	
Transfers Out	411,200	0	
Total Expenditures & Transfers:	1,141,741	0	
Increase (Use) of Fund Balance:	1,759	1,500	
Cleveland Public Library Fund			
Revenues	1,187,200	407,400	Increase Donations
Transfers from Other Funds	645,800	0	
Total Rev. & Transfers In	1,833,000	407,400	
Expenditures	1,931,700	506,100	Building Renovations, Landscaping and Equipment
Increase (Use) of Fund Balance:	(98,700)	(98,700)	
Drug Enforcement Trust Fund			
Revenues	36,510	25,610	Increase Revenues
Expenditures	46,572	2,175	
Increase (Use) of Fund Balance:	(9,962)	24,435	

City of Cleveland, Tennessee FY2017 Budget Amendment - May 2017			
	May 2017 Amendment	Increase (Decrease) from January 2017	Explanation
2016 Byrne Mem. Justice Asst. Grant			
Revenues	39,340	0	
Transfers from Other Funds	0	0	
Total Rev., Transfers & Other Fin.	39,340	0	
Expenditures	39,340	0	
Increase (Use) of Fund Balance:	0	0	
Community Dev. Block Grant			
Revenues	717,140	(105,472)	Decrease Allocation
Transfers from Other Funds	30,000	0	
Total Rev., Transfers & Other Fin.	747,140	(105,472)	
Expenditures	735,703	(104,285)	Decrease Allocation
Increase (Use) of Fund Balance:	11,437	(1,187)	
MPO Fund			
Revenues	203,000	3,000	Interest
Transfers from Other Funds	57,000	0	
Total Rev., Transfers & Other Fin.	260,000	3,000	
Expenditures	243,200	0	
Increase of Fund Balance:	16,800	3,000	
Recycling Grant			
Revenues	0	(10,000)	
Transfers from Other Funds	10,000	10,000	Solid Waste Transfer
Total Rev. & Transfers In	10,000	0	
Expenditures	10,000	0	
Increase (Use) of Fund Balance:	0	0	

City of Cleveland, Tennessee FY2017 Budget Amendment - May 2017			
	May 2017 Amendment	Increase (Decrease) from January 2017	Explanation
School Food Service Fund			
Revenues	3,574,416	45,693	FFVP Grant
Transfers from Other Funds	0	0	
Total Rev. & Transfers In	3,574,416	45,693	
Expenditures	3,574,416	45,693	USDA Entitlement
Transfer to Other Funds	0	0	
Total Expenditures & Transfers:	3,574,416	45,693	
Increase (Use) of Fund Balance:	0	0	
School General Fund			
Revenues	39,851,441	775,177	Increase in Local and State Revenues
Transfers from Other Funds	5,273,500	(13,000)	
Total Rev. & Transfers In	45,125,041	762,177	
Expenditures	45,559,906	1,767,961	Increase in Capital Outlay and Plant Operation
Transfer to Other Funds	598,119	1,200	
Total Expenditures & Transfers:	46,119,025	1,769,161	
Increase (use) of Fund Balance:	(993,984)	(1,005,984)	
E Ticketing Technology Fund			
Revenues	12,726	2,726	Increase in Revenue Est.
Transfers from Other Funds	0	0	
Total Rev. & Transfers In	12,726	2,726	
Expenditures	41,426	12,726	Ticketing Supplies
Transfer to Other Funds	0	0	
Total Expenditures & Transfers:	41,426	12,726	
Increase (use) of Fund Balance:	0	18,700	

City of Cleveland, Tennessee FY2017 Budget Amendment - May 2017			
	May 2017 Amendment	Increase (Decrease) from January 2017	Explanation
CAPITAL OUTLAY FUNDS:			
Capital Improv. Program Fund			
Revenues	9,957,713	9,454,876	Various Projects, Runway Ext., MPO, Etc.
Transfers & Other Fin.	9,325,689	1,324,333	Various Projects, Runway Ext., MPO, Elem. School
Total Rev., Transfers & Other Fin.	19,283,402	10,779,209	
Expenditures	22,260,753	2,856,068	Various Projects, Runway Ext., MPO, Etc.
Transfers to Other Funds	0	0	
Total Expenditures & Other Uses	22,260,753	2,856,068	
Increase (Use) of Fund Balance:	(2,977,351)	7,923,141	
Sales Tax Capital Projects Fund			
Revenues	3,787,600	(3,200)	Interest
Total Rev., Transfers & Other Fin.	3,787,600	(3,200)	
Expenditures	5,802,391	(94,230)	Transfer Project to CIP
Total Expenditures & Other Uses	5,802,391	(94,230)	
Increase (Use) of Fund Balance:	(2,014,791)	91,036	
Fletcher Park			
Revenues	0	0	
Transfers from Other Funds	0	0	
Total Rev. & Transfers In	0	0	
Expenditures	5,403	0	
Transfer to Other Funds	0	0	
Total Expenditures & Transfers:	5,403	0	
Increase (Use) of Fund Balance:	(5,403)	0	
Greenway Fund			
Revenues	12,400	8,500	Greenway Benches
Transfers from Other Funds	0	0	
Total Rev. & Transfers In	12,400	8,500	
Expenditures	20,383	8,500	Greenway Benches
Increase (Use) of Fund Balance:	(8,183)	0	

City of Cleveland, Tennessee FY2017 Budget Amendment - May 2017			
	May 2017 Amendment	Increase (Decrease) from January 2017	Explanation
Spring Branch Industrial Park			
Revenues	458,525	18,600	Interest
Total Rev., Transfers & Other Fin.	458,525	18,600	
Expenditures	551,504	0	
Total Expenditures & Other Uses	551,504	0	
Increase (Use) of Fund Balance:	(92,979)	18,600	
Internal Service Funds:			
Fleet Management Fund			
Revenues	655,039	(60,653)	Revised Revenue Est.
Transfers from Other Funds	0	0	
Total Rev., Transfers & Other Fin.	655,039	(60,653)	
Expenditures	696,457	(22,951)	Decrease in Contracted Svcs
Increase (Use) of Fund Balance:	(41,418)	(37,702)	
Debt Service Fund:			
Revenues	894,909	28,050	Interest & Misc. Revenue
Transfers from Other Funds	5,400,400	0	
Total Rev., Transfers & Other Fin.	6,345,269	28,050	
Expenditures	6,324,712	7,600	Airport Authority Surplus - Addl Pmt.
Increase (Use) of Fund Balance:	20,357	20,450	
Insurance Trust Fund:			
Revenues	3,538,484	1,000	Interest
Transfers from Other Funds	0	0	
Total Rev., Transfers & Other Fin.	3,538,484	1,000	
Expenditures	3,537,066	61,788	Increase Claims
Increase (Use) of Fund Balance:	1,418	(60,788)	

City of Cleveland, Tennessee FY2017 Budget Amendment - May 2017			
	May 2017 Amendment	Increase (Decrease) from January 2017	Explanation
Enterprise Funds:			
Storm Water Management Fund			
Revenues	1,504,452	8,652	Interest & Misc Income
Transfers from Other Funds	0	0	
Total Rev., Transfers & Other Fin.	1,504,452	8,652	
Expenditures	1,570,560	(92,901)	Decrease Vehicle & Misc. Drainage Exp
Increase (Use) of Fund Balance:	33,692	101,553	
Fiduciary Funds:			
Meller Estate/Animal Shelter Trust Fund			
Revenues	1,500	1,500	Interest Income
Transfers from Other Funds	0	0	
Total Rev., Transfers & Other Fin.	1,500	1,500	
Expenditures	0	0	
Increase (Use) of Fund Balance:	1,500	1,500	

Councilman Banks moved that Ordinance No: 2017-19 be voted for passage on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution No: 2017-31** - Annual Review of the City’s Debt Management Policy.

RESOLUTION NO: 2017-31

A RESOLUTION AMENDING THE DEBT MANAGEMENT POLICY FOR THE CITY OF CLEVELAND

WHEREAS, the Tennessee Comptroller of the Treasury issued provisions regarding the establishment of a debt management policy; and

WHEREAS, the Comptroller’s provisions require that cities annually review its debt management policy; and

WHEREAS, the City of Cleveland adopted its Debt Management Policy on November 14, 2011.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager, Assistant City Manager/CFO, and the Mayor and City Council have reviewed the City of Cleveland Debt Management Policy and do not recommend any changes to the policy at this time. The City’s Debt Management Policy will be reviewed annually during the budget process, which process allows public input.

Approved the 22nd day of May, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Estes moved that Resolution No: 2017-31 be accepted as presented. The motion was seconded by Councilman Hughes. Councilman Estes then stated we should be at 50% variable and we are almost at two-thirds. We don’t follow our policy. We should solicit an advisor, we don’t. We should prefer fixed, we don’t. We have a debt policy that we do not follow. We are about to vote on more variable debt to take it even further. We need to get ahold of this and we need experts to inform us. There is too much money at stake to continue going

synthetically fixed with the Bond Fund for five years and paying fees now, paying them later when we refinance and we stay synthetically fixed. On June 28 something needs to happen. We don't need RFQ's or to put it off and drag it on. We need some experts to come in and tell us how to structure our debt and where we can save and refinance now. We quival over little bits of money but we give away hundreds of thousands of dollars in fees and interest every year. This is where the money is and where we can save. When he is asked what is the number one threat to the City of Cleveland, it is our debt structure. Two-thirds is variable and it is the greatest threat. Councilman Estes stated he, along with staff and Cleveland Utilities would to look at companies to evaluate and give us advice. Councilman Estes will have a small presentation and a recommendation to move forward with our debt and lay it out the best he can because it is too important. We need to follow our debt policy. Councilman Banks asked for comments from Mr. McKay. Mr. McKay replied the City has a very good bond rating and if we went to market we may be much more competitive on interest rates. He feels we could get 20-year fixed rates as good as a 5-year synthetic fixed rate. It is concerning we carry quite a bit of variable debt. Variable debt is locked for 5-years but can go up after that. Councilman Estes stated if it is truly fixed we can save and budget accurately. Upon roll call the motion was unanimously passed.

The following Resolution was then presented in full:

RESOLUTION NO: 2017-32

INITIAL RESOLUTION AUTHORIZING THE INCURRENCE OF TAXABLE INDEBTEDNESS BY THE CITY OF CLEVELAND, TENNESSEE, IN THE AMOUNT OF NOT TO EXCEED \$3,000,000, BY THE EXECUTION WITH THE PUBLIC BUILDING AUTHORITY OF THE CITY OF CLARKSVILLE, TENNESSEE, OF A LOAN AGREEMENT TO PROVIDE FUNDING FOR PUBLIC WORKS PROJECTS, AND TO FUND THE INCIDENTAL AND NECESSARY EXPENSES RELATED THERETO

WHEREAS, it is necessary and in the public interest of the City of Cleveland, Tennessee (the "Municipality"), to incur indebtedness (the "Indebtedness"), through the execution with The Public Building Authority of the City of Clarksville, Tennessee (the "Authority"), of a loan agreement (a "Loan Agreement"), for the purpose of financing certain public works projects, as hereinafter more fully described.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, as follows:

SECTION 1. For the purpose of financing all or a portion of the costs of certain public works projects, consisting of the City's share of the costs of infrastructure at the Spring Branch Industrial Park, the acquisition of all other property real and personal, appurtenant thereto or connected with such work, and to pay legal, fiscal, administrative, and engineering costs, and to pay costs incident to incurring the Indebtedness (collectively, the "Project"), the Municipality is hereby authorized to incur Indebtedness in the amount of not to exceed Three Million Dollars (\$3,000,000), for the financing of the Project through the execution of a Loan Agreement with the Authority. The rate of interest payable pursuant to the provisions of a Loan Agreement shall be a fixed rate which rate shall not exceed the maximum rate of interest permitted under the laws of the State of Tennessee.

SECTION 2. The indebtedness evidenced by the Loan Agreement shall be payable from funds of the Municipality legally available therefor and to the extent necessary from ad valorem taxes to be levied for such purpose on all taxable property within the corporate limits of the Municipality, without limitation as to time, rate, and amount and for the punctual payment of said principal of, premium, if any, and interest on, the Loan Agreement, the full faith and credit of the Municipality will be irrevocably pledged.

SECTION 3. The Loan Agreement shall be executed pursuant to the provisions of Title 9, Chapter 21, Tennessee Code Annotated, as amended (the "Act"), and Title 12, Chapter 10, Tennessee Code Annotated, as amended.

SECTION 4. After the adoption of this Resolution, the City Clerk is directed to cause this Resolution, with the notice prescribed by the Act, to be published in full once in a newspaper published and having general circulation in the Municipality.

SECTION 5. This Resolution shall take effect from and after its adoption, the welfare of the Municipality requiring it.

Approved and adopted this 22nd day of May, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

NOTICE

The foregoing Resolution has been adopted. Unless within twenty (20) days from the date of publication hereof a petition, signed by at least ten percent (10%) of the registered voters of the City of Cleveland, Tennessee, shall have been filed with the City Clerk of the City of Cleveland, Tennessee, protesting the incurrence of the Indebtedness by the execution of the Loan Agreement, such Loan Agreement will be executed, as proposed.

STATE OF TENNESSEE)
COUNTY OF BRADLEY)

I, Shawn McKay, hereby certify that I am the duly qualified and acting City Clerk of the City of Cleveland, Tennessee (the "Municipality"), and, as such official, I further certify as follows: (1) that attached hereto is a copy of a resolution excerpted from the minutes of the meeting of the City Council (the "Council"), of said Municipality held on May 22, 2017; (2) that I have compared said copy with the original minute record of said meeting in my official custody; (3) that said copy is a true, correct, and complete transcript from said original record insofar as said original record relates, to, among other matters, the incurring of taxable indebtedness in the amount of not to exceed \$3,000,000, by said Municipality; (4) that the actions by said Council including the aforementioned, at said meeting were promptly and duly recorded by me in a book kept for such purpose; and, (5) that a quorum of the members of said Council was present and acting throughout said meeting.

WITNESS my official signature and the seal of said Municipality this 22nd day of May, 2017.

City Clerk

(SEAL)

Councilman May moved that Resolution No: 2017-32 be accepted as presented. The motion was seconded by Councilman Hughes. Councilman Estes asked if this was fixed. Mr. McKay stated it is a 5-year rate lock with a twenty-year amortization. The banks that provided rates to the Bond Fund would not provide a fixed rate. Councilman Estes stated he will vote for the Resolution but is against it because it is adding to our variable debt. Mr. McKay stated this will not change the percentage since it is replacing debt issued last year. Councilman Estes replied he is aware but this is another example. Upon roll call, Councilmen May, Hughes, McKenzie, Estes, Cassada, and Vice Mayor Johnson voted aye. Councilman Banks passed on the motion due to his brother in-law owing property for this project, but it is a worthwhile project.

The following Resolution was then presented in full:

RESOLUTION NO: 2017-33

RESOLUTION AUTHORIZING A LOAN PURSUANT TO A LOAN AGREEMENT BETWEEN THE CITY OF CLEVELAND, TENNESSEE, AND THE PUBLIC BUILDING AUTHORITY OF THE CITY OF CLARKSVILLE, TENNESSEE, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$3,000,000; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH LOAN AGREEMENT AND OTHER DOCUMENTS RELATING TO SAID LOAN; APPROVING THE ISSUANCE OF A TAXABLE BOND BY SUCH PUBLIC BUILDING AUTHORITY; PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF SAID LOAN AND THE PAYMENT OF SUCH INDEBTEDNESS; CONSENTING TO THE ASSIGNMENT OF THE CITY'S OBLIGATION UNDER SUCH LOAN AGREEMENT; AND, CERTAIN OTHER MATTERS

WHEREAS, the City Council (the "Council"), of the City of Cleveland, Tennessee (the "Municipality" or the "City"), has determined that it is necessary to finance the costs of certain "public works projects", as defined in Title 9, Chapter 21, Tennessee Code Annotated, as from time to time amended and supplemented, consisting of financing the City's share of the costs of infrastructure at the Spring Branch Industrial Park, the acquisition of all other property real and personal, appurtenant thereto or connected with such work, and to pay legal, fiscal, administrative, and engineering costs, and to pay costs incident to the issuance of the Bond and the loan of the proceeds thereof to the City (collectively, the "Project"), by obtaining a loan from The Public Building Authority of the City of Clarksville, Tennessee (the "Authority");

WHEREAS, it has been determined by the Council of the City to be in the best interests of the City to finance the Project through The Tennessee Municipal Bond Fund fixed rate loan program;

WHEREAS, the City is authorized by Title 9, Chapter 21, Tennessee Code Annotated, as amended, to borrow funds and incur indebtedness for the purpose of financing the Project, subject to the compliance by the Municipality of the provisions of Title 13, Chapter 16, Part 2, Tennessee Code Annotated, as amended, with respect to obtaining a Certificate of Public Purpose and Necessity;

WHEREAS, the Authority has been established pursuant to the provisions of Title 12, Chapter 10, Tennessee Code Annotated, as amended (the "Act"), and is authorized pursuant to the provisions of the Act to issue its bonds from time to time, in one more series, and to loan the proceeds thereof to the Municipality for the above described purposes;

WHEREAS, in order to effectuate the program, the Issuer has authorized and approved by its Resolution, adopted May 13, 2015, the issuance of its Local Government Loan Program Bonds, in an aggregate principal amount not to exceed \$300,000,000;

WHEREAS, the Authority will issue its Taxable Local Government Loan Program Bond, Series 2017 (City of Cleveland Spring Branch Industrial Park Loan) (the "Bond"), in the principal amount of not to exceed Three Million Dollars (\$3,000,000), and loan the proceeds thereof to the City pursuant to the provisions of a Loan Agreement, by and among the City, the Authority, and the Purchaser, as hereinafter defined, to be dated the date of issuance and delivery (the "Loan Agreement");

WHEREAS, the Council of the City has on the date hereof adopted an Initial Resolution authorizing the borrowing of funds and the incurring of taxable indebtedness for the purpose of financing the Project in the amount of not to exceed \$3,000,000, and the City Clerk has been instructed to publish such Initial Resolution together with the Notice required by Section 9-21-206 of Tennessee Code Annotated, as amended, in a local newspaper in the City;

WHEREAS, the indebtedness evidenced by the Loan Agreement shall be payable from any and all funds of the Municipality legally available therefor, including, but not necessarily limited to, ad valorem taxes to be levied for such purpose on all taxable property within the corporate limits of the Municipality, without limitation as to time, rate, and amount and for the punctual payment of said principal of, premium, if any, and interest on, the Loan Agreement, the full faith and credit of the Municipality will be irrevocably pledged; and,

WHEREAS, the Bond is to be secured by and contain such terms and provisions as set forth in a Bond Purchase Agreement, entered into between the Authority and the purchaser of the Bond (the "Purchaser").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, as follows:

Section 1. Approval of the Loan. (a) For the purpose of providing funds to finance the Project and to pay costs incident to the issuance and sale of the Bond and the loan of the proceeds thereof to the City, the loan to the City from the Authority is hereby authorized in the principal amount of not to exceed \$3,000,000 and the City is hereby authorized to borrow such funds from the Authority (the "Loan").

(b) The Bond to be issued by the Authority shall bear interest at a fixed rate to be determined at the time of the issuance of the Bond, as provided in the Loan Agreement. The Mayor and City Clerk are authorized to enter into the Loan Agreement, such Loan Agreement to bear interest at a fixed rate, as the Mayor and City Clerk shall determine is in the best interest of the Municipality. The Municipality shall make payments of interest and principal in the amounts and on the dates set forth in the Loan Agreement from the sources and funds described herein and in the Loan Agreement. The final rate of interest payable on the Loan Agreement shall not exceed the maximum rate of interest permitted by applicable law. The Loan Agreement shall be for a term of twenty years. The final principal and interest payment dates, final interest rate payable, amortization of principal amounts of the loan evidenced by the Loan Agreement, and prepayment provisions of such Loan Agreement, may be established by the Mayor and the City Clerk, at the time of the sale of the Bond and the execution and delivery of the Loan Agreement, as shall be determined to be in the best interests of the Municipality, in accordance with the terms of this Resolution and the Loan Agreement.

(c) **The Council of the City understands and is aware that the Purchaser has the option to put the Bond for purchase to the Authority during the term of the Loan (the "Put Option"), at certain intervals upon not less than one hundred eighty days' written notice to the Authority, the Tennessee Municipal Bond Fund, as administrator, and the City.**

The Council is aware of the risks and benefits associated with the Loan and the Put Option. The Council finds that the repayment structure of the Loan (including the Put Option) is in the public interest of the City.

The Council further agrees that it is willing to pay additional issuance costs associated with the refunding of the Loan and related Bond in the event the Put Option is exercised by the Purchaser. In the event that the Put Option is exercised by the Purchaser, and the City is unable to pay the Loan amount in full on such date and no subsequent holder can be determined, the Council commits to refund the Loan in the following manner:

(x) **the Council shall submit a plan of refunding to the Comptroller or Comptroller's designee;**

(y) **the final maturity of the refunding debt obligation will not extend beyond the final maturity of the original Loan; and,**

(z) **the debt service structure of the refunding debt obligation will be substantially similar to or more declining than the debt structure of the original Loan.**

The Council has not retained an independent municipal advisor in connection with the Loan. The Council understands and acknowledges that the Purchaser does not owe a fiduciary duty to the City and that the Purchaser is acting for its own business and commercial interests. The Council has consulted with such advisors and experts as it deems appropriate before the consideration and adoption of this Resolution.

Section 2. Approval of Loan Agreement. The form, terms, and provision of the Loan Agreement are in the best interest of the Municipality and are hereby approved and the Council hereby authorizes the Mayor and the City Clerk of the Municipality to execute and deliver such Loan Agreement, such Loan Agreement to be in substantially the form of the Loan Agreement presented to this meeting, the execution of such Loan Agreement by the Mayor and the City Clerk to evidence their approval of any and all changes to such Loan Agreement, and any related documents necessary to the consummation of the transactions contemplated by the Loan Agreement.

Section 3. Fulfillment of Obligations. The Council of the Municipality is authorized and directed to fulfill all obligations of the Municipality under the terms of the Loan Agreement.

Section 4. Tax Levy. There shall be levied and collected in the same manner as other ad valorem taxes of the Municipality on all taxable property within the corporate limits of the Municipality without limitation as to time, rate, or amount, to the extent necessary in the event funds of the Municipality legally available to pay the indebtedness evidenced by the Loan Agreement are insufficient, a tax sufficient to pay when due the amounts payable under the Loan Agreement, as and when they become due, and to pay any expenses of maintaining and operating the Project required to be paid by the Municipality under the terms and provisions of the Loan Agreement. For the prompt payment of the Loan Agreement, both principal and interest, as the same shall become due, the full faith and credit of the Municipality are irrevocably pledged.

Section 5. Approval of Bond. For the purpose of providing funds to make the loan to the Municipality evidenced by the Loan Agreement, as provided herein and in the Loan Agreement, and to pay legal, fiscal, and administrative costs incident thereto, including costs incident to the issuance and sale of the Bond related to the Loan Agreement, the issuance and sale of the Bond by the Authority in connection with the Loan Agreement is hereby approved.

Section 6. Disposition of Proceeds. The proceeds from the sale of the Bond shall be paid, from time to time, to the official of the Municipality designated by law as the custodian of the funds, upon submission of a requisition for such funds by the Municipality to the Purchaser, in accordance with the terms of the Loan Agreement. Such proceeds shall be disbursed from time to time solely to finance the costs of the Project and to pay costs of issuance incurred in connection with the issuance of the Bond and the loan of the proceeds thereof to the Municipality. Any monies remaining in the Project Fund after completion of the Project shall be used to pay debt service on the Bond.

Section 7. Consent to Assignment. The Municipality hereby consents to the assignment of all of the Authority's right, title, and interest in and to the Loan Agreement as security for the Bond to which such Loan Agreement relates, except for certain reserved rights of the Authority, to the Purchaser.

Section 8. Miscellaneous Acts. The Mayor, the City Clerk, the Finance Director, the City Manager, the City Attorney, and all other appropriate officials of the Municipality are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, and deliver all such documents, instruments, and certifications, in connection with the execution of the Loan Agreement and the issuance of the Bond by the Authority, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may in their discretion, be necessary or desirable to implement or comply with the intent of this Resolution or any of the documents herein authorized and approved.

Section 9. Captions. The captions or headings in this Resolution are for convenience only and shall in no way define, limit, or describe the scope or intent of any provision hereof.

Section 10. Severability. Should any provision or provisions of this Resolution be declared invalid or unenforceable in any respect by final decree of any court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, ordinance, or provisions shall not affect the remaining provisions of such Resolution.

Section 11. Repeal of Conflicting Resolutions. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 12. Effective Date. This Resolution shall take effect upon its adoption, the welfare of the Municipality requiring it.

Approved and adopted this 22nd day of May, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

STATE OF TENNESSEE)
COUNTY OF BRADLEY)

I, Shawn McKay, hereby certify that I am the duly qualified and acting City Clerk of the City of Cleveland, Tennessee (the "Municipality"), and, as such official, I further certify as follows: (1) that attached hereto is a copy of a resolution excerpted from the minutes of the meeting of the City Council (the "Council"), of said Municipality held on May 22, 2017; (2) that I have compared said copy with the original minute record of said meeting in my official custody; (3) that said copy is a true, correct, and complete transcript from said original record insofar as said original record relates, to, among other matters, the incurring of taxable indebtedness in the amount of not to exceed \$3,000,000, by said Municipality; (4) that the actions by said Council including the aforementioned, at said meeting were promptly and duly recorded by me in a book kept for such purpose; and, (5) that a quorum of the members of said Council was present and acting throughout said meeting.

WITNESS my official signature and the seal of said Municipality this 22nd day of May, 2017.

City Clerk

(SEAL)

Councilman Estes moved that Resolution No: 2017-33 be accepted as presented. The motion was seconded by Councilman Cassada. Councilman Estes stated he is for the project but against the variable debt issue. Upon roll call, Councilmen Estes, Cassada, McKenzie, May, Hughes and Vice Mayor Johnson voted aye. Councilman Banks passed due to his brother in-law owing property for this project, but again, it is a worthwhile project.

Councilman Banks moved that the following policy concerning firework displays. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.



May 16, 2017
RE: Firework Displays
Chief Harrison,

Title 7, Chapter 4, Section 7-401 of the City of Cleveland Municipal Code states, "Pyrotechnic displays may be allowed if they are in compliance with the rules and regulations adopted by the city council." The current adopted code (the International Fire Code (IFC) 2012 edition) has provisions for pyrotechnic displays.

The following criteria must be met to conduct pyrotechnic displays within the city limits of Cleveland:

1. Permit application requires:
 - a. Application fee \$50.
 - b. Identify the location, number, and type of pyrotechnic devices, mortars, and materials used.
 - c. List of types of mortar sizes (3", 4", 5" diameter etc.). The display site radius must have 70 feet exclusion zone per inch for the largest mortar size (example: 5-inch mortar x 70 feet = 350 feet exclusion zone). Other distances will be determined by the fire code official in accordance with NFPA 1123 and/or NFPA 1126.
 - d. The display operator, sponsor, or both shall prepare and submit plans for the firework display to the City of Cleveland Fire Marshal's office. The plan shall contain diagrams drawn to approximate scale and shall contain the following information:
 - i. Display site -- identify significant ground features, public rights of way, significant buildings or structures, overhead obstructions, parking areas, and spectator viewing areas.
 - ii. Location of firework storage areas.

- iii. Fallout area, including dimensions.
- iv. North arrow.
- v. Likely wind direction.
- vi. Location of significant roadways, including access and control points.
- vii. Traffic plans indicating the flow of vehicles into and out of the site before and after the display.
- viii. Vendor and food concession distribution.
- ix. Need for law enforcement, fire, and EMS.
- x. Location of emergency vehicle staging area and access routes.
- e. Safety plan establishing procedures to follow and actions to be taken in the event a shell misfires, fails to function over the fallout area, or other malfunction.
2. The permit holder shall furnish a bond or Certificate of Liability for the payment of all potential damages to a person or persons or to property because of the permitted display, and arising from any acts of the permit holder, the agent, employees or subcontractors.
3. Pursuant to Tennessee Code Annotated 68-104-211(b) Permittees shall be responsible for all cost associated with required fire suppression vehicle(s) and Firefighters.
4. Approved fireworks displays shall include only approved fireworks, which shall be handled by an *approved*, competent operator. An approved operator is an individual who by experience, training and examination by the State of Tennessee, has demonstrated the necessary knowledge and ability to use and supervise fireworks, pyrotechnics, or flame effect displays. The operator's name and State of Tennessee Certification number is required for the Fireworks/Pyrotechnics permit.
5. The storage of fireworks at the display site shall comply with NFPA 1123 or NFPA 1126. Fireworks shall not be left unattended at the display site after delivery. Fireworks works shall be kept dry and inspected after delivery. Shells having tears, leaks, broken fuses or signs of having been wet shall be set aside and shall not be fired. Aerial shells shall be checked for proper fit in mortars prior to discharge. Aerial shells that do not fit properly shall not be fired. After the fireworks display, damaged, deteriorated or dud shells shall either be returned to the supplier or destroyed in accordance with the supplier's instructions.
6. The operator shall provide at least two (2) pressurized water extinguishers and at least two (2) class 10-BC extinguishers located on opposite ends of the display.
7. After the fireworks display, the firing crew shall conduct an inspection of the fallout area for the purpose of locating unexploded aerial shells or live components. This inspection shall be conducted before public access to the site shall be allowed. Where fireworks are displayed at night and it is not possible to inspect the site thoroughly, the operator or designated assistant shall inspect the entire site at first light. The operator shall provide the fire code official signed documentation of this inspection.
8. Whenever in the opinion of the fire code official or the operator a hazardous condition exists, the fireworks display shall be discontinued immediately until the dangerous situation is corrected.
9. The fire code official shall inspect and approve the display site, storage area and display operations in accordance with NFPA 1123 and/or NFPA 1126.
10. The successful permit application for the City of Cleveland by the display operator, sponsor, exhibitor, applicant or all does not alleviate the need for the display operator, sponsor, exhibitor, or applicant to seek permit application from the Tennessee State Fire Marshal's office.

Councilman Banks moved to waive the cost of fire suppression vehicles and firefighters (Number 3 in the policy) for the 2017 WCLE Duck Race to be held on June 23. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

Mayor Rowland stated Mr. Word had contacted him about the property located at 37th Street/Tasso Road for fire hall #7. Mr. Fivas stated he understands an appraisal is in but has yet to see it. Mayor Rowland stated that is what he relayed to Mr. Word.

Councilman Estes moved that Mr. Fivas and City Staff pursue downtown redevelopment conceptual drawings in whatever ways they see best and to work with Mainstreet. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

There being no future business the meeting was adjourned at 3:39 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MEET IN A REGULAR SESSION THIS MONDAY, JUNE 12, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING DUE TO THE ANNUAL TENNESSEE MUNICIPAL LEAGUE CONFERENCE.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JUNE 26, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr. and Richard Banks. Councilman Dale Hughes was absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Bryant, Support Services Manager, Fire Chief Ron Harrison; Jonathan Jobe, Director of Development and Engineering Services; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Jeff Davis, Personnel Director, Kris Miller, IT Director; Brian Moran, Social Media Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; City School Director Dr. Russell Dyer; Eddie and Jane Rice; Matthew Turner; T.A. Hicks; Mitch Kinder; Martha Ledford; Ben Berry; Lake Mantooth; Shirley Flores; Brad Stuman; Albert and Deanna Shell; Darrell McBryan; Andrew Hunt, Library Director; David Veach; Michael Beavers; Barry Jenkins; James and Shelli Passavant; Jon Sparkman; J. Cwodzinsky; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson the following business was then entered into:

Councilman Banks moved to excuse Councilman Dale Hughes from the meeting. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on May 22, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by Development and Engineering Staff for 4.74 acres more or less on Unity Dr and Blythe Ferry Rd NE (Tax Map50C Group D Parcels 15.00, 16.00, 17.00 and 18.00 and Tax Map 50 Parcels 2.00, 3.00 and 4.08) from IL Light Industrial Zoning District to R2 Low Density Single and Multi-Family Residential Zoning District. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. Attorney Travis Henry stated he represented a contractor who has an interest in purchasing a portion of the property. This originally was an administrative request. It was discovered that a portion was in a current subdivision, which is zoned R2. The portion his client is looking into is zoned IL. It was brought before administration to change it to R2 to be consistent with the subdivision. There is also a strip that would be a buffer between this development and the current residential area. Mayor Rowland asked if anyone would like to speak in opposition to the approval of the rezoning. Brian Simonson, who is an owner in the subdivision, disagrees with this being consistent with the existing subdivision. It is restricted for single family homes and R2 would allow multi-family. He is opposed for several reasons. One, because it is a single family home subdivision. Two, the surrounding neighborhoods are single family homes as well. They are concerned about serious traffic issues, from Unity to Blythe Ferry Road is already busy. We are afraid values will go down also. He would like to request to postpone the reading and look in to different options, like rezoning the entire subdivision to R1, to truly be consistent of the area. It is a nice community where people have invested their money. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by First Cumberland Presbyterian Church for 20.07 acres more or less on Paul Huff Parkway and Mouse Creek Rd NW (Tax Map 34I Group B Parcel 14.00) from RA Residential Agricultural and R3 High Density Residential Zoning District to PUD13 Planned Unit Development. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. Attorney Travis Henry stated he represented the developer of the property and they are seeking a PUD for mixed use for commercial and residential property. His client has been working with the City to address the traffic concerns at Mouse Creek and Paul Huff Parkway and are willing to convey a portion to help with the widening of Mouse Creek. We recognize there is a traffic problem currently but his client stands to help and cooperate with the City the best they can. There will be a buffer zone between the Robin Hood Subdivision. Overall, this is a positive development which will benefit the City and address traffic concerns. Councilman May asked if the developer would use the unopened street of Robin Hood. Mr. Henry replied his client has stated they will not open, or seek to open, either road onto Robin Hood. Mayor Rowland asked if anyone would like to speak in opposition to the approval of the rezoning. Lisa Stanberry stated she is representing her parents who live in Robin Hood. Their main concern is traffic. There was concern about the unopened roads and the number of units, which is 200 in a very tight area. There is a safety concern there. The main access for the development is on Mouse Creek, which would make the residential and commercial all come out onto Mouse Creek. There has been traffic study's and the reality is the number of cars and stacking lanes. You are only creating enough room to stack a few additional cars. Vice Mayor Johnson stated there will not be additional traffic on Robin Hood. The entire intersection needs to be improved. Ms. Stanberry stated you are just helping the intersection, not downstream. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by the Ellis Family and Steve and Linda Williams for 3.27 acres more or less on Paul Huff Parkway, Ellis Circle and Benton Dr NW (Tax Map 34I Group A Parcel 4.00, 5.00 and 6.00 and Tax Map 34I Group B Parcels 11.00 and 64.00) from R3 High Density Residential Zoning District to PUD14 Planned Unit Development. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. Ben Berry with Berry Engineers stated their plan is for a multi-story office building and it seems the entire area is moving in a good direction. Mayor Rowland asked if anyone would like to speak in opposition to the approval of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by Steve and Linda Williams for 5.26 acres more or less on Paul Huff Parkway, Peerless Extension and Benton Dr NW (Tax Map 34I Group B Parcels 10.00) from R3 High Density Residential Zoning District to PUD15 Planned Unit Development. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning rezoning request by Clarke Taylor and Dee Burris for 3.16 acres more or less on Ellis Circle and Benton Dr NW (Tax Map 34I Group B Parcels 12.00, 12.01 and 12.02) from R3 High Density Residential Zoning District to PUD16 Planned Unit Development. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning an amendment to Table 3 of the zoning regulations to amend the setbacks and impervious requirements within the residential zoning districts. Mayor Rowland asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a resolution to annex about 3.9 acres located at 1682 South Lee Hwy and a resolution to adopt a Plan of Service (POS) for the annexation area. Mayor Rowland asked if anyone would like to speak in favor of the annexation and Plan of Service. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the annexation and Plan of Service. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the zoning of about 3.9 acres located at 1682 South Lee Hwy from the unincorporated county to CH Commercial Highway. Mayor Rowland asked if anyone would like to speak in favor of the zoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the zoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a resolution to annex about 0.98 acres located on Georgetown Rd and a resolution to adopt a Plan of Service (POS) for the annexation area. Mayor Rowland asked if anyone would like to speak in favor of the annexation and Plan of Service. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the annexation and Plan of Service. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is also being held as a public hearing to hear public comments concerning the zoning of about 0.98 acres located on Georgetown Rd from the unincorporated county to CG General Commercial Zoning District. Mayor Rowland asked if anyone would like to speak in favor of the zoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the zoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request by the adjoining property owners to abandon a section of 7th St NE located between Church St NE and Parker St NE. Mayor Rowland asked if anyone would like to speak in favor of the abandonment. Travis Henry stated he represents Lee University in working with the Library Board and Bradley County. 7th Street runs in front of the new clock tower and the library has an adjoining tract, which there is an agreement in place to swap a portion of the parking lot property. The County has approved a resolution and now we are seeking the same from the City. Mayor Rowland asked if anyone would like to speak in opposition of the abandonment. No one spoke. Mayor Rowland then declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request by the adjoining property owners to abandon a portion of 4th St NE located between Parker St NE and Trunk St NE. Mayor Rowland asked if anyone would like to speak in favor of the abandonment. Cole Strong with Lee University stated Lee owns both parcels that adjoin this portion of 4th Street to be abandoned. They ask for the City's support. Mayor Rowland asked if anyone would like to speak in opposition of the abandonment. No one spoke. Mayor Rowland then declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Final Passage - Ordinance No: 2017-19** – heretofore passed on first reading on May 22, 2017 and found in Minute Book 28 Page 413; FY2017 Budget Amendments.
- **Resolution No: 2017-41** – Amending the agreement with D’Alton Properties, LLC related to Greenway property use.

RESOLUTION NO: 2017-41

A RESOLUTION APPROVING OF AN AMENDED AGREEMENT WITH D'ALTON PROPERTIES LLC AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, by Resolution 2017-11 passed on April 10, 2017 the City Council approved of an agreement between the City of Cleveland and D'Alton Properties LLC relative to the Greenway; and

WHEREAS, City Development and Engineering Staff have been working with D'Alton Properties LLC concerning this project; and

WHEREAS, City staff is proposing that the agreement between the City and D'Alton Properties LLC be amended; and

WHEREAS, the amended agreement is attached hereto and incorporated herein by reference; and

WHEREAS, the City Council desires to approve of this amended agreement with D'Alton Properties LLC.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cleveland, Tennessee does hereby approve of the amended agreement between the City of Cleveland and D'Alton Properties LLC which is attached hereto and incorporated herein by reference, and the City Council further authorizes the Mayor to sign the amended agreement on behalf of the City. [On file in the City Clerk’s Office.]

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-43** - Authorizing the Mayor to sign contract amendment number 3 with TDOT for the Roadscapes Phase 3 grant.

RESOLUTION NO. 2017-43

WHEREAS, the City has received the attached contract amendment number 3 from the Tennessee Department of Transportation (hereafter “TDOT”) for the project described below; and

Project: 25th Street Roadscapes Phase 3
Agreement Number: 100332
Project Identification Number: 105525.38
Federal Project #: STP-EN-60(22)
State Project #:06LPLM-F3-031

WHEREAS, the City Council desires to enter into the attached contract amendment number 3 with TDOT, and to further authorize the Mayor to execute this contract amendment on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached contract amendment number 3 with TDOT for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [On file in the City Clerk’s Office.]

This 26th day of June, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-44** – Authorizing the Mayor to apply for the Cops Hiring Grant Program.

RESOLUTION NO: 2017-44

AUTHORIZING THE CITY OF CLEVELAND TO APPLY FOR A GRANT THROUGH THE COPS HIRING PROGRAM (CHP)

WHEREAS, the City of Cleveland currently has five vacant positions for full-time sworn officers in the Cleveland Police Department;

WHEREAS, the 2017 COPS Hiring Program grant is funded through the United States Department of Justice, and the grant covers up to 75% of the approved entry-level salary and fringe benefits of each newly-hired and/or rehired, full-time sworn career law enforcement officer over a three-year (36 months) grant period; and

WHEREAS, based upon the grant’s program requirements, the City, if approved, would be eligible for grant funding for five officers, with a maximum federal share of \$125,000 per officer. The grant application, if approved, would require the City to cover at least 25% of the cost of the salary and fringe benefits of these officers; and

WHEREAS, the City Council desires to apply for this grant, and to authorize the Mayor to sign all documents that may be necessary or appropriate in connection with the grant application.

NOW, THEREFORE, BE IT RESOLVED that the City of Cleveland is authorized to apply for funding for five full-time sworn officer positions through this grant program, and the Mayor is hereby authorized to sign all documents that may be necessary or appropriate for the completion of the grant application.

This 26th day of June, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- Reappointment – *Building Board of Adjustment and Appeals* – Chris Lyle for an additional 3-year term to expire January 2020.
- Reappointment – *Building Board of Adjustment and Appeals* – Jim Williams for an additional 3-year term to expire January 2020.
- Reappointment – *Building Board of Adjustment and Appeals* – Dennis Epperson for an additional 3-year term to expire January 2020.
- Appointment – *Building Board of Adjustment and Appeals* – Dennis Norman for a 3-year term to expire January 2020.
- Appointment – *Building Board of Adjustment and Appeals* – Chad Dean for a 3-year term to replace Doug Caywood to expire January 2018.
- Appointment – *Building Board of Adjustment and Appeals* – Lisa Stanbery for a 3-year term to replace Kent Berry to expire January 2018.
- Reappointment – *Vacant Property Review Board* – Oscar Kelly for an additional 2-year term to expire May 2019.
- Reappointment – *Vacant Property Review Board* – Jeff Morelock for an additional 2-year term to expire May 2019.
- Reappointment – *Vacant Property Review Board* – Heath Grisham for an additional 2-year term to expire May 2019.
- Reappointment – *Plumbing Board* – Mark Woods for an additional 5-year term to expire May 2022.
- Reappointment – *Plumbing Board* – Chris Lyle for an additional 5-year term to expire May 2022.
- Appointment – *Bradley Cleveland Community Service Board* – Councilman Tom Cassada to replace George Poe.

Councilman Banks moved to approve the Consent Agenda. The motion was seconded by Councilman May; and upon roll call, the motion to approve the consent agenda unanimously passed.

UNFINISHED BUSINESS

- **Resolution No: 2017-42** – Waiving any and all rights to all or part of any funds that may be due the City of Cleveland as a result of Bradley County borrowing funds for the financing of the American Uniform property until July 15, 2019.

RESOLUTION NO: 2017-42

RESOLUTION WAIVING ANY AND ALL RIGHTS TO ALL OR PART OF ANY FUNDS THAT MAY BE DUE THE CITY OF CLEVELAND AS A RESULT OF BRADLEY COUNTY BORROWING FUNDS FOR THE FINANCING OF THE PROPERTY, KNOWN AS THE FORMER AMERICAN UNIFORM PROPERTY, MAP AND PARCEL NUMBERS 050 A O 004.00, 050 H A 001.00, AND 050 A P 001.00, PURSUANT TO TENN. CODE ANN. § 9-21-129 OR ANY OTHER STATUTORY AUTHORITY UNTIL JULY 15, 2019

WHEREAS, following approval by the Bradley County Commission, Bradley County signed a Conditional Sale Agreement on April 17, 2017 to purchase the property known as the former American Uniform Property, Map and Parcel Numbers 050 A O 004.00, 050 H A 001.00, and 050 A P 001.00; and

WHEREAS, the Bradley County Board of Education seeks the property for a multi-purpose use, including a school and a “STEM hub” (a science, technology, engineering and math facility which would allow students to learn career skills); and

WHEREAS, payment of the total purchase price for the property of two million two hundred thousand dollars is due and payable by Bradley County on July 15, 2019; and

WHEREAS, a condition for the purchase of the property in the sale agreement is that the City of Cleveland must agree by resolution that any and all rights to all or part of any funds that may be due the City of Cleveland as a result of borrowing funds for the financing of the property would not be paid until July 15, 2019.

NOW, THEREFORE, BE IT RESOLVED by the Cleveland City Council meeting in regular session at Cleveland, Tennessee, on this 26th day of June, 2017, that the City of Cleveland hereby agrees and waives any and all rights to all or part of any funds that may be due the City of Cleveland as a result of Bradley County borrowing funds for the financing of the property, known as the former American Uniform Property, Map and Parcel Numbers 050 A O 004.00, 050 H A 001.00, and 050 A P 001.00, pursuant to Tenn. Code Ann. § 9-21-129 or any other statutory authority until July 15, 2019.

BE IT FURTHER RESOLVED that this waiver shall only apply to funds borrowed for the financing of the property known as the former American Uniform Property, and shall not apply to any other capital projects or properties.

ADOPTED this 26th day of June, 2017.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Resolution No: 2017-42 be accepted as presented. The motion was seconded by Vice Mayor Johnson. Councilman Banks confirmed the School Board approved a resolution. Mr. Fivas stated yes. Councilman Estes stated he is going to pass on the vote because it is not needed or necessary. The County Commission can do their own business and State Law prevails in this. He is for this, 100% behind it, and go forward for the students. It just doesn't involve us. Upon roll call, Councilman May, Vice Mayor Johnson, Councilman Banks, Councilman McKenzie and Councilman Cassada voted aye. Councilman Estes passed.

The following bid report was presented in full:

- **Bid Report** – Fire Station #6

MEMO:

TO: MAYOR & CITY COUNCIL
FROM: Melinda Carroll
DATE: June 21, 2017
SUBJECT: Bid Update – Fire Station #6

The City of Cleveland received sealed bids on Fire Station #6, located at Westland Drive S.W. on May 2, 2017. The apparent low bidder was Hickory Springs Construction with a bid amount of \$2,145,000. The budget for the project is \$1,700,000, which left a deficit of \$445,000 to fund this project.

City staff has worked to lower the cost by \$33,929, this makes the revised bid amount for Fire Station #6 a total of \$2,111,071. Staff has continued to work diligently to find the deficit and has accomplished this challenge. Therefore, I respectfully request that you accept the revised bid from Hickory Construction with a total of \$2,111,071.

Councilman McKenzie moved that the bid report be accepted. The motion was seconded by Councilman Cassada; and upon roll call, the motion unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Banks stated Personnel Director Jeff Davis is the only member of the Cleveland Dixie Youth Baseball League to ever throw two perfect games in July 1965.

Councilman Estes stated the City has a franchise agreement with Charter Communication and there are neighborhoods off North Lee Highway, inside the City, who are not accessible to Charter service. He asked someone to send a letter on behalf of the City asking Charter to look into providing service to the residents and for future development. Mayor Rowland stated it would be good to send a letter. Councilman Estes asked that a copy of the letter to be provided to the Council. He continued to discuss debt. The City, City School and Cleveland Utilities has \$150 million combined debt, of the City and Schools 72% is in variable rate debt and 35% of electric, sewer and water are in variable rate debt. We have two issues of \$28 million that are up for refunding. Last year, Raymond James gave a report on what we could save. He has spoken to several individuals recently that say we can save a minimum of \$3 million right now taking those two issues to market. We are not following our debt policy that we approve every year. This is a perfect time to attack our debt. He asked for Mr. Fivas and Mr. McKay to engage a financial advisor for the City. It is a professional service and would like for them, as quick as possible, assess our situation and come to a 1:00 and 3:00 as soon as possible and tell us where we are comparable to the State, other municipalities and to look at our debt structure, including Cleveland Utilities. It is too important and too much money to not get professional help. Mayor Rowland asked if this was a motion for an RFP. Councilman Estes stated no. It is a professional service and is asking City staff to do it. Mr. Kimball stated if there is no opposition from the Council staff can proceed. Vice Mayor Johnson asked what percentage should the variable rate be. Councilman Estes stated advice is free. Let somebody come in. Vice Mayor Johnson stated he agrees someone should come in and help us. We need to make sure we do it right. Councilman Banks stated at one point the person giving financial advice was conflicted out from bidding or participating. Is that still the law? Mr. McKay stated he would look and see but a financial advisor would help put your debt package to market and in essence, everyone would be on the same playing field. Mayor Rowland stated it is still the law. A financial advisor cannot loan the money or issue bonds, or get a commission.

Councilman Cassada moved that a Design Review Committee be established and Mr. Fivas and staff begin ground work for the aesthetics for the Community Gateways and things of that nature. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

NEW BUSINESS AND ORDINANCES

Councilman Banks moved to declare 0.22 acres located on Hill St SE as surplus property and to accept sealed bids. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

MEMO:

TO: MAYOR & CITY COUNCIL
FROM: Melinda Carroll
DATE: June 21, 2017
SUBJECT: Surplus Property

I respectfully request the City Council declare a lot located in the 300 block of Hill Street, which is approximately .22 acres. Map – 58H Group - K & Parcel 4.0 (see attached map). This lot is appraised at \$8,000. If approved, City staff will accept sealed bids Thursday, July 18, 2017.

Vice Mayor Johnson moved to accept the surplus Property Bid Report for the sale of Surplus property at Old Michigan Ave & Benton Pike. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

MEMO:

TO: MAYOR & CITY COUNCIL
FROM: Melinda Carroll
DATE: June 6, 2017
SUBJECT: Surplus Property - Update

Sealed bids were received on June 6, 2017 from the following:

- Mr. David Gilbert \$7,150.00
- Mr. Steve Dixon \$4,050.00

This is for the sale of property, located at the corner of Old Michigan Avenue and Benton Pike. This lot was the remaining ROW from the Whirlpool SIA project. Recommendation is to accept the bid of \$7,150.00 from Mr. Gilbert.

The appraisal for the lot is \$12,900.

The following Ordinance was then presented in full:

- **Ordinance No: 2017-20** – Amending Title 18, Chapter 3 Section 18-301 through 18-314 of the Municipal Code pertaining to the City’s MS4 Phase II Stormwater Management Program.

ORDINANCE NO: 2017-20

AN ORDINANCE OF THE CITY OF CLEVELAND AMENDING TITLE 18, CHAPTER 3, SECTIONS 18-301 THROUGH 18-314 OF THE CLEVELAND MUNICIPAL CODE PERTAINING TO THE CITY'S MS4 PHASE II STORMWATER MANAGEMENT PROGRAM

WHEREAS, City development and engineering staff are recommending to the City Council that the City amend the City's MS4 Phase II Stormwater Management Program; and

WHEREAS, the City Council desires to amend the Program as recommended by City staff.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled:

Section 1: Title 18, Chapter 1, Sections 18-301 through 18-314 of the Cleveland Municipal Code is hereby amended to read as follows:

THE TEXT OF SECTIONS 18-301 THROUGH THE APPENDIX BEGIN ON PAGE 2.

Section 2. This ordinance shall take effect from and after its final passage, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

MS4 PHASE II STORMWATER MANAGEMENT PROGRAM

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18-301 CREATION, TITLE & SHORT TITLE

The City of Cleveland, Tennessee created by Ordinance 2004-11 a MS4 Phase II Stormwater Management Program for the City of Cleveland as mandated by the National Pollutant Discharge Elimination System Permit (NPDES) pursuant to 40 CFR 122.26. This section shall provide authority for establishing and administering the MS4 Phase II Stormwater Management Program, and is amended from time-to-time, particularly as necessary due to changes in NPDES requirements. This section may be referred to by its short title, the “Stormwater Ordinance”. (as added by Ord. #2004-41, Nov. 2004, and amended by Ord. #2015-06, March 2015).

18-302 GENERAL PROVISIONS

(1) Purpose The purpose of this ordinance is to:

- (a) Protect, maintain, and enhance the environment of the City of Cleveland and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality and quantity of stormwater discharges to the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater.
- (b) Enable the City of Cleveland to comply with the National Pollutant Discharge Elimination System permit (NPDES) and applicable regulations, *40 CFR 122.26* for stormwater discharges.
- (c) Allow the City of Cleveland to exercise the powers granted in *Tennessee Code Annotated Section 68-221-1105*, which provides that among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - (i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
 - (ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this ordinance, including the adoption of a system of stormwater construction inspection fees and permits;
 - (iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
 - (iv) Review and approve development/redevelopment plans that will result in land disturbing activity.
 - (v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities; and collect any fees approved by the City Council for permits or plans review pursuant to the stormwater ordinance.
 - (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit; and assess and collect administrative or civil penalties for violations of the stormwater ordinance.
 - (vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated.
 - (viii) Enter contracts, expend funds, or otherwise employ available resources to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private, or to carry out other responsibilities under the stormwater ordinance.

(2) Jurisdiction and Administering Entity.

- (a) The "MS4 Phase II Stormwater Management Program" shall govern all properties within the municipal boundary or corporate limits of the City of Cleveland, Tennessee;
- (b) The City of Cleveland Development and Engineering Services Department shall administer the provisions of this chapter;
- (c) The City of Cleveland may enter into interlocal agreements to administer stormwater MS4 permit programs located outside the municipal boundary or corporate limits of the City of Cleveland, Tennessee, subject to enabling provisions in *Tennessee Code Annotated 69-3-101* and approval by the City Council.

18-303 DEFINITIONS

- (1) "Administrative of civil penalties" As defined in T.C.A. 69-3-103. Currently this means those penalties authorized by Tennessee Code Annotated, § 68-221-1106 for violations of the stormwater ordinance. The authorized penalty is not less than fifty dollars (\$50.00) and not more than five-thousand dollars (\$5000.00) per day for each day of violation.
- (2) "As built plans" As defined in T.C.A. 69-3-103. Currently this means drawings developed from field survey data depicting conditions as they are actually constructed.
- (3) "Best management practices" or "BMP's" As defined in T.C.A. 69-3-103. Currently this means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. To be considered as BMPs, the foregoing types of practices, procedures, prohibitions, requirements, etc., are to be those approved by the City of Cleveland and incorporated in the stormwater ordinance, whether fully set out herein or incorporated by reference.
- (4) "Board" As defined in T.C.A. 69-3-103. Currently this means stormwater regulations board.
- (5) "Borrow pit" As defined in T.C.A. 69-3-103. Currently this is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is typically no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purposes of the application of the stormwater ordinance.
- (6) "Buffer Zone" As defined in T.C.A. 69-3-103. Currently this means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30 feet minimum. Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60 feet minimum. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location.
- (7) "Building permit" As defined in T.C.A. 69-3-103. Currently this means written authorization issued by the City of Cleveland Development and Engineering Services Department for construction that pertains to building activities associated with a structure.
- (8) "Building official" As defined in T.C.A. 69-3-103. Currently this means an employee of the City of Cleveland who is a managing inspector certified by the State of Tennessee to inspect structures under specific code requirements.
- (9) "Channel" As defined in T.C.A. 69-3-103. Currently this means a natural or artificial watercourse with a definite bed and banks that conveys water continuously or periodically.
- (10) "City" As defined in T.C.A. 69-3-103. Currently this means the City of Cleveland, Tennessee.
- (11) "City Engineer" As defined in T.C.A. 69-3-103. Currently this means a person employed by the City of Cleveland whose position title is "city engineer", "assistant city engineer", or some similar title, and who is licensed by the State of Tennessee as a professional engineer.
- (12) "Common plan of development or sale" As defined in T.C.A. 69-3-103. Currently this is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may take occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring in contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

- (13) "Community water" As defined in T.C.A. 69-3-103. Currently this means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Cleveland.
- (14) "Contaminant" As defined in T.C.A. 69-3-103. Currently this means any physical, chemical, biological, or radiological substance or matter in water.
- (15) "Design storm event" As defined in T.C.A. 69-3-103. Currently this means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-yr, 5-yr, 25-yr, etc.) in terms of either 24-hour depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee: http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn. Other data sources may be acceptable with prior written approval by TDEC Water Pollution Control.
- (16) "Detention" As defined in T.C.A. 69-3-103. Currently this means the temporary delay of storm runoff prior to discharge into the natural receiving waters.
- (17) "Developer" As defined in T.C.A. 69-3-103. Currently this means any individual, firm, corporation, association, partnership, or trust authorized as an owner or corporate officer to obtain permits, whether federal, state, or local and whose plan or intent is to alter or modify land characteristic or attributes.
- (18) "Development" As defined in T.C.A. 69-3-103. Currently this means any alteration or modification to land improved or unimproved, including but not limited to, building construction, demolition, mining, excavation, dredging filling, grading, paving, excavating, drilling operation, or permanent storage of materials ("materials" of like nature stored in whole or in part for more than a period of 30 days).
- (19) "Development/Redevelopment plans" As defined in T.C.A. 69-3-103. Currently this means any drawing, sketch, or other document intended as the basis for a land disturbing permit or as a description of the work to be carried out as part of any development or land disturbing activity, or any plat or similar surveyor's drawing reflecting a subdivision or other dividing of land.
- (20) "Discharge" As defined in T.C.A. 69-3-103. Currently this means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- (21) "Easement" Currently this means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.
- (22) "Easement interest" As defined in T.C.A. 69-3-103. Currently this means the acquired privilege or the right of use or enjoyment that any lot owner in a platted subdivision has in the private stormwater facilities for the storage and conveyance of all stormwater runoff from the individual lot owners' lot and/or any other lot in a platted subdivision.
- (23) "Engineer" or "professional engineer" As defined in T.C.A. 69-3-103. Currently this means a person licensed by the State of Tennessee as a professional engineer.
- (24) "Erosion" As defined in T.C.A. 69-3-103. Currently this means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.
- (25) "Erosion prevention and sediment control plan (EPSCP)" As defined in T.C.A. 69-3-103. Currently this means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.
- (26) "Hotspot" As defined in T.C.A. 69-3-103. Currently this means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:
vehicle salvage yards and recycling facilities
vehicle service and maintenance facilities
vehicle and equipment cleaning facilities
fleet storage areas (bus, truck, etc.)
industrial sites (included on Standard Industrial Classification code list)
marinas (service and maintenance)

public works storage areas
facilities that generate or store hazardous waste materials
commercial container nursery
restaurants and food service facilities other land uses and activities as designated by an appropriate review authority.

(k) ready mix facilities (concrete manufacturers)

(27) "Illicit connections" As defined in T.C.A. 69-3-103. Currently this means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(28) " Illicit discharge" As defined in T.C.A. 69-3-103. Currently this means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §18-310(2).

(29) "Impaired waters" As defined in T.C.A. 69-3-103. Currently this means a watercourse, stream, creek, river, or wetland delineated by the Tennessee Department of Environment and Conservation which is listed on the "303d" list as degraded or non-supportive of specific classified uses, including but not limited, to recreation, drinking water, agricultural, irrigation, fish and aquatic life.

(30) "Improved sinkhole" As defined in T.C.A. 69-3-103. Currently this is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

(31) "Inspector" As defined in T.C.A. 69-3-103. Currently this is an inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

(a) oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state;

(b) update field SWPPP's;

(c) conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and

(d) inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

(32) "Land disturbing activity" As defined in T.C.A. 69-3-103. Currently this means any activity on property that results in an alteration of the existing soil cover both vegetative and non-vegetative and/or the existing soil topography. Land-disturbing activities include development, re-development, demolition, construction, reconstruction, clearing vegetation, grading, filling, and excavation.

(33) "Land disturbance permit" As defined in T.C.A. 69-3-103. Currently this means written authorization issued to an applicant to proceed with or conduct "land disturbing activity" with specific terms and conditions.

(34) "Maintenance" As defined in T.C.A. 69-3-103. Currently this means any activity that is necessary to keep a stormwater facility functional and in conformance with an approved "erosion and sediment control plan." Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any condition on the site property that may directly impair the functions of the stormwater facility.

(35) "Memorial tree fund" As defined in T.C.A. 69-3-103. Currently this means a distinct separate fund or account maintained by the City of Cleveland that is solely dedicated to receive and expend funds to landscape public properties and right-of-ways.

- (36) "Municipal separate storm sewer system " (MS4) As defined in T.C.A. 69-3-103. Currently this means the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.
- (37) "National Pollutant Discharge Elimination System permit" or "NPDES permit" As defined in T.C.A. 69-3-103. Currently this means a permit issued pursuant to 33 U.S.C. 1342.
- (38) "Off-site facility" As defined in T.C.A. 69-3-103. Currently this means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (39) "On-site facility" As defined in T.C.A. 69-3-103. Currently this means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (40) "Peak flow" As defined in T.C.A. 69-3-103. Currently this means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (41) "Person" As defined in T.C.A. 69-3-103. Currently this means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of Tennessee or any other state or country.
- (42) "Phasing" As defined in T.C.A. 69-3-103. Currently this means planning land disturbance activities in segments or increments to result in the permanent stabilization of one segment prior to the land disturbance of the next segment.
- (43) "Priority area" means "hot spot" As defined in T.C.A. 69-3-103.
- (44) "Priority construction activity" As defined in T.C.A. 69-3-103. Currently this means those construction activities discharging directly into, or immediately upstream of, water the state recognizes as impaired (for siltation or habitat alteration) or Exceptional Tennessee Waters.
- (45) "Private stormwater facilities" As defined in T.C.A. 69-3-103. Currently this means stormwater storage, conveyance, or treatment facilities that are not located within public right-of-way and shall include but are not limited to detention and retention ponds, structural and non-structural stormwater treatment, and conveyance systems.
- (46) " Qualified contractor" As defined in T.C.A. 69-3-103. Currently this means a person who holds certification in the UT/TDEC Level 1 course provided by the Tennessee Department of Environment and Conservation, or has satisfactorily completed equivalent training provided by the City of Cleveland.
- (47) "Redevelopment" As defined in T.C.A. 69-3-103. Currently this means the alteration of developed land that disturbs one acre or more, or less than an acre if part of a larger common plan of development, and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.
- (48) "Regional detention or retention facility" As defined in T.C.A. 69-3-103. Currently this means a stormwater facility constructed with public or private funds in the interest of public safety to abate or reduce the potential of localized flooding and adverse impacts to established flood hazard districts. A regional detention or retention facility is an offsite stormwater facility maintained by the City of Cleveland serving two or more separate property owners in the same watershed or sub watershed.
- (49) "Regional detention or retention banking" As defined in T.C.A. 69-3-103. Currently this means a private capital cash or real property investment by a person or a corporate entity for the purpose of building or causing to be built a regional off-site detention or retention stormwater facility to serve existing properties in the same watershed in lieu of on-site detention or retention.
- (50) "Retention pond" As defined in T.C.A. 69-3-103. Currently this means artificial pond used to store or detain stormwater runoff to allow for settlement of suspended solids and biological treatment.
- (51) "Runoff" As defined in T.C.A. 69-3-103. Currently this means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(52) "Sediment" As defined in T.C.A. 69-3-103. Currently this means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(53) "Sedimentation" As defined in T.C.A. 69-3-103. Currently this means soil particles suspended in stormwater that can settle in streambeds. Where sedimentation occurs to a sufficient extent it can disrupt the natural flow of the stream.

(54) "Soils Report" As defined in T.C.A. 69-3-103. Currently this means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.

(55) "Stabilization" As defined in T.C.A. 69-3-103. Currently this means providing adequate erosion control measures, vegetative and/or structural, such that erosion is prevented from occurring.

(56) "Start of construction" As defined in T.C.A. 69-3-103. Currently this means the first date that mechanized land disturbance is authorized to proceed under a land disturbance permit.

(57) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(58) "Stormwater program manager" or "Stormwater Coordinator" As defined in T.C.A. 69-3-103. Currently this means an employee of the City of Cleveland charged with the responsibility of implementing and enforcing the provisions of this ordinance.

(59) "Stormwater management" As defined in T.C.A. 69-3-103. Currently this means a program to maintain quality and quantity of stormwater runoff to pre-development levels.

(60) "Stormwater management facilities" As defined in T.C.A. 69-3-103. Currently this means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated, or disposed of.

(61) "Stormwater management plan" As defined in T.C.A. 69-3-103. Currently this means the set of drawings and other documents prepared by a civil engineer licensed in the State of Tennessee and comprised of information and specifications pertaining to site specific drainage systems, structures, BMP's, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to predevelopment levels.

(62) "Stormwater Pollution Prevention Plan (SWPPP)" As defined in T.C.A. 69-3-103. Currently this means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMP's) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPP's shall be prepared and updated in accordance with Section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

(63) "Stormwater regulations board" As defined in T.C.A. 69-3-103. Currently this means a five (5)-member board appointed by the Cleveland City Council to serve in accordance with the terms of § 18-313.

(64) "Stormwater runoff" As defined in T.C.A. 69-3-103. Currently this means flow on the surface of the ground, resulting from precipitation.

(65) "Stream" As defined in T.C.A. 69-3-103. Currently this means a surface water that is not a wet weather conveyance.

(66) "Structural Best Management Practices (BMP's)" As defined in T.C.A. 69-3-103. Currently this means devices or facilities that are constructed to provide control of stormwater runoff.

(67) "Surface water" As defined in T.C.A. 69-3-103. Currently this includes waters upon the surface of the earth inbounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

(68) "Urban forester" As defined in T.C.A. 69-3-103. Currently this means an employee of the City of Cleveland whose position title is "urban forester."

(69) "Watercourse" As defined in T.C.A. 69-3-103. Currently this means a manmade or natural hydrologic feature with a defined linear channel that discretely conveys flowing water, as opposed to sheet flow.

(70) "Watershed" means all the land area that contributes runoff to a particular point along a waterway. (as added by Ord. #2004-41, Nov. 2004, and amended by Ord. #2005-38, Oct. 2005)

(71) "Waters of the state" or simply "Waters" As defined in T.C.A. 69-3-103. Currently this means any and all water, public or private, on or beneath the surface of the ground, that are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership that do not combine or effect a junction with natural surface or underground waters.

(72) "Wetland(s)" As defined in T.C.A. 69-3-103. Currently this means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(73) "Wet weather conveyances" As defined in T.C.A. 69-3-103. Currently these are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules and Regulations of the State of Tennessee, Chapter 1200-4-3-.04(3)).

18-304 WAIVERS & ALTERNATIVES FOR COMPLIANCE

(1) General. No waivers will be granted for any new development or redevelopment subject to this ordinance. All new development construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the 2010 NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems primary requirement for on-site permanent stormwater management may be considered, if:

- (a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.
- (b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for on-site management of stormwater discharges have been established in a SWPPP that has been approved by the city.

- (2) Downstream damage, etc. prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the City of Cleveland Development and Engineering Services Department that the proposed alternative will not lead to any of the following conditions downstream:
- (a) Deterioration of existing culverts, bridges, dams, and other structures;
 - (b) Degradation of biological functions or habitat;
 - (c) Accelerated streambank or streambed erosion or siltation;
 - (d) Increased threat of flood damage to public health, life or property.
- (3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a SWPPP and/or stormwater management plan, which meets the primary requirement for on-site stormwater management.
- (4) Existing development to comply. All existing development shall comply with the stormwater management requirements of this ordinance that are applicable to such existing development.

18-305 LAND DISTURBANCE PERMITS

(1) When required.

Every person conducting the following “*land disturbance activity*” is required to obtain land disturbance permit coverage pursuant to the provisions of this ordinance, and Stormwater Pollution Prevention Plan approval from the City of Cleveland Development and Engineering Services Department. These requirements apply to all land development activities and the associated plan and permit review and approval processes including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. Land disturbance permit coverage and SWPPP approval shall be obtained prior to conducting any land disturbing activity for which such permit coverage or SWPPP approval is required. These requirements apply to any new development or redevelopment site that meets one or more of the following criteria:

- (a) New development that involves any land development activity on any tract, lot, or parcel of land that is either of one (1) acre or more; or
- (b) Redevelopment that involves other land development activity of one (1) acre or more; or
- (c) New development or redevelopment that is part of a larger common plan of development encompassing one (1) acre or more. The larger common plan of development may or may not involve properties that are individually less than one acre and may involve multiple land disturbing activities carried out at different times on different schedules; or
- (d) Projects or developments of less than one acre of total land disturbance may also be required to obtain authorization under this ordinance if:
 - (i) the City of Cleveland Development and Engineering Services Department has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) the City of Cleveland Development and Engineering Services Department has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state; or

- (e) changes in state or federal rules require sites of less than one acre that are not part of a larger common plan of development or sale to obtain a stormwater permit; or
- (f) Any new development or redevelopment, regardless of size, that is defined by City of Cleveland Development and Engineering Services Department to be a hotspot land use; or
- (g) Land disturbing activity on a site of any size, if such activity is adjacent to an impaired stream appearing on the 303d list of the Tennessee Department of Environment and Conservation; or
- (h) The creation and operation of borrow pits where material is excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increase elevation or grade.

Note: Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 1200-4-6.

(2) Exemptions.

The following activities are exempt from obtaining a land disturbance permit:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources, or for the health and safety of the community, or for the continuation of essential services;
- (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use;
- (c) Logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan approved by the Tennessee Department of Environment and Conservation Surface Mining Division, the Tennessee Department of Agriculture, or the Natural Resource Conservation Service;

(3) Building permits in abeyance.

Building permits issued under the authority of the Building Official, or a designee of, shall be held in abeyance until the applicant, owner, or designated representative has fully satisfied the following requirements for a land disturbance permit:

- (a) Site plan approval pursuant to *Title 14, Chapter 2, Subsection 6.2 of the Zoning Ordinance* of the City of Cleveland;
- (b) Submittal of a "Notice of Coverage" issued by the Tennessee Department of Environment and Conservation and provided to the City of Cleveland Development and Engineering Services Department authorizing the applicant to discharge stormwater associated with construction activity, if applicable;
- (c) Approval of a SWPPP and post construction components from the City of Cleveland Development and Engineering Services Department consistent with *Sections 18-304 through 18-309* of this Ordinance;

(d) Attended a pre-construction conference with the City of Cleveland Development and Engineering Services Department to review implementation of an approved SWPPP in accordance with *Sections 18-304 through 18-309* for land. A pre-construction conference shall be conducted for all proposed land disturbance activities of one (1) acre or more located in the watershed of an impaired stream as determined by the 303d classification list of the Tennessee Department of Environment and Conservation.

(4) Application for a land disturbance permit.

(a) Authorization to implement land disturbance permit program. The City of Cleveland Development and Engineering Services Department is authorized to develop and implement a land disturbance permit program and associated policies that are consistent with this ordinance. A land disturbance permit application shall include the following:

- (i) Name of applicant;
- (ii) Address of applicant;
- (iii) Name, address, and telephone number of the current property owner of record listed in the office of the assessor of property;
- (iv) Address and legal description of subject property including the tax map reference number and parcel number of the subject property;
- (v) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- (vi) A narrative statement indicating the nature, extent and purpose of the land disturbing activity, including the size of the area for which the permit shall be applicable and a schedule for completion of the land disturbing activity;
- (vii) The estimated cost of stormwater infrastructure to accommodate the proposed development;
- (viii) The watershed location and receiving waters for the proposed development;
- (ix) Where the property includes a sinkhole and/or waters defined as natural resource or wetland and the proposed land disturbance activity will encroach, potentially impact, or alter state waters, the applicant shall obtain from the Tennessee Department of Environment and Conservation, or appropriate regulatory permits. The issuance of a land disturbing permit under the authority of this ordinance will be in abeyance until state and federal permits, if applicable, are obtained;
- (x) The inclusion of state or federal permits in the application shall not foreclose the City of Cleveland Development and Engineering Services Department from imposing additional development requirements and conditions commensurate with this ordinance.
- (xi) The owner of record of the proposed development shall sign the application, or the applicant must provide certification from the owner of record providing authorization to act as the owner's agent.

(b) Each application shall be accompanied by;

- (i) A performance bond in the form of a letter of credit, performance surety, or performance bond valued at the cost of providing as-built drawings in conformance with *Section 18-305 Subsection (9)*;
- (ii) A SWPPP satisfying the provisions of *Section 18-306*;
- (iii) A fully executed agreement to provide "as-built drawings" of the stormwater infrastructure associated with the proposed development and permanent site stabilization in post construction pursuant to the requirements of *Section 18-307*;

- (iv) A post construction-landscape plan satisfying the provisions of *Section 18-308*, if applicable.

(5) Land Disturbance Permit application review procedures.

- (a) The City of Cleveland Development and Engineering Services Department shall review each application for a land disturbance permit to determine conformance with the provisions of this Ordinance upon submittal of all documents and plans required under Section 18-305, Subsection 4. Within 10 (ten) standard working days after receiving a completed land disturbance permit application and the plans required by Section 18-305, Subsection 4, the Engineering Division of the City of Cleveland Development and Engineering Services Department shall provide one of the following responses in written form:
 - (i) Approval of the permit application;
 - (ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure the objectives of this ordinance, and issue the permit subject to these conditions; or
 - (iii) Denial of the permit application, indicating the reason(s) for the denial.
- (b) If the City of Cleveland Development and Engineering Services Department has granted conditional approval of the permit, the applicant shall submit a revised SWPPP reflecting the revisions associated with conditional approval prior to the issuance of a land disturbance permit.
- (c) If the application for the land disturbance permit is denied, the applicant may request a meeting with the Director of Development and Engineering Services in an effort to resolve issues pertaining to the permit denial. If issues related to the land disturbance permit denial cannot be resolved, the applicant may appeal the matter to the Stormwater Regulations Board pursuant to the procedures of Section 18-313.

(6) Permit duration.

Land disturbance permits shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, and conducted in accordance with an approved SWPPP.

(7) Notice of construction and permit monitoring requirements.

The applicant shall notify the City of Cleveland Development and Engineering Services Department -Stormwater Coordinator ten (10) standard working days prior to the commencement of land disturbance activity approved in conjunction with a land disturbance permit and an approved stormwater pollution prevention plan. Quality assurance of erosion prevention and sediment controls shall be done by performing site assessment at a construction site. The site assessment shall be conducted at each outfall involving drainage totaling 10 or more acres or 5 or more acres if draining to an impaired or exceptional quality waters, within a month of construction commencing at each portion of the site that drains the qualifying acreage of such portion of the site. Site assessments must be performed in accordance with the current Construction General Permit (CGP). The applicant for a land disturbance permit shall provide erosion and sediment control site inspections on a frequency of two inspections per week and following each rain event of one-half (1/2) inch or greater in accordance with an approved stormwater pollution prevention plan and with the current CGP. The applicant shall provide qualified contractors to perform such inspections in accordance with the MS4 Phase II NPDES program of the Tennessee Department of Environment and Conservation. The City of Cleveland Development and Engineering Services Department

-Stormwater Coordinator shall make available to the applicant inspection reporting forms that shall be submitted by the applicant monthly to the Stormwater Coordinator, and received no later than the tenth (10th) day of each month. The inspection forms shall include, but not be limited to, the following information:

- (a) The date and location of the inspection;
- (b) Indicate if the land disturbance activity is being conducted in accordance with the approved stormwater pollution prevention plan;
- (c) Variations from the approved construction specifications;
- (d) Observed violations that existed and remedial action taken.

(8) Land disturbance permit fees and inspections.

Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit fees. The following fees shall apply to the issuance of a land disturbance permit that qualifies as a land disturbance activity regulated in accordance with 40CFR 122.26 and pursuant to Section 18-305 Subsection (1):

Land Disturbance Permit Fees

Residential Lot-Single Family Residence (less than one acre)	\$20
Multi-unit Residential, Commercial, and Industrial Development:	
Less than 1 acre	\$50
Equal to or greater than 1 acre and less than 5 acres	\$250
Equal to or greater than 5 acres and less than 20 acres	\$1,000
Equal to or greater than 20 acres and less than 50 acres	\$3,000
Equal to or greater than 50 acres and less than 150 acres	\$6,000
Equal to or greater than 150 acres	\$10,000

Note: All Primary Operators must submit an NOI for CGP coverage. There are two types of Primary Operators (Initial and Subsequent). Initial Primary Operators are those that submit a SWPPP for the entire proposed larger common plan of development or sale. Their fee is determined by the acreage of the site. The \$100 fee category applies to subsequent Primary Operators. This fee is to cover administrative costs associated with updating and tracking permit coverage for subsequent Primary Operators.

For Construction General Permit (CGP) Activities that exceed one year under general permit coverage the following fees will be applied

Equal to or greater than 1 acre and less than 5 acres	\$125
Equal to or greater than 5 acres and less than 20 acres	\$500
Equal to or greater than 20 acres and less than 50 acres	\$1,000
Equal to or greater than 50 acres and less than 150 acres	\$2,000
Equal to or greater than 150 acres	\$3,750

For sites that require an Inspection and Maintenance agreement the registration fee is \$12.00 for the first two sheets and \$5.00 for each additional sheet.

Water Quality Fee-303d Watershed

In addition to the land disturbance permit fee, a water quality impact fee of eighty-five dollars (\$85.00) shall apply to the applicants of a land disturbance permit subject to MS4 Phase II 303d oversight mandated by the City of Cleveland NPDES Permit issued by the Tennessee Department of Environment and Conservation including, pre-construction conferences, monthly inspections, and associated administrative reporting. Land disturbance activity associated with the development of individual parcels to accommodate a single-family residential structure that is part of a larger common plan of development (residential subdivision), which was constructed in accordance with an approved SWPPP shall be exempt from the water quality impact fee associated with development in a 303d watershed.

(9) Performance bonds.

The applicant for a land disturbance permit shall submit:

- (a) Performance Bond. A performance bond shall be submitted prior to the issuance of a land disturbance permit, which may be in the form of an irrevocable letter of credit, performance security, with a value consisting of the total estimated cost of providing as-built drawings and post construction stabilization in accordance with Sections 18-306. The applicant shall provide a cost estimate to provide the as-built drawing and landscape components of post construction. The written estimate must bear the seal of a civil engineer licensed in the State of Tennessee, which shall be subject to acceptance, amendment or rejection by the City Engineer. Alternatively, the City Engineer shall reserve the right to calculate the cost of providing the post construction elements of *Sections 18-307*.
- (b) Release of Bond. The performance bond shall be released upon satisfactory submission of as-built plans and post construction stabilization of the development in accordance with Sections 18-307, upon written certification by a civil engineer stipulating that the private stormwater facilities and infrastructure associated with the development was built in accordance with the approved SWPPP satisfying *Section 18-306*, and the approved site plan pursuant to *Title 14, Chapter 2, Subsection 6.2 of the Zoning Ordinance* of the City of Cleveland. Provisions for a partial pro-rata release of the performance security or bond will be subject to review based upon satisfactory completion at various stages of development, subject to approval by the City Engineer.

18-306 STORMWATER POLLUTION PREVENTION PLAN DESIGN STANDARDS(1) Stormwater quality best management practices manual.

Adoption. The City of Cleveland adopts as its stormwater quality best management practices

(BMP) manual the following publications, which are incorporated by reference in this ordinance as fully set out herein verbatim:

- (a) “Tennessee Department of Environment and Conservation Sediment and Erosion Control Handbook”; or
- (b) “Tennessee Permanent Stormwater Management and Design Guidance Manual”, or
- (c) The Nashville-Davidson County Metro Stormwater Management Manual (BEST MANAGEMENT PRACTICES (BMP) MANUAL - Volume 4) also known as the MS4 BMP Manual; most current edition.

Alternative specifications may be utilized upon review and approval by the City Engineer.

(2) Land development.

This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:

- (a) New development or redevelopment that involves land development activities of one (1) acre or more;
- (b) Projects or developments of less than one acre of total land disturbance may also be required to obtain authorization under this ordinance if:
 - (i) the City of Cleveland Development and Engineering Services Department has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) the City of Cleveland Development and Engineering Services Department has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;
 - (iii) changes in state or federal rules require sites of less than one acre that are not part of a larger common plan of development or sale to obtain a stormwater permit;
 - (iv) Any new development or redevelopment, regardless of size, that is defined by the City of Cleveland Development and Engineering Services Department to be a hotspot land use; or
 - (v) Minimum applicability criteria set forth in item (a) above if such activities are part of a larger common plan of development, even multiple, that is part of a separate and distinct land development activity that may take place at different times on different schedules.

Note: Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 1200-4-6.

(3) Submittal of a copy of the NOC, SWPPP and NOT to the local MS4

Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4) who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice of Termination (NOT) to the City of Cleveland Development and Engineering Services Department. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's Data Viewer web site.

Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided upon request. If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

In the event the City of Cleveland becomes a Qualified Local Program (QLP) the following will apply:

- a. The SWPPP is required for obtaining QLP Permit coverage for sites with a disturbed area greater than one acre. A SWPPP shall present in detail the best management practices that will be employed to minimize erosion and control sedimentation.
- b. The plan shall be sealed in accordance with the Tennessee Construction General Permit.
- c. Best management practices presented in the plan shall conform to the requirements found in the Tennessee Erosion & Sediment Control Handbook, and shall meet or exceed the requirements of the Tennessee Construction General Permit.
- d. The plan shall include measures to protect legally protected state or federally listed threatened or endangered aquatic fauna or flora or critical habitat (if applicable).
- e. The plan submitted shall be subject to any additional requirements set forth in the city's subdivision regulations, zoning ordinance, erosion and sediment control policy and any other applicable city regulations.
- f. Riparian buffer zones shall meet the requirements both in accordance with the Tennessee Construction General Permit and with the Buffer Zone requirements of this ordinance.
- g. Construction of the site in accordance with the approved plan must commence within one year from the approval date of the stormwater pollution prevention plan, or the stormwater pollution prevention plan will become null and void and the plan must be resubmitted for approval.
- h. Stormwater pollution prevention plans shall include the components required by the Tennessee Construction General Permit and any other information deemed necessary by the Stormwater Coordinator.

(4) Stormwater Pollution Prevention Plan (SWPPP) for Construction Stormwater Management:

The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsections (5-7) below and with the SWPPP requirements in the construction general permit (CGP). The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction. Additional requirements for discharges into impaired or exceptional Tennessee waters that are set forth in the Tennessee Construction General Permit shall be implemented for all priority construction activities. The Stormwater Coordinator, at his or her discretion, may require BMPs that conform to a higher than minimum standard for priority construction activities, or for exceptional Tennessee waters or where deemed necessary.

(5) Stormwater Pollution Prevention Plan requirements.

- (a) Topographic Base Map: A topographic base is required with a scale of not less than 1" = 100' that extends a minimum of one-hundred (100) feet beyond the limits of the proposed development and shall include:
- (i) Existing surface water including, but not limited to, streams, ponds, culverts, ditches, sink holes, spring heads, wetlands;
 - (ii) Nearest existing upstream and downstream drainage structures with the information such as type, size, and invert elevations of the structures;
 - (iii) Existing and proposed contours at two (2) foot intervals with reference datum mean sea level;
 - (iv) Proposed stormwater conveyance systems, pipes, culverts, drainage channels, detention facilities, drainage swales, wetlands, berms, drainage structures, inlets, and manholes. Provide, as applicable, the invert elevations, top of structure elevations for structures, spot elevations, and percent grade for the drainage system.
 - (i) Design location of proposed stormwater storage facilities or conveyances including drainage channels, including sumps, basins, channels, culverts, ponds, storm, drains, and drop inlets;
 - (ii) Current land use including all existing structures, locations of utilities, roads, and easements;
 - (iii) Existing natural and artificial features;
 - (viii) Proposed land use with a tabulation of the percentage of surface area utilized for each ancillary use, show drainage patterns, locations of utilities, locations of roads and easements, and provide the limits of clearing and grading;
 - (ix) Proposed structural and non-structural best management practices;
 - (x) Existing and proposed building pad elevation(s) and roadway elevations if building construction is proposed;
 - (xi) A written description of the site plan and justification of proposed changes in natural conditions may also be required;
 - (xii) Plans and specifications for the proposed stormwater system, retaining walls, cribbing, planting, erosion control devices, whether temporary or permanent, to be constructed in conjunction with, or as a part of the proposed work shall be required, with a map delineating the watershed and a statement explaining the amount of estimated runoff used to determine the design characteristics of any drainage device. The upstream watershed shall be considered in design calculations. If warranted, downstream stormwater system improvements may also be required to abate adverse impacts to existing infrastructure or structures.
 - (xiii) Upon request a no-rise certificate shall be required by the City Engineer that is prepared in accordance with FEMA standards. The City of Cleveland has defined the one-hundred (100) year flood event as the base flood.
- (b) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms utilizing accepted engineering principles and practices. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and meet the requirements of the City Engineer. Such calculations shall include:
- (i) A description of the design storm frequency, duration, and intensity where applicable;
 - (ii) Time of concentration;

- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
 - (iv) Peak runoff rates and total runoff volumes for each watershed area;
 - (v) Infiltration rates, where applicable;
 - (vi) Stormwater conveyance system capacities;
 - (vii) Flow velocities;
 - (xiii) Rate and volume of runoff data for the design storms events referenced in the best managements practices manual Section 18-306 subsection (1);
 - (ix) Documentation of sources for all computation methods and field test results.
 - (x) Stormwater discharges from new development and redevelopment sites must be managed such that post development hydrology does not exceed the pre development hydrology at the site.
- (c) Affidavit. When fragile, complex, or hazardous areas are present, including but not limited to, unstable slopes, uncontrolled fill, federal jurisdictional wetlands, or sinkholes, the City Engineer or Stormwater Coordinator may require an affidavit executed by the owner and engineering representative that may include:
- (i) Compaction report where a site is proposed to be filled and used for a building pad or roadway;
 - (ii) Soil engineering report, including data regarding the nature, distribution, strength of existing soils, conclusions, and recommendations for earthwork procedures;
 - (iii) Geology report, including a description of site geology, conclusions, and recommendations regarding the effect of geologic conditions on the proposed development.
- (d) Soils Information. If a stormwater best management practice is dependent on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports.
- (e) Buffer Zone (*Section 18-303 Subsection (6)*). A water quality buffer zone is required along all perennial and intermittent streams, and wetlands. The stream buffer zone will be clearly identified on proposed site plans and SWPPP's. A stream buffer area will be delineated on a proposed development with field stakes established at fifty (50) foot intervals on each side of the stream, channel or wetland. The stream buffer area metes and bounds shall be shown on the submitted plan. The stream buffer zone area will remain intact, with no removal of vegetation, including upper and lower story vegetative canopy, during all phases of construction, unless otherwise approved in conjunction with recreational uses identified in the SWPPP or subdivision plat. The stream buffer zone will be segregated land disturbance activities conducted in accordance with an approved SWPPP. The identification of streams and wetlands shall be included in the SWPPP and determinations shall be performed by a Qualified Hydrologic Professional.

Buffer Zone Requirements

- (i) "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as impaired or Exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A 30-foot natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality

buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from Standard Operating Procedures for Hydrologic Determinations (see rules to implement a certification program for Qualified Hydrologic Professionals, TN Rules Chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The 30-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 15 feet at any measured location.

Buffer zone requirements for discharges into impaired or **Exceptional Tennessee waters**

A 60-foot natural riparian buffer zone adjacent to the receiving stream designated as impaired or **Exceptional Tennessee waters** shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location.

- (ii) “Permanent” new development and significant redevelopment sites are required to preserve water quality buffers along waters within the MS4. Buffers shall be clearly marked on site development plans, Land Disturbance Permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30 feet minimum. Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60 feet minimum. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location.
- (f) Maintenance Agreement Stormwater Storage Facilities. The developer or owner of real property that is served by an on-site or off-site storm water management facility, including stormwater storage facilities, shall be responsible for maintenance, repair, and operation during site development. The developer’s responsibility will terminate after a two-year period from the issuance of a land disturbance permit upon satisfying two conditions: 1) successful completion of post construction in accordance with *Sections 18-307 and 18-308*, and 2) the sale or transfer of ownership of fifty-one percent (51%) of all parcels in the platted subdivision. As a precondition to any plat approval by the Planning Commission,

all subdivision plats shall contain a "Stormwater Facility Maintenance Agreement", which shall include the provisions for future maintenance of the stormwater storage facility. As a general rule, this verbiage contained on the plat shall designate that all lot owners in the platted subdivision shall have an easement interest in the stormwater storage facilities for water runoff from all lots in the subdivision. This easement interest shall be designated upon the recorded plat. Private stormwater storage facilities shall be shown on the final recorded plat. Private storm water facilities shall include but are not limited to stormwater storage facilities, such as detention and retention ponds, structural and non-structural storm water treatment facilities and open channel conveyances that are not located within public right of ways. The future maintenance, repair and operation of the private storm water facilities shall be the responsibility of all subdivision lot owners of record of those lots shown on the recorded plat. In the event, a subdivision is developed in phases then all subsequently developed lots in the subdivision shall share the same easement as those lot owners shown on the initial plat and/ or plats. It being the intent that all lot owners in any particular subdivision; whether in the initial or any later phase shall share equally in the easement rights in and to the stormwater storage facilities as well as sharing equally in the future maintenance and upkeep of the stormwater storage facilities. As an additional requirement to the approval of any plat, there shall be a stormwater storage basin easement shown on any recorded plat that contains a storm water detention basin. This stormwater detention basin easement shall be a twenty (20) foot access easement. This easement is for the purpose of allowing city engineering personnel, storm water inspectors, grading equipment operators, storm water monitoring personnel and/ or other necessary personnel to investigate, inspect, repair and/ or maintain the detention basin or storm water quality structure as needed to determine proper functioning, need for maintenance, maintenance and/ or other necessary repairs and/ or situations that may occur in times of emergency or urgent conditions. This twenty (20) foot access easement shall be shown on the recorded plat and shall be provided to and from storm water detention basins and shall abut on a public right of way for at least twenty (20) feet and must be easily traversable by potential grading equipment (bulldozers and/ or back hoes) as well as those individuals noted above. This twenty (20) foot stormwater detention basin access easement area shall not contain any buildings or structures, large trees or heavy shrubbery, utility poles, manholes, overhead utility lines without adequate clearance, deep ditches or channels and/ or any other structures or items causing the storm water detention basin to be inaccessible. However, the property owner may plant small shrubs of little or no value that can be easily removed or cleared. The property owner may also place small fences in the area that can be easily removed; ideally any fence contained in this easement area shall contain a gate through the fence. Any structure located upon the stormwater detention basin access easement area must be portable and quickly and easily removable. The City of Cleveland shall not be responsible for damage to any structure, utilities or vegetation located within this storm water detention basin access easement area. The City of Cleveland and/ or its designated officials shall have access over and across this storm water detention basin easement as they deem the same necessary to inspect and /or maintain the storm water detention facility. The City of Cleveland shall not be responsible for the repair or replacement of structures, utilities and/ or vegetation located upon the storm water detention basin access easement area. This storm water detention basin easement area is normally intended for heavy equipment access rather than ordinary passenger vehicle access. A city stormwater inspector will normally gain access to the detention basin or water quality facility while parking nearby.

- (i) Division of tract into parcels for resale. For larger common plans of development, each parcel or lot served by a private stormwater storage facility shall have equivalent or proportioned easement ownership in stormwater facilities. This ownership of each private stormwater facility shall be equally appropriated by the recorded plat to each parcel of the larger common plan of development. Maintenance of private stormwater facilities serving multiple parcels shall be the cumulative responsibility of each parcel owner of record of any platted tract or lot in the subdivision. The final recorded subdivision plat shall reflect the easement ownership for each parcel in a larger common plan of development, whether residential, commercial, or industrial. The applicant for a land disturbance permit or owner of record shall present a final plat prior to recording as a final document that designates easement ownership of stormwater facilities to each parcel prior to recording as an official recorded Plat in the Bradley County Register of Deeds.
 - (ii) Single tract of land. The maintenance of private stormwater facilities constructed in conjunction with development on a single tract shall be the responsibility of the owner by record. The final recorded plat shall identify all private stormwater storage facilities on the same parcel as the associated structure.
 - (iii) The maintenance agreement shall:
 - a) Provide for maintenance of stormwater facilities in accordance with *Section 18-306 subsection (1)*;
 - b) If private stormwater facilities are not properly maintained as set out herein, then the City of Cleveland shall require the subdivision parcel owners of record served to perform the maintenance and repair at the expense of parcel owners served by said facilities. The City reserves the right to conduct repair(s) of stormwater storage facilities, or may cause to be repaired, and to assess a lien on each individual subdivision parcel owners of record served by the private stormwater facilities. The maintenance agreement shall also provide that the City of Cleveland will be compensated for all expenses associated with performing the maintenance and repair of private stormwater storage facilities, including legal expenses, court costs and/or other expenses incurred in the repair and any associated legal action associated therewith. In the event legal action is deemed necessary by the City of Cleveland and in the event a judgment is rendered on behalf of the City of Cleveland, then the City shall be authorized to issue a lien against each subdivision parcel owner of record, which lien shall be a lien on their respected properties and/ or interests in the property.
- (6) Sediment and Erosion Control Plan.
The sediment and erosion control plan shall satisfy best management practices adopted in *Section 18-306 subsection (1)*, and *NPDES rules promulgated by the Tennessee Department of Environment and Conservation.*
- (7) Sediment and erosion control plan requirements.
The applicant must prepare a sediment and erosion control plan for all land disturbance activities regulated in accordance with *Section 18-304, subsection (1)*. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation resulting from land disturbing activity and incorporate BMP's appropriate to site conditions. The length and complexity of the plan is to be commensurate with the land disturbance area, topography, and

potential for off-site damage. The plan shall bear the seal of a registered professional engineer licensed in the State of Tennessee, and conform to standard adopted in *Section 18-305 subsection (1), and NPDES rules promulgated by the Tennessee Department of Environment and Conservation:*

- a. Project Description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required;
- b. A topographic map with contour intervals of two (2) feet or less showing present conditions and proposed contours resulting from land disturbing activity;
- c. All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains;
- d. A general description of existing land cover. Individual trees and shrubs do not need to be identified;
- e. Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures;
- f. Approximate limits of proposed clearing, grading, and filling;
- g. Approximate flows of existing stormwater leaving any portion of the site;
- h. A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics;
- i. Location, size and layout of proposed stormwater and sedimentation control improvements;
- j. Proposed drainage network;
- k. Proposed drain tile or waterway sizes;
- l. Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development, when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, that are going to be used to prevent the scouring of waterways and drainage areas off-site, etc;

- m. The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs;
- n. Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used, stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan;
- o. Specific details shall be provided for the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points, eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance;
- p. Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site;
- q. A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration;
- r. Specific remediation measures of how litter, construction debris, concrete truck washout, and construction chemicals exposed to stormwater shall be picked up prior to anticipated storm events or before being carried off of the site by wind (e.g., forecasted by local weather reports), or otherwise prevented from becoming a pollutant source for stormwater discharges (e.g., screening outfalls, daily pick-up, etc.). After use, materials used for erosion prevention and sediment control (such as silt fence) should be removed or otherwise prevented from becoming a pollutant source for stormwater discharges.

(8) Retaining wall requirements.

- (a) Retaining walls located on private property shall be the responsibility of the applicant(s). The applicant(s) shall ensure that the retaining wall is properly constructed. The applicant(s) shall be responsible for maintenance and repairs of all retaining walls on their property. Applicants are not allowed to construct retaining walls of any size within public right-of-way or in areas that will be dedicated for public right-of-way.

To obtain a land disturbance permit for construction of retaining walls 4 feet or taller on private property, the following information must be submitted to the Engineering Division:

- (i) A plan sheet that includes existing and proposed contours of the wall, top elevation of the wall, drainage features, buildings, property lines, proposed wall locations, any public easements, parking facilities and streets.

- (ii) A typical wall section showing wall and footing dimensions, backfill slopes, finished grade elevations, steel reinforcement details, weephole locations, and subsurface drainage systems.
- (iii) Engineering calculations for the design of the wall, noting all assumptions such as concrete and steel reinforcement strengths, soil parameters, surcharges, bearing pressures, safety factors for bearing capacity, overturning and sliding. The minimum required factors of safety are: Bearing Capacity = 3.0, Overturning = 2.0, & Sliding = 1.5.
- (iv) All retaining wall plans, profiles, cross sections and calculations shall be prepared and sealed by a registered professional engineer licensed to practice in the state of Tennessee. The professional engineer must have sufficient education and experience to design a retaining wall that ensures the safety of the general public. The professional engineer shall also have complete control of all aspects of the design and preparation of plans and calculations. Approval of necessary plans and calculations will not transfer responsibility of the retaining wall design to the City of Cleveland.

The professional engineer shall be responsible for all aspects of the retaining wall design. The use of standard designs from reputable manufacturers or from TDOT standard details are allowable and encouraged, but the professional engineer that stamps the drawings and computations are responsible for the retaining wall design. Inadequate information from geotechnical investigations and reports will not excuse the engineer's responsibility or liability.

(9) General design performance criteria for permanent stormwater management:

The provisions of this subsection, section 18-306 (9) shall become effective from and after January 1, 2020.

The following performance criteria shall be addressed for permanent stormwater management at all development sites:

- a. Site design standards for all new and redevelopment require, in combination or alone, management measures shall be designed in accordance with the Tennessee Permanent Stormwater Management and Design Guidance Manual, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch, or known as the first flush, of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.
- b. Limitations to the application of runoff reduction requirements include, but are not limited to:
 - i. Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
 - ii. Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
 - iii. Presence of sinkholes or other karst features.
- c. Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

- d. Incentive Standards for re-developed sites: a 10% reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of 50% of the standard in the paragraph above is possible for a project that meets all 5 criteria:
 - i. Redevelopment;
 - ii. Brownfield redevelopment;
 - iii. High density (>7 units per acre);
 - iv. Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
 - v. Mixed use and Transit Oriented Development (within ½ mile of transit).
- e. For projects that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated first flush amount of rainfall must be treated prior to discharge with a technology documented to remove 80% total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.
- f. For projects that cannot meet 100% of the runoff reduction requirements, the City of Cleveland Development and Engineering Services Department may allow runoff reduction measures to be implemented at another location within the same USGS 12-digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the 12-digit HUC) and runoff reduction measures must be approved by the City of Cleveland Development and Engineering Services Department. The City of Cleveland Development and Engineering Services Department shall identify priority areas within the watershed in which mitigation projects can be completed. The City of Cleveland Development and Engineering Services Department must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.
- g. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.
- h. Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- i. Stormwater discharges from hot spots may require the application of specific structural BMP's and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.
- j. Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Cleveland Development and Engineering Services Department to determine if they are subject to additional stormwater design requirements.

- k. The calculations for determining peak flows as found in section 18-306, subsection 12 shall be used for sizing all stormwater facilities.

(10) Permanent Stormwater management plan requirements.

The stormwater management plan shall include sufficient information to allow the City of Cleveland Development and Engineering Services Department to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

- (a) Topographic base map: Topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:
- (i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
 - (ii) Current land use including all existing structures, locations of utilities, roads, and easements;
 - (iii) All other existing significant natural and artificial features;
 - (iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.
- (b) Proposed structural and non-structural BMP's;
- (c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;
- (d) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the MS4 BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the MS4 BMP manual. Such calculations shall include:
- i. A description of the design storm frequency, duration, and intensity where applicable;
 - ii. Time of concentration;
 - iii. Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
 - iv. Peak runoff rates and total runoff volumes for each watershed area;
 - v. Infiltration rates, where applicable;
 - vi. Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
 - vii. Flow velocities;
 - viii. Data on the increase in rate and volume of runoff for the design storms referenced in the MS4 BMP manual; and
 - ix. Documentation of sources for all computation methods and field test results.
- (e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(11) Maintenance and repair plan:

The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(12) Minimum design standards - Stormwater conveyance system.

Stormwater conveyance systems including, but not limited to, open ditches, pipes, culverts, catch basins, drop inlets, and bridges shall be incorporated in the SWPPP in conjunction with minimum standards prescribed in this ordinance, and shall be designed by a civil engineer licensed in the State of Tennessee. Stormwater facilities constructed in conjunction with a proposed development or property improvements shall be an integral component of a SWPPP that shall be reviewed and approved by the City Engineer prior to issuance of a land disturbance permit. Stormwater hydrology and hydraulic calculations shall accompany the SWPPP and site plan.

The stormwater conveyance system design shall satisfy the minimum design standards:

- (a) Erosion, sedimentation, and stormwater control measures, pipes, structures, and devices shall be planned, designed, constructed, operated and maintained so as to provide effective soil erosion and stormwater control from the peak runoff rates. The stormwater system, excluding stormwater detention ponds, water quality control facilities and sinkholes, shall be designed to accommodate a ten (10) year return frequency twenty-four (24) hour duration storm, except for those facilities which would flood public roadway classified by the Tennessee Department of Transportation as a collector or arterials. Where warranted by local controlling factors, an alternative storm frequency shall be required;
- (b) In conjunction with Federal Emergency Management Agency (FEMA) requirements, stormwater receiving inlets shall not restrict the flow of floodwaters or increase flood heights. Stormwater culverts shall be designed for a one hundred (100) year flood frequency, when such culvert is located in a one hundred (100) year floodplain. Transportation facilities classified as a collector or arterial by the Tennessee Department of Transportation facility inventory shall utilize a fifty (50) year flood frequency for stormwater culvert design, and a ten (10) year flood frequency shall be utilized for local transportation facilities. Although roadway overtopping will be allowed for 10 year and 50 year floods, the design shall be such that damage will not occur to the roadway or adjacent properties during a 100 year flood;
- (c) Stormwater swales shall be designed utilizing acceptable engineering principles and practices to accommodate a one hundred (100) year storm event and the design shall demonstrate that the stormwater swale at full capacity will not result in structural flooding of adjacent buildings and structures;
- (d) Stormwater site runoff calculations shall be developed utilizing the Rational Formula or the Natural Resource Conservation Service (NRCS, formerly the Soil Conservation Service) TR-55 method for watersheds of fifty (50) acres or less. For watersheds greater than fifty (50) acres, but less than two thousand (2000) acres, the NRCS TR-55 method shall be utilized. For watersheds greater than two-thousand (2000) acres, the flood frequency methodology utilized by the US Army Corps of Engineers shall be employed in the stormwater runoff calculations;

- (e) The minimum culvert size shall be fifteen (15) inch inside diameter with a maximum velocity not to exceed fifteen (15) feet per second. The maximum allowable slope of a culvert shall be fifteen (15) percent without pipe restraining methods utilized in the design and construction. Energy dissipaters shall be provided at the outlet end of all culverts;
- (f) Stormwater discharges and conveyances originating from storage facilities including, but not limited to, detention basin(s) must be routed to an existing natural or manmade stormwater channel. Hydraulic calculations utilizing the methodology of *Section 18-306, Subsection (12)(d)* shall demonstrate that the capacity of the receiving stormwater channel will accommodate a two (2) year and ten (10) year design flood event. The hydraulic calculations and stormwater runoff computations must extend at a minimum to the second downstream roadway crossing, or to a blue-line stream appearing on a United States Geological Society (USGS) map. Routing calculations must be extended further downstream, if the City Engineer or his representative has reasonable concern of adverse downstream impacts to public infrastructure or property;
- (g) Stormwater drainage culverts shall be installed on a uniform grade and with a compacted base. In the event rock is encountered in the culvert trench, the rock shall be removed four (4) inches below the site plan grade. Stormwater culverts shall be installed with the spigot end directed as the flow inlet with joints established utilizing manufacture's specifications, at a sufficient depth below the surface to ensure the culvert will not collapse, and in conjunction with specifications applicable to the product. The minimum depth of a culvert below a roadbed surface shall be one (1) foot. Roadway cross drains shall be of a minimum length to collect stormwater from the full roadway width, including shoulders and side slopes;
- (h) All stormwater conveyance structures, pipes, or culverts, located under roadways shall incorporate end walls, headwalls, concrete aprons, concrete wing walls, and/or rip-rap rock as end treatment, as necessary, to prevent erosion;
- (i) The designer shall incorporate stormwater collection structures to capture runoff from paved surfaces in all sag locations and other depressed areas to ensure positive drainage. Collection structures should be spaced so that the spread (width of stormwater) in roadway areas to collect the design flow shall not exceed six (6) feet;
- (j) Inlet capacity at sags shall include provisions for debris blockage by providing twice the required operational flow. Where inlet conditions control the amount of flow that can pass through the culvert, improved inlets can greatly increase the hydraulic performance of a culvert and shall be required at the discretion of the City Engineer;
- (k) Stormwater collection structures, manholes, and junction boxes shall consist of prefabricated reinforced concrete structures, cast in-place, or an approved equivalent. Stormwater collection or inlet structures shall conform to Tennessee Department of Transportation standards;
- (l) Open stormwater conveyance channels, trenches, or ditches incorporated in the SWPPP shall include stabilization in accordance with *Section 18-306 Subsection (1)* to abate erosion within the channel;

- (m) When necessary for proper stormwater conveyance, inlet and outlet ditches shall be provided at drainage structures. Minimum drainage easements shall be provided for residential subdivision developments in accordance with the *Cleveland Subdivision Regulations, Section 4.08B*, and incorporated on side and rear parcel lines. Where at all possible, primary stormwater conveyances shall be incorporated at the rear of the lot lines and not parallel to the roadway to avoid having oversized stormwater structures under driveway;
 - (n) Plans and specifications for all retaining walls, cribbing, planting, anti-erosion devices, or other protective devices, whether temporary or permanent, to be constructed in conjunction with or as a part of the proposed development shall be included in the SWPPP. Retaining walls shall meet the requirements specified in section *18-306 subsection (8)* of this ordinance.
- (13) Stormwater detention design- minimum standards.
In the interest of public safety and stormwater quality, stormwater detention or retention shall be integrated into the SWPPP's to abate increased peak stormwater runoff. The primary criteria in evaluating SWPPP's and site designs shall be the comparison of pre-development site runoff and post-development site runoff. Other evaluation processes shall include an assessment of potential increase in stormwater flood height, the frequency of flooding, and the proximity to any structures. The SWPPP shall utilize pervious areas for detention, stormwater treatment, allow infiltration of stormwater runoff, and comply with the following criteria:
- (a) Stormwater storage facilities with 1" first flush water quality treatment shall be required for development meeting the following conditions:
 - (i) Commercial, industrial, educational, institutional and recreational developments consisting of one (1) acre or more of disturbed area;
 - (ii) Commercial, industrial, educational, institutional and recreational developments consisting of less than one (1) acre, that is part of a larger common plan of development;
 - (iii) Any project such as new development, re-development or property improvements which includes the addition of one-half (1/2) acre or greater of impervious area;
 - (iv) Residential development of four (4) acres or greater being developed.
 - (b) The 1" first flush amount of rainfall must be treated prior to discharge with a technology documented to remove 80% total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.
 - (c) When a proposed development or re-development does not exceed the criteria listed in *Section 18-306 Subsection (13)(a)*, the City Engineer shall have the authority to require stormwater storage detention or retention with first flush water quality treatment to prevent downstream flooding and damage.
 - (d) All development or re-development meeting the criteria listed in *Section 18-306, Subsection (13)(a)* shall control the peak stormwater flow rates of the site stormwater discharges associated with design storms specified in *Section 18-306, Subsection (13)(f)(i)* and reduce the post construction stormwater runoff to pre-construction levels. All site development or re-development shall provide first flush discharge treatment or an acceptable alternative in accordance with stormwater quality standards.

- (e) The stormwater detention or retention storage requirements may be waived or modified if the following occurs:
- (i) The peak runoff discharge from the site is mitigated by a regional detention stormwater facility or by off-site detention banking.
 - (ii) The applicant(s) licensed civil engineer shall demonstrate that installing the required on-site stormwater storage facility(s) is unwarranted, would not increase the potential for flooding hazards, and would not be in the best interest of the City of Cleveland. Hydrologic and hydraulic computations shall be submitted that utilizes accepted engineering practices to support such a conclusion. The primary occurrence of such conditions typically involves direct stormwater discharges into a main stream such as South Mouse Creek, Little Chatata, Candies Creek, and Fillauer Branch without flowing through a named creek or stream, through a public drainage system, or across a downstream property boundary, and is located in the very lowest downstream reaches of that watershed. It shall be determined by acceptable engineering principles and practices that post development stormwater should be released quickly to avoid the peak discharge timing for the entire watershed and not increase the peak runoff rate for storm events identified in the design standards for storage in *Section 18-306 Subsection 13(f)(i)* of this ordinance. The hydrologic analysis for such demonstration shall include more than one representative downstream location for comparing hydrographs. Even if stormwater detention is waived for the above situation, the site development must provide first flush treatment or an acceptable alternative in order to protect water quality.
- (f) Detention structure design criteria. Standards governing drainage detention control shall comply with the following standards and specifications:
- (i) All stormwater detention structures must detain the post development peak flow rates for two (2) year, five (5) year, ten (10) year, and twenty-five (25) year within a twenty-four (24) hour design storm frequency to discharge at or below pre-development peak flow rates and pass a one-hundred (100) year storm without damage to the facility or adjacent property.
 - (ii) The required hydrologic and hydraulic computations shall be in accordance with Natural Resource Conservation Service (NRCS), formerly the Soil Conservation Service; unit hydrograph procedures using Antecedent Moisture Condition (AMC) II curve numbers and Type II rainfall distribution. All post development conditions must be routed to the maximum extent possible at time intervals of one-tenth (0.1 hour) through the detention pond utilizing hand calculations or computer models;
 - (iii) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City Engineer shall impose any requirements deemed necessary to control the volume, timing, and rate of runoff in the interest of public safety;
 - (v) The civil engineer representing the owner or developer is charged with determining the predevelopment conditions, including the curve number. If the engineer cannot determine the predevelopment conditions, then a maximum pre-development curve number of seventy (70) may be used to compute the predevelopment flow and satisfy the requirement. If the downstream system extending from the site to the second existing road crossing or blue line stream is examined and found to be adequate to carry the two (2) and ten (10) year storm events for a twenty-four (24) hour storm event, the requirement for detention for areas of redevelopment may be waived;

- (v) Typical stormwater detention or storage facilities are dry detention basins, wet detention basins, retention basins, and constructed wetlands. All detention computations must use NRCS design methods with Type II twenty-four (24) hour storm and average antecedent moisture conditions;
- (vi) Detention facilities shall be designed and graded to allow access for maintenance personnel, maintenance vehicles, and equipment. The SWPPP shall incorporate a permanent drainage easement to provide access for future maintenance or repair, which shall be designated on the final recorded plat.
- (vii) The detention pond design shall incorporate a trash rack or trash collection appurtenance.

18-307 PERMANENT STORMWATER MANAGEMENT: OPERATION, MAINTENANCE, AND INSPECTION.

(1) As built plans.

All persons or entities designated as having a valid land disturbance permit are required to submit actual as-built plans developed from field survey data at the post construction phase. Two benchmarks of public record referenced to Tennessee State Plane Coordinates shall be identified on the as-built plans. The as-built plans shall include all stormwater management facilities, and conveyances, roadways, and private stormwater storage facilities located on-site. The plan must show the final (actual) design specifications for all stormwater structures and roadway gutters and shall include a description of: 1) structure materials, 2) invert elevations, 3) structure dimensions shall include inside pipe diameter(s), 4) slope of stormwater conveyances and pipes, and the stream buffer metes and bounds. The stream buffer zone area will remain in tact, with no removal of vegetation, including upper and lower story vegetative canopy, during all phases of construction. The as-built drawings must also include infrastructure to be accepted by the City of Cleveland and constructed as part of the development and/or redevelopment, including but not limited to curb and gutters, edge of pavement, and stormwater facilities. The as-built drawings must bear the seal by a Civil Engineer or registered licensed Surveyor in the State of Tennessee and submitted to the Engineering Division of the City of Cleveland Development and Engineering Services Department in hard copy and electronic format compatible with AutoCAD or Micro station. A final post inspection will be conducted by the Engineering Division of the City of Cleveland Development and Engineering Services Department prior to the release of the performance security or performance bond. The Engineering Division shall have the discretion to adopt provisions for a partial pro-rata release of the performance surety or performance bond on the completion of various stages of development. The performance value of mapping shall be held in abeyance until as-built drawings required under this provision are submitted and approved by the Engineering Division. In addition, occupation permits shall not be granted until corrections to all BMP's have been made and accepted by the city.

(2) Landscaping and stabilization requirements.

- a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall stabilize. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than 15 days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

- (i) where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or
 - (ii) where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 15 days.
- b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.
- c) The following criteria shall apply to revegetation efforts:
 - (i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
 - (ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
 - (iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
 - (iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in section 18-309.
- (4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.
- (5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party.

18-308 **POST CONSTRUCTION LANDSCAPING**(1) When required.

A post construction stabilization and landscape plan shall be required for;

- (a) Proposed development requiring a land disturbance permit under the provisions of *Section 18-305, subsection (1)* with a land use designation or proposed land use of industrial, commercial, or multi-unit residential structures with a cumulative living area of five-thousand (5,000) square feet, or greater.
- (b) Redevelopment and property improvements.
 - (i) Existing industrial, commercial, or multi-unit residential structures that are expanded by fifty-percent (50%), or greater;
 - (ii) The addition of parking spaces to serve an existing industrial, commercial, or multi-unit residential structure where the existing parking area is increased by twenty-five percent (25%), or greater.

(2) Exemptions.

The following land disturbance activity or development is exempt from the post construction landscape plan requirement of *Section 18-308*. An exemption of the post construction landscape provisions of *Section 18-308* does not constitute an exemption from the remaining provisions of this ordinance; such remaining provisions shall apply to all land disturbance activity identified in *Section 18-305, Subsection (1)* in accordance with the State of Tennessee NPDES MS4 Phase II Stormwater Permit issued to the City of Cleveland.

The following land disturbance activities are exempt from the provisions of *Section 18-308*:

- (i) Exempt from obtaining a land disturbance permit under the provisions of *Section 18-305, Subsection (2)*;
- (ii) Single family residential parcels that are a part of a larger common plan of development (larger tract divided into parcels). Land disturbance permits in accordance with *Section 18-305, Subsection (1)* shall be required for parcels of a larger common plan of development in accordance with NPDES MS4 Phase II requirements;
- (iii) Development in the Central Business District (CBD) zoning district.

(3) Landscape plan requirements.

The applicant for a land disturbance permit shall submit a post construction landscape plan in accordance with *Section 18-308, Subsection (1)*. The landscape plan shall be developed by a professional in accordance with rules promulgated by the State of Tennessee Board of Architectural and Engineering Examiners, the landscape plan shall be prepared by a qualified registrant.

The landscape plan shall contain the following:

- (a) Plant Schedule. The plant schedule shall contain:
 - (i) Quantity of plant material;
 - (ii) Common and botanical name of plant material;
 - (iii) Size and spacing of landscape materials at time of planting;
 - (iv) General plant comments;
 - (v) Plant materials located in the public right-of-way;
 - (vi) Location and description of landscape improvements, including perimeter landscaping, landscaping within parking lots, and buffer zones if the parking area is two (2) or more acres, (the description shall include the size of the parking area and the actual percentage of the parking area used for landscaping);

- (vii) Planting and installation details to ensure conformance with all required standards; and
- (viii) Irrigation system details.

(4) Landscape plan review procedures.

- (a) The landscape plan will be reviewed by the Urban Forester in accordance with the provisions of *Section 18-305, Subsection (5)* of this ordinance.
- (b) Alternative Landscaping Plan. Recognizing the need for diversified methods of landscaping, the applicant for a land disturbance permit may submit an alternative methods or materials to the Urban Forester to determine if the proposed alternative satisfies the provisions of this ordinance;
- (c) Memorial Tree Fund. If an alternative landscape plan is not feasible as determined by the Urban Forester, and the applicant for a land disturbance permit is unable to achieve the intent of the landscape plan, the applicant may achieve the necessary equivalency in off-site landscaping in conjunction with the Memorial Tree Fund. The mitigation or exchange ratio shall be 2:1 calculated at the current fair market value to purchase plant materials, planting, and maintenance. Payments received for mitigation or off-site landscaping shall be deposited in the Memorial Tree Fund and shall be expended solely to landscape public properties and right-of-ways.

(5) Landscape plan standards.

- (a) A landscape plan shall include at a minimum:
 - (i) Plant materials approved by the Urban Forester;
 - (ii) Shade trees shall be a minimum of one and one-half (1 ½) inches in caliper, ornamental trees be a minimum of one and one-half (1 ½) inches in caliper, and evergreen trees shall be a minimum of six (6) feet in height;
 - (iv) The owner shall ensure that planting areas, i.e.. tree pits, hedge trenches, and shrub beds are excavated appropriately. Soil within the planting areas should be reasonably free of rock, debris, inorganic compositions and chemical residues. Plants shall rest on a well compacted surface;
 - (v) Existing trees shall be preserved whenever feasible.
 - (vi) Planting Areas shall be mulched to a thickness of three (3) to four (4) inch in depth and consist of bark, pine needles, or other suitable materials to cover the planting areas, remaining landscape areas shall be in grass or ground cover;
 - (vii) Trees and shrubs shall not be located within a dedicated utility easement, whether private or public utilities.
 - (viii) Landscape plans shall not include plant materials on the undesirable plant list. The Urban Forester and/or the Department of Community Development shall provide the undesirable plant list.
- (b) Perimeter Landscaping.
 - (i) Planting yards are required around the perimeter or an equivalent area of a development, with the exclusion egress for vehicles or pedestrians. Traffic considerations shall be paramount in perimeter landscaping.

A Planting Yard shall be a minimum width of:
five (5) feet for a parcel with a total area of two (2) acres or less,
eight (8) feet for a parcel with a total area of two (2) acres, or greater.

The width of perimeter planting yard may range from zero percent (0%) to two-hundred (200%) percent of the required minimum width along the perimeter, but the average width of the perimeter planting yard shall be at least the required minimum.

- (ii) Plantings yards shall be placed along the front, side and rear property lines, with traffic and safety considerations being paramount. A property bounded by two or more public right-of-ways has two or more front yards;
 - (iii) Planting yards shall contain a number of shade trees equivalent to one (1) shade tree for each forty (40) linear feet of perimeter, excluding any vehicular access way. Ornamental trees may be substituted for up to forty percent (40%) of otherwise required shade trees. Shade trees shall not be planted under overhead utility lines. Landscaping trees shall be distributed along property lines; however, distribution is to be in accordance with design considerations particular to the site, such as screening, traffic site distance, safety, and aesthetics. In order to achieve equity in the number of shade trees required for development occurring on sites with equivalent areas, but with different perimeter lengths, the number of shade trees required for each forty feet of perimeter shall not exceed what would have been required had the site been a perfect square.
 - (iv) Planting yards shall consist of diverse species of trees satisfying spacing criteria cited in this part, and shall incorporate shrubs at equal intervals planted between perimeter trees, subject to approval of the Urban Forester. One tree species shall not comprise more than sixty percent (60%) of the total number of trees provided;
 - (v) In the case of a larger common plan of industrial, commercial, or multi-unit residential structures resulting in multiple parcel of the same zoning classification, perimeter landscaping shall be limited to the larger tract prior to dividing into parcels.
- (c) Landscaping parking areas – proposed development.
- Proposed parking areas shall be effectively landscape islands with trees and shrubs to reduce adverse impacts of peak stormwater runoff from impervious areas. Development of lots of record in existence prior to the effective date of this ordinance which are being developed so as to be required to provide twenty (20) or fewer parking spaces, and which are not otherwise part of a larger common plan of development, are exempt from the parking area landscaping requirements of this subsection.
- (i) Proposed parking areas shall incorporate landscape islands to consist of a minimum of four percent (4%) of the total impervious area, exclusive of the building footprint area.
 - (ii) Proposed parking areas with a single access aisle shall be designed and constructed with landscape islands dividing rows of parking spaces at increments of twenty (20) spaces. Off-street parking areas with multiple access aisles shall be designed and constructed with landscape islands dividing at least every twelve (12) parking spaces in a row. Landscape islands shall have a minimum width of eight (8) feet and shall have a minimum depth equal to the depth of the adjacent parking stall(s). Landscape island spacing criteria notwithstanding, the greater of five (5) or 20% of the required landscape islands may be combined with other islands or otherwise located around the parking lot or on its perimeter when necessary to accommodate other design considerations including, but not limited to, the location of handicapped parking, fire lanes, loading zones, and other site features. Each landscape island shall have at least one

shade tree, except that an ornamental tree is to be substituted for the shade tree underneath an overhead power line, and three shrubs.

- (iii) Landscape islands shall be constructed to include a continuous curbing perimeter, and shall be back-filled with topsoil to a depth of eighteen (18) inches and shall be free of rock, debris, inorganic compositions, and chemical residues detrimental to plant life.
 - (iv) The landscape requirements for parking lots are in addition to the requirements for buffer zones and perimeter landscaping.
- (d) Landscape requirements for existing parking areas:
- (i) In parking areas subject to *Section 18-308 Subsection (1)(b)* trees shall be planted at the rate of one (1) shade tree per twelve (12) parking spaces;
 - (ii) Trees shall be located within or adjacent to parking areas as tree islands, medians, at the end of parking bays, traffic delineators, or between rows or parking spaces in a manner;
 - (iii) The landscape requirements for parking lots are in addition to the requirements for buffer zones and perimeter landscaping.

(6) Irrigation Requirement.

The post construction landscape plan shall identify irrigation measures to satisfy survival rate requirements.

- (a) Landscaping materials installed in accordance with an approved landscape plan shall be watered by one of the following methods:
 - (i) An above ground or under ground irrigation system; or
 - (ii) A hose attachment, within one-hundred (100) feet of all landscaping.
- (b) Landscape irrigation water shall supplement rainfall at a rate of one (1) inch per week during the growing seasons. Slow release (i.e. "treegators") bags are recommended for supplemental watering.

(7) Landscape Installation.

Landscaping materials shall be installed in accordance with widely accepted professional planting procedures. Landscape materials, which fail to satisfy the minimum requirements or standards of this ordinance at the time of installation, shall be removed and replaced with acceptable materials.

(8) Maintenance Requirements-Warranty.

The applicant shall warranty plant material survival of ninety-percent (90%) for a two (2) year period consistent with an approved landscape plan.

18-309 EXISTING LOCATIONS AND ONGOING DEVELOPMENTS

(1) On-site stormwater management facilities maintenance agreement:

- (a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

(b) The maintenance agreement shall:

(1) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(2) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (5) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the City of Cleveland Development and Engineering Services Department. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(3) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.

(4) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City of Cleveland Development and Engineering Services Department.

(5) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Cleveland Development and Engineering Services Department shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Cleveland Development and Engineering Services Department's cost of performing the maintenance shall be a lien against the property.

(2) Existing problem locations – no maintenance agreement.

(a) The City of Cleveland Development and Engineering Services Department shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(b) Inspection of existing facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type

associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMP's.

(3) Owner/Operator Inspections - generally. The owners and/or the operators of stormwater management practices shall:

(a) Perform routine inspections to ensure that the BMP's are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The City of Cleveland Development and Engineering Services Department may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five year inspections shall include:

- (i) Facility type,
- (ii) Inspection date,
- (iii) Latitude and longitude and nearest street address,
- (iv) BMP owner information (e.g. name, address, phone number, fax, and email),
- (v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
- (vi) Photographic documentation of BMP's, and
- (vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The City of Cleveland Development and Engineering Services Department may require submittal of this documentation.

(4) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in 18-307 (2)(c)(i), (ii), (iii) and on a schedule acceptable to the City of Cleveland Development and Engineering Services Department.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall, at the discretion of the City of Cleveland Development and Engineering Services Department be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

(i) Ponds

- (1) Detention pond
- (2) Extended detention pond
- (3) Wet pond
- (4) Alternative storage measures

(ii) Constructed wetlands

(iii) Infiltration systems

- (1) Infiltration/percolation trench
- (2) Infiltration basin
- (3) Drainage (recharge) well
- (4) Porous pavement

(iv) Filtering systems

- (1) Catch basin inserts/media filter
- (2) Sand filter
- (3) Filter/absorption bed
- (4) Filter and buffer strips

(v) Open channel

- (1) Swale

(5) Corrections of problems subject to appeal. Corrective measures imposed by the Stormwater Coordinator under this section are subject to appeals process under section 18-313.

18-310 ILLICIT DISCHARGES

(1) General.

This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges.

No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

Uncontaminated discharges from the following sources:

- (i) Water line flushing or other potable water sources,
- (ii) Landscape irrigation or lawn watering with potable water,
- (iii) Diverted stream flows,
- (iv) Rising ground water,
- (v) Groundwater infiltration to storm drains,
- (vi) Pumped groundwater,
- (vii) Foundation or footing drains,
- (viii) Crawl space pumps,
- (xi) Air conditioning condensation,
- (xii) Springs,
- (xiii) Non-commercial washing of vehicles,
- (xiv) Natural riparian habitat or wetland flows,

- (xv) Swimming pools (if dechlorinated-typically less than one PPM chlorine),
- (xvi) Fire fighting activities, and
- (xvi) Dye testing conducted in conjunction with the operation of water distribution and wastewater utilities.

(3) Prohibition of illicit connections.

- (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants.

Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, or the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of Cleveland Development and Engineering Services Department Stormwater Division in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be entered in a telephone log maintained by the City of Cleveland Development and Engineering Services Department Stormwater Division. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained in accordance with NPDES requirements for the facility, or in accordance with the *Tennessee Water Quality Control Act* and/or any subsequent revisions as a matter of law.

18-311 ENFORCEMENT AND COMPLIANCE

(1) Enforcement authority.

It shall be unlawful for any person to violate the provisions of this ordinance or conduct operations that violate the terms of the *Tennessee Water Quality Control Act 69-3-101*. Under the provisions of *Tennessee Code Annotated 68-221-1106*, violations will be subject to enforcement action. City of Cleveland Development and Engineering Services Department are authorized under the provisions of *Tennessee Code Annotated 68-221-1106* to conduct administrative enforcement and shall have the authority to issue notices of violation and citations.

(2) Notification of violation.

- (a) **Written Notice.** Whenever the Stormwater Coordinator or the Building Official, or designees of, determines that any permittee or any other person discharging stormwater has violated or is violating a provision of this ordinance, a permit, or order issued hereunder, the Stormwater Coordinator or the Building Official, or designees of, may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Stormwater Coordinator. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- (b) **Consent Orders.** The Stormwater Coordinator with approval or concurrence of the Development and Engineering Services Director is empowered to execute consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
- (c) **Show Cause Hearing.** The Stormwater Coordinator may order any person who violates this ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five (5) days prior to the hearing.
- (d) **Compliance Order.** When the Stormwater Coordinator finds that any person has violated or continues to violate this ordinance or a permit or order issued hereunder, the Stormwater engineer may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of structures and devices, self-monitoring, and management practices.
- (e) **Cease and Desist Orders.** When the Stormwater Coordinator finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the Stormwater engineer may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - (i) Comply forthwith; or
 - (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

18-312 PENALTIES

- (1) **Violations.**
Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the Stormwater Coordinator shall be guilty of a civil offense.

- (2) Penalties .
Under the authority provided in *Tennessee Code Annotated 68-221-1106*, the municipality declares that any person violating the provisions of this ordinance may be assessed a civil penalty by administrative order signed by the Development and Engineering Services Director of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation
- (3) Measuring civil penalties.
In assessing a civil penalty, the Development and Engineering Services Director with recommendations from the Stormwater Coordinator shall consider:
- (a) The harm done to the public health or the environment, including the severity of the discharge and its effect upon public stormwater facilities and upon the quality and quantity of the receiving waters;
 - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (a) The economic benefit gained by the violator;
 - (d) The amount of effort put forth by the violator to remedy this violation and the effectiveness of action taken by the violator to cease the violation;
 - (e) Damages to the City, including compensation for the damage or destruction of public storm water facilities, and also including any penalties, costs and attorneys' fees incurred by the city as a result of the illegal activity, as well as the expenses involved in enforcing this ordinance and the costs involved in rectifying any damages;
 - (f) The amount of penalty established by ordinance or resolution for specific categories of violations, if any;
 - (g) The technical and economic reasonableness of reducing or eliminating the discharge;
 - (h) The cause of the discharge or violation;
 - (i) Any equities of the situation, which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Schedule of Civil Penalties and Enforcement protocol.
The Stormwater Regulations Board may establish by regulation a schedule of the amount of civil penalties which can be assessed by the Development and Engineering Services Director for certain specific violations or categories of violations. The Stormwater Regulations Board may also establish by regulation an enforcement protocol in order to assure fair and just enforcement to all parties involved and to provide adequate guidance to stormwater field personnel.
- (5) Recovery of damages and costs.
In addition to the civil penalty in *Section 18-312, subsection (2)* above, the City of Cleveland may recover;
- (a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and attorney's fees and expenses in enforcement procedures associated with this ordinance, or any other actual damages caused by the violation.
 - (b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

(6) Other remedies.

The City of Cleveland may institute civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to publicly owned stormwater facilities by any person, or to seek injunctive or other equitable relief to enforce compliance with the provisions of this ordinance or to enforce compliance with any consent order of the Development and Engineering Services Director, the Stormwater Coordinator, or the Stormwater Regulations Board.

(7) Remedies cumulative.

The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action-that one (1) or more of the remedies set forth herein has been sought or granted.

(8) Failure to appeal civil penalties or damage assessments.

If an appeal to the stormwater regulations board is not filed within thirty (30) days after the date that a civil penalty or damage assessment has been served in any manner allowed by law, the violator shall be deemed to have consented to the civil penalty or damage assessment, and it shall become final. Whenever a damage assessment or civil penalty has become final because of a failure to appeal, and it has not been paid, the City may apply to the appropriate Chancery court for a judgment and seek execution of the judgment in any manner allowed by law. The Chancery Court, in such proceeding, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment as provided in *Tennessee Code Annotated-68-221-1106*.

18-313 STORMWATER REGULATIONS BOARD AND ADMINISTRATIVE APPEALS

(1) Board Established.

There is hereby established a Board of five (5) members to be known as the "Stormwater Regulations Board."

(2) Composition; terms; filling vacancies.

The five (5) members of this board shall be appointed by the City Council. The City Council shall appoint members with the following qualifications: one (1) environmental engineer, environmental scientist, or environmental technician, one (1) attorney, one (1) person employed or retired from an industrial or commercial establishment regulated by this article, and two (2) persons that shall not have any particular qualifications, but to the extent practical shall be selected to maintain diversity on the board. Initial appointments are to be made for staggered terms as follows: two (2) seats for a term of one (1) year; two seats for a term of two (2) years; and one seat for a term of three (3) years. Subsequent appointments to each seat are to be for terms of four (4) years. All members shall serve until their successor is appointed and all members shall serve at the pleasure of the City council. A member of the Stormwater Regulations Board may be removed from the board at any time by a majority vote of the City Council when it is demonstrated that such board member has a pattern of repeated absences from board meetings, or when such board member exhibits disregard for controlling state and federal laws and local ordinances, or when such board member fails to declare a conflict of interest in a given case and votes on the case. In the event of a vacancy, the City Council shall appoint a member to fill the unexpired term. The board members shall serve without compensation, but shall receive actual expenses incurred in attending meetings of the board and the performance of any duties as members of the board.

(3) General duties of the board.

The Board shall have the following duties and powers in addition to any other duties or responsibilities conferred upon the Board by this Ordinance.

- (a) To recommend from time to time to the City Council that it amend or modify the provisions of this Ordinance;
- (b) To hold hearings upon appeals from orders or actions of the Stormwater Coordinator, the Development and Engineering Services Director, or Building Official as may be provided under any provision of this Ordinance;
- (c) To hold hearings relating to the suspension, revocation, or modification of a stormwater discharge permit and issue appropriate orders relating thereto;
- (c) To hold hearings relating to an appeal concerning any civil penalty imposed under this Ordinance;
- (d) To hold such other hearings as may be required in the administration of this Ordinance and to make such determinations and issue such orders as may be necessary to effectuate the purposes of this Ordinance;
- (e) To request assistance from any officer, agent, or employee of the city and to obtain such information or other assistance as the board might need;
- (f) The board acting through its chairperson shall have the power to issue subpoenas requiring attendance and testimony of witnesses and the production of documentary evidence relevant to any matter properly heard by the board; and
- (g) The chairperson or vice chairperson shall be authorized to administer oaths to those persons giving testimony before the board.

(4) Election of Officers; Meetings; and Quorum.

The following constitutes rules and procedure for the Stormwater Regulations Board. The board may adopt such other rules and procedures as the board deems appropriate provided that such rules are consistent with procedures described herein.

- (a) Election of Officers. The board shall elect from among its own members a chairperson, and a vice-chairperson. Secretarial services shall be provided by the City of Cleveland in a manner to be prescribed by the City Manager.
- (b) Initial meeting. Within thirty (30) days of the initial appointment of the board members, the board shall hold an initial meeting. At the initial meeting the board will elect officers as provided by this ordinance and review the general duties of the board identified in *Section 18-313 subsection 3*.
- (c) Regular meetings. Regular meetings shall be held at a time and place chosen by the Stormwater Regulations Board. The board shall hold regular semiannual meetings and called meetings as the board may find necessary.
- (d) Called Meetings. The chairperson or vice-chairperson or any two members may schedule a called meeting of the Stormwater Regulations Board as deemed necessary provided that advance notice is given to each board member at least forty-eight (48) hours prior to the commencement of the called meeting.

- (e) Public Notice of Regular Meetings. Public notice of regular meetings shall be by publication in a newspaper of general circulation at least five (5) days in advance of the meeting with a general description of the agenda.
 - (f) Open Meetings. All meeting of the board shall be open to the public.
 - (g) Conduct of Meetings. The board shall generally conduct meetings in accordance with Robert's Rules of Order.
 - (h) Quorum and Voting. The presence of three (3) members of the Stormwater Regulations Board shall constitute a quorum. If the chairperson and vice-chairperson are absent from the meeting in which there is a quorum, the members present shall elect from among the board members present a chairperson of the meeting. If only three members are present and one cannot vote due to a conflict of interest on a particular item, the remaining two members shall constitute a quorum for the purpose of that item. In the event of a tie vote on any motion, the motion shall fail. A motion shall have passed upon the affirmative vote of a majority of the quorum of board members present and voting.
- (5) Variances.
- (a) General. The Stormwater Regulations Board may grant a variance from the requirements of this ordinance which would not result in the violation of any state or federal law or stormwater regulation consistent with the NPDES permit issued to the City of Cleveland, and if exceptional circumstances applicable to the site exist such that strict adherence to the provisions of this Ordinance will result in unnecessary hardship and will not result in a condition contrary to the intent of the ordinance.
 - (b) Conditions for a variance. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies and the applicant can satisfy *Section 18-312, Subsection (5) (c)*:
 - (i) It can be demonstrated that the proposed variance is not likely to impair attainment of the objectives of this ordinance.
 - (ii) Alternative minimum requirements for on-site management of stormwater discharges have been established in a SWPPP that has been approved by the City Engineer.
 - (iii) Provisions are established to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.
 - (c) Downstream damage and adverse impact prohibited. In order to receive a variance, the applicant must demonstrate utilizing sound engineering principals that the issuance of a variance will not lead to any of the following conditions downstream:
 - (i) Deterioration of existing culverts, bridges, dams, and other structures;
 - (ii) Degradation of biological functions or habitat;
 - (iii) Accelerated stream bank or streambed erosion or siltation;
 - (iv) Increased threat of flood damage to public health, life or property.

- (d) Variance request. The following procedures and information will be required prior to the Stormwater Regulations Boards consideration of a variance.
- (i) A written petition for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, and provide specifics regarding valid reasons a variance should be granted. The petition shall include all information necessary to evaluate the proposed variance and shall be filed with the Stormwater Coordinator.
 - (ii) The Stormwater Coordinator shall conduct a review of the request for a variance within ten (10) working days after receipt and may either support the petition or may object to the petition. If the Stormwater Coordinator objects to the variance, the Stormwater Coordinator shall state the reasons.
 - (iii) Once the Stormwater Coordinator's review is complete or the ten (10) days for review have expired, the petition shall be subject to board action at the next regularly scheduled meeting or at a called meeting.
- (6) Administrative Appeals.
Pursuant to *Tennessee Code Annotated 68-221-1106, subsection (d)*, any person aggrieved by the imposition of an administrative civil penalty or damage assessment as provided by this ordinance may appeal said administrative civil penalty or damage assessment to the Stormwater Regulations Board. Any person or entity aggrieved by any order or determination issued under this ordinance may appeal said order or determination to the Stormwater Regulations Board who shall review the order or determination reviewed under the provisions of this section.
- (a) Appeals must be in writing. All appeals must be in writing and filed with the Stormwater Coordinator and with the board chairperson. The appeal shall set forth with particularity the action or inaction complained of and the relief sought by the person filing said appeal. The chairperson may call a special board meeting upon the filing of such appeal. As such special meeting, the board may in its discretion suspend or stay the operation of any civil penalty, damage assessment, order or determination until such time as the board has conducted a public hearing on the appeal.
 - (b) Deadline for appeal. All appeals must be filed within thirty (30) days after the civil penalty or damage assessment is served in any manner authorized by law. An appeal of any other order or determination issued under this ordinance shall be filed within thirty (30) days from the effective date of the order or determination.
 - (c) Public hearing. Upon the receipt of an appeal to the Stormwater Regulations Board, the Board shall hold a public hearing within thirty (30) days. Five (5) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail or certified mail (return receipt requested) shall also be provided to the appealing party. This notice of hearing shall be sent to the address provided by the appealing party at the time of the filing of the appeal.
 - (d) Record of appeal hearing. At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The board shall make a record of such hearing, but the same need not be a verbatim record. Any party coming before the board shall have the right to have such hearing recorded stenographically at their expense, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the board by common law writ of certiorari, and in such event the party seeking such judicial review shall pay for the transcript and provide the board with the original of the transcript so that it may be certified to the court.

- (e) Subpoenas. The chairperson may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A written request for the issuance of a subpoena must be filed with the chairperson by no later than seven (7) days prior to the scheduled hearing date. The written request for a subpoena must set forth the name and address of the party to be subpoenaed and it must identify with particularity any evidence to be produced by the witness. If a request for the issuance of a subpoena is timely, the chairperson shall issue the subpoena if the witness is a city resident. If the chairperson issues a subpoena, the same shall be delivered to the chief of police for service by any police officer of the city. If the witness does not reside in the city, the chairperson shall mail a written notice to the witness requesting that the witness attend the hearing.
- (f) Depositions. Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairperson to rule on such matters as would require a ruling by the court under such rules.
- (g) Hearing procedure. The appealing party at a public hearing shall first call that party's witnesses; to be followed by witnesses called by other parties, to be followed by any witnesses that the board may desire to call. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any evidentiary questions arising during such hearing and shall make such other rulings as may be necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the Stormwater engineer, his or her representative, and all parties shall have the right to examine any witness. The board shall not be bound by the rules of evidence applicable to legal proceedings.
- (h) Appeals from a decision of the Stormwater Regulations Board. If a party is not satisfied with the decision of the Stormwater Regulations Board, they may appeal the decision of the Stormwater Regulations Board pursuant to the provisions of *Tennessee Code Annotated, Title 27, Chapter 8*. If an appeal of the decision of the Stormwater Regulations Board is not filed within the time allowed by law, the party shall be deemed to have consented to the decision of the Stormwater Regulations Board, and it shall become final. Whenever a damage assessment or civil penalty has become final because of a failure to appeal and it remains unpaid, the City may apply to the appropriate Chancery Court for a judgment and seek execution of the judgment in any manner allowed by law. The Chancery Court, in such proceeding, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment as provided in *Tennessee Code Annotated 68-221-1106*.

18-314 APPENDIX

(1) As-built agreement form.



City of Cleveland
Division of Engineering
As-Built Agreement
Stormwater MS4 Phase II
Page 1

Project Title: _____

Tax Map-Group-Parcel _____

Agreement

This agreement is entered into in accordance with the provisions of the City of Cleveland's Stormwater Management Program codified as Sections 18-301 through 18-313 of the City of Cleveland's Municipal Code.

The undersigned _____ is the Developer of a Tract of land as shown and described on the attached Exhibit A. The property shall be referred to herein as "the Property."

Developer agrees that this agreement shall be and is binding upon the undersigned developer, his or her heirs, assigns and successors in interest. Developer, his or her heirs, assigns and successors in interest are collectively referred to herein as "Developer".

As Built Drawings. In compliance with Section 18-306 of the Cleveland Municipal Code, Developer agrees to provide as built drawings of the stormwater infrastructure associated with the proposed development on the Property. Developer understands and agrees that Developer is responsible to provide a cost estimate for the cost of these as built drawings. This cost estimate must be provided at the time this agreement is executed. Developer will not be able to obtain a land disturbance permit until this cost estimate has been provided to the City. Developer understands and agrees that this written estimate must bear the seal of a licensed Tennessee Civil Engineer or the seal of a licensed Tennessee surveyor.

The as built drawings shall be provided to the City of Cleveland by Developer upon completion of post construction site stabilization as defined in Section 18-306 of the Cleveland Municipal Code. If Developer fails to provide the as built drawings to the City within 30 days after completion of post construction site stabilization as defined in Section 18-306 of the Cleveland Municipal Code, then Developer is in default under this agreement. The City will notify the Developer of this Default and give Developer 30 days to cure the Default. If the Default is not cured within 30 days after notice to the Developer, then the City will have the right to hire a licensed Tennessee Surveyor to provide the as built drawings to the City. If the City is forced to hire a surveyor to provide the as built drawings due to the Developer's default, Developer will be obligated to pay the City an amount equal to twice the City's cost in obtaining the as built drawings. In addition, the Developer will be responsible for the City's attorneys fees and litigation expenses should the City be required to hire an attorney to enforce the City's rights under this agreement.



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As-Built Agreement
Stormwater MS4 Phase II
Page 2

Post Construction Site Stabilization. In compliance with Section 18-306 of the Cleveland Municipal Code, the Developer further agrees to complete post construction site stabilization on the Property. If the Developer fails to comply with this provision, the Developer will be subject to enforcement action under Section 18-310 of the Cleveland Municipal Code.

Post Construction Landscape Plan. If applicable, Developer further agrees to provide a post construction landscape plan in accordance with the provisions of Section 18-307 of the Cleveland Municipal Code. If the Developer fails to comply with this provision, the Developer will be subject to enforcement action under Section 18-310 of the Cleveland Municipal Code.

The undersigned understands and agrees that this Agreement and ultimately the overall Application for a Land Disturbance permit shall be subject to the acceptance, amendment and/or rejection by the City Engineer.

Dated this _____ day of _____, 20____.

DEVELOPER

By: _____

Title: _____

STATE OF TENNESSEE)
COUNTY OF BRADLEY)

Before me personally appeared _____, to me known to be the person(s) described herein (or proved to me on the basis of satisfactory evidence) and who executed the foregoing instrument, and acknowledge the execution of the same as his/ her free act and deed.

WITNESSED by me this _____ day of _____, 200 ____.

NOTARY PUBLIC

My commission expires: _____.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Vice Mayor Johnson moved that Ordinance No: 2017-20 be accepted as presented. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance No: 2017-21** – Rezoning 4.74 acres more or less on Unity Dr and Blythe Ferry Rd NE (Tax Map50C Group D Parcels 15.00, 16.00, 17.00 and 18.00 and Tax Map 50 Parcels 2.00, 3.00 and 4.08) from IL Light Industrial Zoning District to R2 Low Density Single and Multi-Family Residential Zoning District (Planning Commission: Approved 6-0: 1 member recused; 2 members absent).

ZONING ORDINANCE NO: 2017-21

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from IL Light Industry to R2 Low Density Single and Multi-Family Residential Zoning District.

Approximately 4.74 acres, more or less, located at Blythe Ferry Rd and Unity Dr NE as shown on the attached map.

And being shown on Tax Map 50C Group D Parcel 15.00, 16.00, 17.00, 18.00 and Map 50 Parcels 4.08, 2.00, 3.00 in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Councilman May moved that Ordinance No: 2017-21 be sent back to Planning Commission for further review. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance No: 2017-22** – Rezoning 20.07 acres more or less on Paul Huff Parkway and Mouse Creek Rd NW (Tax Map 34I Group B Parcel 14.00) from RA Residential Agricultural and R3 High Density Residential Zoning District to PUD13 Planned Unit Development (Planning Commission: Approved 7-1; 1 member absent).

ZONING ORDINANCE NO: 2017-22

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT KNOWN AS “PUD 13” ON CERTAIN PROPERTY ON CERTAIN PROPERTY LOCATED NEAR PAUL HUFF PARKWAY (Tax Map 34I, Group B, Parcel 14.00) AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 13; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING CONDITIONS FOR MITIGATION OF NOISE AND VIBRATION; ESTABLISHING SITE PLAN REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR TRAFFIC CIRCULATION ON AND ADJACENT TO THE SITE AND PARKING, FIRE LANES, AND SERVICE AND DELIVERY VEHICLES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING; ESTABLISHING REQUIREMENTS FOR GENERAL APPEARANCE, SIGNAGE AND OUTDOOR DISPLAYS; ESTABLISHING REQUIREMENTS FOR LITTER AND SOLID WASTE CONTROL AND DRAINAGE STRUCTURE MAINTENANCE; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; REQUIRING PROPER SUBDIVISION AND SITE PLANNING; REQUIRING A PUD DEVELOPMENT PLAN; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; COMMUNICATING THE BINDING EFFECT OF THE ORDINANCE UPON OTHERS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS the City of Cleveland, Tennessee, hereinafter “City”, desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter “PUD”, process as an alternative development standard whereby to accomplish such development; and

WHEREAS City’s 2013 Comprehensive Plan future land use element anticipated market-based redevelopment of the area containing the subject property in a context that included access management planning along Paul Huff Parkway, safety and congestion related improvements along Mouse Creek Road, and reconfiguration of the existing street network to support the redevelopment and proper traffic circulation; and

WHEREAS the aforementioned Comprehensive Plan recommendations can best be achieved by working in coordination with property owners in site planning, access to adjacent or nearby major streets including Paul Huff Parkway and Mouse Creek Road, and the design of new or re-configured internal streets.

WHEREAS it is the desire of the property owner(s), hereinafter “Developers”, to have the flexibility of the PUD process in order to work with the City and adjacent property owners who are also seeking to develop or redevelop their properties in a manner that is mutually beneficial, NOW THEREFORE BE IT ORDAINED:

Section 1. ZONING PLAN AND MAP AMENDMENT. The zoning plan and map are hereby amended so as to zone the property described in Section 4 herein as “PUD 13” . PUD 13 comprises an area of adjacent properties with frontage on Paul Huff Parkway and Mouse Creek Rd, and the intention is to allow the development of commercial uses within this PUD 13 area. The uses allowed within the PUD 13 area include the following uses allowed within the City’s CH Commercial Highway zoning district: detached single-family dwellings; townhomes; duplexes, triplexes, and quadraplexes; other multi-unit residential structures; houses of worship; office parks; schools (pre-school, primary, secondary, colleges and universities, trade schools

and academies, studios); daycare facilities; tourist homes, guest homes, boarding homes, and bed-and-breakfast establishments; congregate living facilities, residential care facilities, nursing homes, and the like; veterinary care facilities; medical offices and clinics; hospitals; public utilities and utility towers; information technology and communications businesses; professional offices; government offices and government facilities; finance, insurance, and real estate businesses; personal service businesses (barber shops, beauty salons, nail salons, and the like); commercial recreation and entertainment facilities; department stores and retail stores; dry cleaners; food and beverage stores; hotels and motels; restaurants with or without drive-up windows; convenience stores with or without gasoline pumps; car washes; oil change facilities; vehicle sales, rental and repairs excluding body work; building supply sales; and farm and garden supply sales. Specifically prohibited uses include outdoor firing ranges, race tracks, adult businesses or sex outlets as defined by the City's zoning ordinance, fireworks sales, vehicle body work, outdoor flea markets and outdoor sales of used merchandise other than operable vehicles in good repair, and any other use not identified herein as being allowed.

Section 2. DEVELOPMENT STANDARDS. The development standards for the PUD 13 district are those outlined in this ordinance. Where the PUD 13 Ordinance is silent as to a particular development standard, the standard applicable in the CH Commercial Highway zoning district, if there is any such standard, shall be applied in the commercial development area. Where the PUD 13 Ordinance is silent as to a particular development standard, the standard applicable in the R3 Multi-family Residential zoning district, if there is any such standard, shall be applied in the residential development area. The respective commercial and residential development areas of PUD 13 are to be as further described herein and as illustrated in the PUD development plan.

Section 3. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES. Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 4. PROPERTY DESCRIPTION

PUD 13 includes the property currently described as tax map 34I group B parcel 14.00.

Section 5. NOISE AND VIBRATION MITIGATION.

Noise and vibrations are to be managed during the construction and operation phases of PUD 13. During construction, construction-related noise, vibrations, and traffic in the PUD 13 zoning district shall be managed so as to not unduly interfere with the nearby residential uses. Developer, developer's heirs or successors or assigns, and all contractors and subcontractors will promptly comply with any directive from City to manage construction-related noise, vibrations, and or traffic. Developer and all businesses in the PUD 13 zoning district shall mitigate potential noise or vibration problems from the site by prompt compliance with any City request to adjust volume, frequency, time, or duration of any noise or vibration that the City determines would be bothersome to a reasonable person off-site. Developer and businesses in the PUD 13 zoning district shall affirmatively manage all activities on the site so as to mitigate any noise or vibration that the City determines to likely be bothersome to reasonable person off-site. If after previous requests to Developer and/or any business located in the PUD 13 zoning district concerning noise or vibrations, City determines that there is a continued persistent pattern of noise or vibration emanating from the PUD 13 district, Developer and/or any business in the PUD 13 zoning district must undertake specific appropriate management actions requested by City to mitigate the problem including, but not limited to, the following actions if applicable: reducing or eliminating outdoor music, private security to eliminate cruising or loitering on-site, etc.

Section 6. SITE PLANNING AND DEVELOPMENT COORDINATION

6.A. Conceptual Site Plan for PUD

A conceptual site plan for PUD 13 will be prepared by a Tennessee licensed surveyor or design professional. The site plan shall be developed in coordination with input from City staff. This conceptual site plan is intended to be general in nature, identifying the location of the commercial and residential development within the PUD 13 area. The conceptual site plan is to identify the location of proposed entrances onto the adjacent roadways as well as right-of-way needed for turn lane improvements in these adjacent roadways (a traffic impact study may be required depending upon the extent of the proposed development impact). Site access, internal traffic circulation areas, and proposed streets would be included in the conceptual site plan. The conceptual site plan would identify an area or areas for stormwater detention based upon the anticipated impervious area within the development. The conceptual site plan would indicate areas of landscaped buffer needed to protect adjacent development in accordance with the City's landscaped buffer ordinance. The conceptual site plan will be the basis of a Developer meeting with the City and Cleveland Utilities staff to develop recommendations for Planning Commission approval. The conceptual site plan will serve as a master plan for the development of PUD 13, and a basis for coordinating street networks, etc.

6.B. Detailed Site Plans for PUD13 Development

One or more detailed site plans, consistent with the conceptual site plan, are required prior to development of any portion of the site with new commercial or residential buildings. The detailed site plan will meet the normal site plan requirements of City for commercial development or residential development, as the case may be. The reason that more than one detailed site plan may be completed for PUD 13 is that different portions of the PUD 13 area may be developed independently at different times. The detailed site plan(s) for PUD 13 will be reviewed in accordance with City's normal site plan review process except that Planning Commission approval is required for the detailed site plan.

Section 7. ACCESS, TRAFFIC CIRCULATION, PARKING, FIRE LANES, SERVICE AND DELIVERY VEHICLES.

7.A. Access

Properties within the PUD may be served by existing minor local streets. One or more minor streets such as Ellis Circle or Benton Drive are located within the PUD area. Depending upon how the Developer and owners of adjacent property choose to develop, it is possible that drivers visiting any one of several properties in PUD 13 or other adjacent property could utilize the few nearby planned access points to Paul Huff Parkway and Mouse Creek Road. The City's goal is to encourage such access possibilities through the conceptual and detailed site planning process.

7. B. Traffic Circulation, Parking, Fire Lanes, Deliveries, etc.

Driveway entrances to sites within PUD 13 shall be developed with adequate turning radii for entering and exiting vehicles, including delivery vehicles where appropriate. Internal traffic circulation and parking on sites, delivery access, service access for solid waste pick-up, etc., and fire and emergency access must be maintained in the site design and specifically addressed in detailrd site planning for individual developments within PUD 13. In the event that the PUD 13 site is served by a public transit service, stopping of transit vehicles for entering or exiting passengers shall be outside the designated fire lane unless otherwise approved by the City's fire department. Any drive-through window facilities that are developed on the site, including the outparcels, shall comply with City standards with respect to vehicle stacking, etc. and shall be designed so as to minimize potential conflicts with other vehicles and pedestrians. Where transit stop areas or bicycle parking areas are provided in PUD 13, these areas will not count against

impervious area limits. Parking standards shall be as otherwise required by City zoning regulations, subject to a decrease of up to 30% that may be granted by the Planning Commission in consideration of factors such as pedestrian, bicycle, and transit access, shared parking arrangements, enhanced landscaping, innovative stormwater management practices, and the like.

Section 8. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING.

8.A. Impervious Areas

An impervious area calculation is to be included in detailed site plans for the PUD 13 area. The impervious area of the site is understood to include the foot prints for all structures on the site as well as other paved or concrete areas that do not readily absorb water, generally that which is not greenspace. The impervious area limit in PUD 13 is 80%. Areas devoted to bike lanes, sidewalks which provide pedestrian access to Paul Huff Parkway or Mouse Creek Road, transit stop areas will not be counted toward the 80% impervious limit. A street designed in cooperation with adjacent and nearby property owners and the City which provides a continuous connection between Paul Huff Parkway at Peerless Road Extension and Mouse Creek Road will not be counted toward the 80% impervious limit.

8.B. Stormwater Management

Development within the PUD13 area must meet the City's stormwater regulation requirements. In conjunction with each detailed site plan for development within PUD 13, a drainage plan must be prepared by a professional engineer and approved by the City Engineer prior to development of the site. For purposes of stormwater management, the PUD 13 area will be regarded as an area under a common plan of development and a Notice of Intent (NOI) is required before development of any portion of the site.

8.C. Landscaping

Landscaping serves a variety of purposes and it is a requirement of both the zoning regulations and the stormwater management regulations. Landscaping fulfills a Best Management Practice (BMP) requirement of the stormwater regulations. A landscaping plan shall be submitted with all detailed site plans for the PUD 13 area. The landscaping for the site shall be in accordance with a landscape plan prepared by a Tennessee registrant (engineer, architect, or landscape architect) and approved by the City. The design, installation, and maintenance of the landscaping shall meet the requirements of this ordinance and the City's regulations regarding landscaping. Landscaping shall be provided adjacent to all roadways abutting the site and internal areas within the parking lots and adjacent to buildings. Landscaping shall be professionally installed and maintained in perpetuity by the Developer and all heirs, assigns, and successors in title. Maintenance shall include irrigation, fertilization, pest and disease control, mowing, raking, replacement of dead or diseased plants, and other such activities as may be appropriate to a high quality professionally maintained landscape.

8.D. Tree Preservation

A variety of land cover exists within the PUD 13 area and in nearby properties. In general, mature tree cover creates shade, provides habitat, reduces erosion, provides for effective stream buffer areas, promotes water quality, etc. Re-subdivision of property and site planning concerns with building pads, drainage, and location of streets may indicate removal of existing trees. However, City's Tree Preservation Ordinance will be looked for guidance in the preservation of large trees where possible and where these could be incorporated into buffer areas. The Planning Commission may reduce trees preservation requirements that would otherwise impact PUD 13 if it deems such a reduction appropriate as part of the detailed site plan approval.

8.E. Buffering

The City has a buffering ordinance that is to protect less intensive land uses, e.g. residential, from more intensive land uses, e.g. commercial, that locate on adjacent properties. Buffering for residential properties external to the PUD shall at a minimum adhere to the requirements of the buffering ordinance within the zoning regulations; however, the Planning Commission may approve alternative transitional buffering arrangements for residential property for which there has been a documented non-residential land use planning effort. Developer and all heirs, assigns, and or successors in title shall take particular care to provide and maintain a densely landscaped buffer that mitigates the intrusion of noise, light, and the view of the proposed commercial development in adjoining residential areas.

8. F. Lighting

As part of each detailed site plan for development in PUD 13, a plan shall be provided for the exterior lighting of buildings, parking lots, signs, etc., that demonstrates the buffering of adjacent residential areas, and the mitigation of glare or distraction for adjacent roadways. Outdoor lighting for parking and sidewalk areas are to minimize light intrusion into nearby residential areas; and other exterior lighting and lighted surfaces are to be designed so as to minimize shining or reflecting into the aforementioned residential areas. Exterior lighting will also be designed in a way that mitigates any glare that would be encountered by motorist on adjacent roadways. Where it is necessary to maintain lighting for security, this lighting will be designed such that escape of lighting onto adjoining residential property is minimized. The lighting plan should include sufficient photometric detail to determine compliance with this ordinance.

Section 9. GENERAL APPEARANCE, SIGNAGE, AND OUTDOOR DISPLAYS.

9.A. General Appearance

Development within the PUD 13 area is to have a high quality appearance. In the commercial development of the PUD 13 area, it is intended that the level of architectural amenity and detail, including quality and cost of materials and craftsmanship, will meet or exceed that found in Cleveland's better commercial developments. The residential development area should achieve the highest quality appearance possible for the price level of units to be produced. Specific designs, color choices, and materials are not prescribed by this ordinance but it is expected that the quality of appearance would be consistent with better quality and comparably priced commercial areas and residential areas found in other communities. Illustrative proposed building elevations and landscaping plans will be considered together by the Planning Commission in order to determine that the proposed development is consistent with these general appearance requirements.

9.B. Signage Plan

When a detailed site plan is prepared for a development within the PUD 13 area it is to include a signage plan for primary signs, such as ground signs and wall signs. The signage plan is to identify the type, size, and general location of the proposed sign(s). The signage plan will demonstrate conformity with the City's sign regulations where those are not otherwise modified by this section. The Planning Commission may consider proposals for innovative grouping of signs other than billboards for development within PUD 13 and adjacent properties and approve such as part of the detailed site plan approval. A primary City concern will be to maintain the high-quality appearance of the area as part of the Exit 27 gateway to Cleveland.

9.C. Outdoor Displays

Outdoor displays of merchandise and outdoor storage of goods and merchandise, including but not limited to materials stored in trailers or shipping containers, is prohibited within 50 feet of any right-of-way. In no event shall any display or storage of merchandise be configured so as to impede the visibility of motorists within or adjacent to the subject property.

Section 10. LITTER, SOLID WASTE, AND DRAINAGE STRUCTURE MAINTENANCE.

The method of solid waste disposal for each use throughout the project site shall be as approved by the City's Director of Public Works. Dumpsters shall be on a concrete pad and shall be screened by a masonry enclosure. Storage for inedible fats or greases shall likewise be enclosed and, if adjacent to a dumpster, shall be separated from the dumpster by a concrete block wall. Litter and debris shall be removed from the parking lots and grounds throughout the project site on a regular basis such that these materials do not accumulate noticeably on-site or migrate to surrounding property. Removal of litter and debris shall include the removal of such materials from drainage structures and other areas where accumulations may occur. Maintenance of drainage structures including removal of sediment, debris, and intrusive vegetation, such that these drainage structures continue to function as designed shall be the continuing responsibility of the developer, or its assigns or successors in title, and shall include effective control of algae, mosquitoes, and other such concerns as may occur with wet stormwater detention areas; such control by the developer will be monitored by the City and shall include technically appropriate means that may include mechanical aeration, application of chemicals, and/or other means. Mechanical sweeping of the parking lot and driveway areas shall be performed regularly by the Developer to control dirt, litter, and debris.

Section 11. SETBACKS, BUILDING HEIGHTS, AND DENSITY

Building setbacks, height limits, and lot dimensions for the commercial development area of PUD 13 shall be as designated for the CH zoning district except as otherwise approved by the Planning Commission as part of the detailed site plan approval process. Likewise, residential lot sizes, building heights, and setbacks shall be as required for the R3 residential zoning district unless otherwise modified by the Planning Commission. However, the setbacks on the internal streets, rather than following the CH or R3 zoning, shall be 20 feet. Structures with overhangs such as canopies or other cantilevered features may be within 5 feet of Mouse Creek or Paul Huff Parkway but no closer than 20' from the edge of pavement unless deemed a safety hazard by the City's Transportation Engineer. Building Heights for lots may be adjusted by the Planning Commission to meet the needs of the proposed development. Density of residential development may be no greater than one unit per 3500 square feet of the entire 20 acre site.

Section 12. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS.

The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed shopping center and for construction on the outparcels and other construction on or adjacent to the site for which the Developer is responsible. In the event that there are state or federal agency permit requirements arising from PUD 13 development of this site, such as the off-site mitigation for impacts on a blue-line stream as required by the Tennessee Department of Environment and Conservation (TDEC), the Developer is responsible for those permit requirements. If a state or federal agency causes the City of Cleveland to incur costs to comply with any permit requirements for the PUD development of this site, the Developer shall reimburse those costs to the City. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are

complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion of construction for fixture installation, furnishing, store stocking, employee training and the like may be granted by the City's Building Official and such permission shall not be unreasonably withheld). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

Section 13. SUBDIVISION AND SITE PLANNING OF OUTPARCELS.

The aggregation of existing parcels into the development sites needed for the various developments within PUD 13 is anticipated to require the subdivision or re-subdivision of land. In order to accomplish this, the Developer is required to prepare a preliminary and final plat for approval by the Cleveland Municipal Planning Commission, and record the final plat(s) once approved. The platting of land into the proper parcels is a necessary precursor to the approval of the detailed site plan for the portion of PUD 13 in question. Such plat(s) should include the provision of right-of-way for any proposed future road improvements that are planned as the PUD 13 project progresses. Platting is to be carried out in accordance with the adopted subdivision regulations.

Section 14. PUD DEVELOPMENT PLAN.

The conceptual site plan and related drawings attached hereto or referenced herein as well as the terms and conditions of this ordinance will comprise the development plan for PUD 13. Detailed site plans as referred to in this ordinance are required to carry out the PUD 13 development and will be considered as part of the development plan when these are subsequently approved by the Planning Commission. It is understood that the owners of the individual properties within the development are each responsible for the compliance of their respective properties with the terms of this ordinance. The owners of the respective properties are expected to work cooperatively toward the achievement of the common development plan for this PUD 13 but a violation by one landowner will not constitute a violation by another landowner. However, joint responsibility may be established for jointly used and maintained facilities that may be incorporated into the detailed site plan(s).

Section 15. TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING.

The developer must have carried out a substantial development of this project within five years from the effective date of this ordinance or the City may cause the property to revert to its former zoning classification without liability for any damages. Substantial development shall be interpreted to mean commencement of construction on at least one commercial building (hotel, restaurant, etc.) or residential structure within the PUD 13 area.

Section 16. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. The Planning Commission has specific authority to review and approve detailed site plans for the development of PUD 13. Minor revisions to detailed site plans that affect a quantity or dimension by less than 30%, or which substitute a material for one of like or better quality in 30% or less of the project area, or which increase functionality by adding a feature desired in PUD 13 (e.g. sidewalk, transit stop, bike racks, etc.) can be approved through the staff site plan review committee with the consent of the City Manager and the Planning Commission Chairperson. Errors and omissions in the PUD 13 development plan that do not constitute a material change in the development plan can be corrected in the same manner as a minor revision.

Section 17. BINDING UPON OTHERS.

It shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term “Developer” is intended to encompass the purchaser(s) of the subject property and any assigns or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term “Developer” is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development. The term “Developer” is intended to include persons or firms or entities acquiring title to the subject property for the purpose of owning land and/or buildings in the PUD 13 development which they may use for a business location or rental property. The term “Developer” also applies to leaseholders who have the right to make tenant improvements on the property. It is understood that persons and entities coming under the definition of “Developer” may at some point divest themselves of their property interests in PUD 13 such that they are no longer responsible for complying with terms of this ordinance.

Section 18. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Banks moved that Ordinance No: 2017-22 be voted for passage on first reading. The motion was seconded by Councilman Estes. Councilman Banks then stated the developer previously stated they would not open access streets on Robin Hood. Councilman Cassada asked about having an opening on Peerless extension to relieve some traffic off Mouse Creek. Mr. Jobe stated that is one of the items they are currently discussing with the developer. Upon roll call, the motion unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance No: 2017-23** – Rezoning 3.27 acres more or less on Paul Huff Parkway, Ellis Circle and Benton Dr NW (Tax Map 34I Group A Parcel 4.00, 5.00 and 6.00 and Tax Map 34I Group B Parcels 11.00 and 64.00) from R3 High Density Residential Zoning District to PUD14 Planned Unit Development (Planning Commission: Approved 8-0; 1 member absent).

ZONING ORDINANCE NO: 2017-23

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT KNOWN AS “PUD 14” ON CERTAIN PROPERTY ON CERTAIN PROPERTY LOCATED NEAR PAUL HUFF PARKWAY (Tax Map 34I Group B Parcels 11.00 and 64.00, Tax Map 34I Group A Parcels

4.00, 5.00 and 6.00.) AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 14; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING CONDITIONS FOR MITIGATION OF NOISE AND VIBRATION; ESTABLISHING SITE PLAN REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR TRAFFIC CIRCULATION ON AND ADJACENT TO THE SITE AND PARKING, FIRE LANES, AND SERVICE AND DELIVERY VEHICLES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING; ESTABLISHING REQUIREMENTS FOR GENERAL APPEARANCE, SIGNAGE AND OUTDOOR DISPLAYS; ESTABLISHING REQUIREMENTS FOR LITTER AND SOLID WASTE CONTROL AND DRAINAGE STRUCTURE MAINTENANCE; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; REQUIRING PROPER SUBDIVISION AND SITE PLANNING; REQUIRING A PUD DEVELOPMENT PLAN; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; COMMUNICATING THE BINDING EFFECT OF THE ORDINANCE UPON OTHERS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS the City of Cleveland, Tennessee, hereinafter “City”, desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter “PUD”, process as an alternative development standard whereby to accomplish such development; and

WHEREAS City’s 2013 Comprehensive Plan future land use element anticipated market-based redevelopment of the area containing the subject property in a context that included access management planning along Paul Huff Parkway, safety and congestion related improvements along Mouse Creek Road, and reconfiguration of the existing street network to support the redevelopment and proper traffic circulation; and

WHEREAS the aforementioned Comprehensive Plan recommendations can best be achieved by working in coordination with property owners in site planning, access to adjacent or nearby major streets including Paul Huff Parkway and Mouse Creek Road, and the design of new or re-configured internal streets.

WHEREAS it is the desire of the property owner(s), hereinafter “Developers”, to have the flexibility of the PUD process in order to work with the City and adjacent property owners who are also seeking to develop or redevelop their properties in a manner that is mutually beneficial, NOW THEREFORE BE IT ORDAINED:

Section 1. ZONING PLAN AND MAP AMENDMENT. The zoning plan and map are hereby amended so as to zone the property described in Section 4 herein as “PUD 14” . PUD 14 comprises an area of adjacent properties with frontage on Peerless Road Extension, Benton Drive, and Ellis Circle near Paul Huff Parkway, and the intention is to allow the development of commercial uses within this PUD 14 area. The uses allowed within the PUD 14 area include the following uses allowed within the City’s CH Commercial Highway zoning district: detached single-family dwellings; townhomes; duplexes, triplexes, and quadraplexes; other multi-unit residential structures; houses of worship; office parks; schools (pre-school, primary, secondary, colleges and universities, trade schools and academies, studios); daycare facilities; tourist homes, guest homes, boarding homes, and bed-and-breakfast establishments; congregate living facilities, residential care facilities, nursing homes, and the like; veterinary care facilities; medical offices and clinics; hospitals; public utilities and utility towers; information technology and communications businesses; professional offices; government offices and government facilities; finance, insurance, and real estate businesses; personal service businesses (barber shops, beauty

salons, nail salons, and the like); commercial recreation and entertainment facilities; department stores and retail stores; dry cleaners; food and beverage stores; hotels and motels; restaurants with or without drive-up windows; convenience stores with or without gasoline pumps; car washes; oil change facilities; vehicle sales, rental and repairs excluding body work; building supply sales; and farm and garden supply sales. Specifically prohibited uses include outdoor firing ranges, race tracks, adult businesses or sex outlets as defined by the City's zoning ordinance, fireworks sales, vehicle body work, outdoor flea markets and outdoor sales of used merchandise other than operable vehicles in good repair, and any other use not identified herein as being allowed.

Section 2. DEVELOPMENT STANDARDS. The development standards for the PUD 14 district are those outlined in this ordinance. Where the PUD 14 Ordinance is silent as to a particular development standard, the standard applicable in the CH Commercial Highway zoning district, if there is any such standard, shall be applied in the commercial development area. Where the PUD 14 Ordinance is silent as to a particular development standard, the standard applicable in the R3 Multi-Family Residential zoning district, if there is any such standard, shall be applied in the residential development area. The respective commercial and residential development areas of PUD 14 are to be as further described herein and as illustrated in the PUD development plan.

Section 3. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES. Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 4. PROPERTY DESCRIPTION

PUD 14 includes the property currently described as Tax Map 34I Group B Parcels 11.00 and 64.00, Tax Map 34I Group A Parcels 4.00, 5.00 and 6.00.

Section 5. NOISE AND VIBRATION MITIGATION.

Noise and vibrations are to be managed during the construction and operation phases of PUD 14. During construction, construction-related noise, vibrations, and traffic in the PUD 14 zoning district shall be managed so as to not unduly interfere with the nearby residential uses. Developer, developer's heirs or successors or assigns, and all contractors and subcontractors will promptly comply with any directive from City to manage construction-related noise, vibrations, and or traffic. Developer and all businesses in the PUD 14 zoning district shall mitigate potential noise or vibration problems from the site by prompt compliance with any City request to adjust volume, frequency, time, or duration of any noise or vibration that the City determines would be bothersome to a reasonable person off-site. Developer and businesses in the PUD 14 zoning district shall affirmatively manage all activities on the site so as to mitigate any noise or vibration that the City determines to likely be bothersome to reasonable person off-site. If after previous requests to Developer and/or any business located in the PUD 14 zoning district concerning noise or vibrations, City determines that there is a continued persistent pattern of noise or vibration emanating from the PUD 14 district, Developer and/or any business in the PUD 14 zoning district must undertake specific appropriate management actions requested by City to mitigate the problem including, but not limited to, the following actions if applicable: reducing or eliminating outdoor music, private security to eliminate cruising or loitering on-site, etc.

Section 6. SITE PLANNING AND DEVELOPMENT COORDINATION

6.A. Conceptual Site Plan for PUD

A conceptual site plan for PUD 14 will be prepared by a Tennessee licensed surveyor or design professional. The site plan shall be developed in coordination with input from City staff. This conceptual site plan is intended to be general in nature, identifying the location of the

commercial and residential development within the PUD 14 area. The conceptual site plan is to identify the location of proposed entrances onto the adjacent roadways as well as right-of-way needed for turn lane improvements in these adjacent roadways (a traffic impact study may be required depending upon the extent of the proposed development impact). Site access, internal traffic circulation areas, and proposed streets would be included in the conceptual site plan. The conceptual site plan would identify an area or areas for stormwater detention based upon the anticipated impervious area within the development. The conceptual site plan would indicate areas of landscaped buffer needed to protect adjacent development in accordance with the City's landscaped buffer ordinance. The conceptual site plan will be the basis of a Developer meeting with the City and Cleveland Utilities staff to develop recommendations for Planning Commission approval. The conceptual site plan will serve as a master plan for the development of PUD 14, and a basis for coordinating street networks, etc.

6.B. Detailed Site Plans for PUD14 Development

One or more detailed site plans, consistent with the conceptual site plan, are required prior to development of any portion of the site with new commercial or residential buildings. The detailed site plan will meet the normal site plan requirements of City for commercial development or residential development, as the case may be. The reason that more than one detailed site plan may be completed for PUD 14 is that different portions of the PUD 14 area may be developed independently at different times. The detailed site plan(s) for PUD 14 will be reviewed in accordance with City's normal site plan review process except that Planning Commission approval is required for the detailed site plan.

Section 7. ACCESS, TRAFFIC CIRCULATION, PARKING, FIRE LANES, SERVICE AND DELIVERY VEHICLES.

7.A. Access

Properties within the PUD may be served by existing minor local streets. One or more minor streets such as Ellis Circle or Benton Drive are located within the PUD area. Depending upon how the Developer and owners of adjacent property choose to develop, it is possible that drivers visiting any one of several properties in PUD 14 or other adjacent property could utilize the few nearby planned access points to Paul Huff Parkway and Mouse Creek Road. The City's goal is to encourage such access possibilities through the conceptual and detailed site planning process.

7. B. Traffic Circulation, Parking, Fire Lanes, Deliveries, etc.

Driveway entrances to sites within PUD 14 shall be developed with adequate turning radii for entering and exiting vehicles, including delivery vehicles where appropriate. Internal traffic circulation and parking on sites, delivery access, service access for solid waste pick-up, etc., and fire and emergency access must be maintained in the site design and specifically addressed in detailed site planning for individual developments within PUD 14. In the event that the PUD 14 site is served by a public transit service, stopping of transit vehicles for entering or exiting passengers shall be outside the designated fire lane unless otherwise approved by the City's fire department. Any drive-through window facilities that are developed on the site, including the outparcels, shall comply with City standards with respect to vehicle stacking, etc. and shall be designed so as to minimize potential conflicts with other vehicles and pedestrians. Where transit stop areas or bicycle parking areas are provided in PUD 14, these areas will not count against impervious area limits. Parking standards shall be as otherwise required by City zoning regulations, subject to a decrease of up to 30% that may be granted by the Planning Commission in consideration of factors such as pedestrian, bicycle, and transit access, shared parking arrangements, enhanced landscaping, innovative stormwater management practices, and the like.

Section 8. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING.**8.A. Impervious Areas**

An impervious area calculation is to be included in detailed site plans for the PUD 14 area. The impervious area of the site is understood to include the foot prints for all structures on the site as well as other paved or concrete areas that do not readily absorb water, generally that which is not greenspace. The impervious area limit in PUD 14 is 80%. Areas devoted to bike lanes, sidewalks which provide pedestrian access to Paul Huff Parkway or Mouse Creek Road, transit stop areas will not be counted toward the 80% impervious limit. A street designed in cooperation with adjacent and nearby property owners and the City which provides a continuous connection between Paul Huff Parkway at Peerless Road Extension and Mouse Creek Road will not be counted toward the 80% impervious limit.

8.B. Stormwater Management

Development within the PUD14 area must meet the City's stormwater regulation requirements. In conjunction with each detailed site plan for development within PUD 14, a drainage plan must be prepared by a professional engineer and approved by the City Engineer prior to development of the site. For purposes of stormwater management, the PUD 14 area will be regarded as an area under a common plan of development and a Notice of Intent (NOI) is required before development of any portion of the site.

8.C. Landscaping

Landscaping serves a variety of purposes and it is a requirement of both the zoning regulations and the stormwater management regulations. Landscaping fulfills a Best Management Practice (BMP) requirement of the stormwater regulations. A landscaping plan shall be submitted with all detailed site plans for the PUD 14 area. The landscaping for the site shall be in accordance with a landscape plan prepared by a Tennessee registrant (engineer, architect, or landscape architect) and approved by the City. The design, installation, and maintenance of the landscaping shall meet the requirements of this ordinance and the City's regulations regarding landscaping. Landscaping shall be provided adjacent to all roadways abutting the site and internal areas within the parking lots and adjacent to buildings. Landscaping shall be professionally installed and maintained in perpetuity by the Developer and all heirs, assigns, and successors in title. Maintenance shall include irrigation, fertilization, pest and disease control, mowing, raking, replacement of dead or diseased plants, and other such activities as may be appropriate to a high quality professionally maintained landscape.

8.D. Tree Preservation

A variety of land cover exists within the PUD 14 area and in nearby properties. In general, mature tree cover creates shade, provides habitat, reduces erosion, provides for effective stream buffer areas, promotes water quality, etc. Re-subdivision of property and site planning concerns with building pads, drainage, and location of streets may indicate removal of existing trees. However, City's Tree Preservation Ordinance will be looked for guidance in the preservation of large trees where possible and where these could be incorporated into buffer areas. The Planning Commission may reduce trees preservation requirements that would otherwise impact PUD 14 if it deems such a reduction appropriate as part of the detailed site plan approval.

8.E. Buffering

The City has a buffering ordinance that is to protect less intensive land uses, e.g. residential, from more intensive land uses, e.g. commercial, that locate on adjacent properties. Buffering for residential properties external to the PUD shall at a minimum adhere to the requirements of the

buffering ordinance within the zoning regulations; however, the Planning Commission may approve alternative transitional buffering arrangements for residential property for which there has been a documented non-residential land use planning effort. Developer and all heirs, assigns, and or successors in title shall take particular care to provide and maintain a densely landscaped buffer that mitigates the intrusion of noise, light, and the view of the proposed commercial development in adjoining residential areas.

8. F. Lighting

As part of each detailed site plan for development in PUD 14, a plan shall be provided for the exterior lighting of buildings, parking lots, signs, etc., that demonstrates the buffering of adjacent residential areas, and the mitigation of glare or distraction for adjacent roadways. Outdoor lighting for parking and sidewalk areas are to minimize light intrusion into nearby residential areas; and other exterior lighting and lighted surfaces are to be designed so as to minimize shining or reflecting into the aforementioned residential areas. Exterior lighting will also be designed in a way that mitigates any glare that would be encountered by motorist on adjacent roadways. Where it is necessary to maintain lighting for security, this lighting will be designed such that escape of lighting onto adjoining residential property is minimized. The lighting plan should include sufficient photometric detail to determine compliance with this ordinance.

Section 9. GENERAL APPEARANCE, SIGNAGE, AND OUTDOOR DISPLAYS.

9.A. General Appearance

Development within the PUD 14 area is to have a high quality appearance. In the commercial development of the PUD 14 area, it is intended that the level of architectural amenity and detail, including quality and cost of materials and craftsmanship, will meet or exceed that found in Cleveland's better commercial developments. The residential development area should achieve the highest quality appearance possible for the price level of units to be produced. Specific designs, color choices, and materials are not prescribed by this ordinance but it is expected that the quality of appearance would be consistent with better quality and comparably priced commercial areas and residential areas found in other communities. Illustrative proposed building elevations and landscaping plans will be considered together by the Planning Commission in order to determine that the proposed development is consistent with these general appearance requirements.

9.B. Signage Plan

When a detailed site plan is prepared for a development within the PUD 14 area it is to include a signage plan for primary signs, such as ground signs and wall signs. The signage plan is to identify the type, size, and general location of the proposed sign(s). The signage plan will demonstrate conformity with the City's sign regulations where those are not otherwise modified by this section. The Planning Commission may consider proposals for innovative grouping of signs other than billboards for development within PUD 14 and adjacent properties and approve such as part of the detailed site plan approval. A primary City concern will be to maintain the high-quality appearance of the area as part of the Exit 27 gateway to Cleveland.

9.C. Outdoor Displays

Outdoor displays of merchandise and outdoor storage of goods and merchandise, including but not limited to materials stored in trailers or shipping containers, is prohibited within 50 feet of any right-of-way. In no event shall any display or storage of merchandise be configured so as to impede the visibility of motorists within or adjacent to the subject property.

Section 10. LITTER, SOLID WASTE, AND DRAINAGE STRUCTURE MAINTENANCE.

The method of solid waste disposal for each use throughout the project site shall be as approved by the City's Director of Public Works. Dumpsters shall be on a concrete pad and shall be screened by a masonry enclosure. Storage for inedible fats or greases shall likewise be enclosed and, if adjacent to a dumpster, shall be separated from the dumpster by a concrete block wall. Litter and debris shall be removed from the parking lots and grounds throughout the project site on a regular basis such that these materials do not accumulate noticeably on-site or migrate to surrounding property. Removal of litter and debris shall include the removal of such materials from drainage structures and other areas where accumulations may occur. Maintenance of drainage structures including removal of sediment, debris, and intrusive vegetation, such that these drainage structures continue to function as designed shall be the continuing responsibility of the developer, or its assigns or successors in title, and shall include effective control of algae, mosquitoes, and other such concerns as may occur with wet stormwater detention areas; such control by the developer will be monitored by the City and shall include technically appropriate means that may include mechanical aeration, application of chemicals, and/or other means. Mechanical sweeping of the parking lot and driveway areas shall be performed regularly by the Developer to control dirt, litter, and debris.

Section 11. SETBACKS AND BUILDING HEIGHTS

Building setbacks, height limits, and lot dimensions for the commercial development area of PUD 14 shall be as designated for the CH zoning district except as otherwise approved by the Planning Commission as part of the detailed site plan approval process. Likewise, residential lot sizes, building heights, and setbacks shall be as required for the R3 residential zoning district unless otherwise modified by the Planning Commission. However, the setbacks on the internal streets, rather than following the CH or R3 zoning, shall be 20 feet. Building Heights for lots may be adjusted by the Planning Commission to meet the needs of the proposed development.

Section 12. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS.

The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed shopping center and for construction on the outparcels and other construction on or adjacent to the site for which the Developer is responsible. In the event that there are state or federal agency permit requirements arising from PUD 14 development of this site, such as the off-site mitigation for impacts on a blue-line stream as required by the Tennessee Department of Environment and Conservation (TDEC), the Developer is responsible for those permit requirements. If a state or federal agency causes the City of Cleveland to incur costs to comply with any permit requirements for the PUD development of this site, the Developer shall reimburse those costs to the City. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion of construction for fixture installation, furnishing, store stocking, employee training and the like may be granted by the City's Building Official and such permission shall not be unreasonably withheld). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

Section 13. SUBDIVISION AND SITE PLANNING OF OUTPARCELS.

The aggregation of existing parcels into the development sites needed for the various developments within PUD 14 is anticipated to require the subdivision or re-subdivision of land. In order to accomplish this, the Developer is required to prepare a preliminary and final plat for approval by the Cleveland Municipal Planning Commission, and record the final plat(s) once approved. The platting of land into the proper parcels is a necessary precursor to the approval of the detailed site plan for the portion of PUD 14 in question. Such plat(s) should include the provision of right-of-way for any proposed future road improvements that are planned as the PUD 14 project progresses. Platting is to be carried out in accordance with the adopted subdivision regulations.

Section 14. PUD DEVELOPMENT PLAN.

The conceptual site plan and related drawings attached hereto or referenced herein as well as the terms and conditions of this ordinance will comprise the development plan for PUD 14. Detailed site plans as referred to in this ordinance are required to carry out the PUD 14 development and will be considered as part of the development plan when these are subsequently approved by the Planning Commission. It is understood that the owners of the individual properties within the development are each responsible for the compliance of their respective properties with the terms of this ordinance. The owners of the respective properties are expected to work cooperatively toward the achievement of the common development plan for this PUD 14 but a violation by one landowner will not constitute a violation by another landowner. However, joint responsibility may be established for jointly used and maintained facilities that may be incorporated into the detailed site plan(s).

Section 15. TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING.

The developer must have carried out a substantial development of this project within five years from the effective date of this ordinance or the City may cause the property to revert to its former zoning classification without liability for any damages. Substantial development shall be interpreted to mean commencement of construction on at least one commercial building (hotel, restaurant, etc.) or residential structure within the PUD 14 area.

Section 16. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. The Planning Commission has specific authority to review and approve detailed site plans for the development of PUD 14. Minor revisions to detailed site plans that affect a quantity or dimension by less than 30%, or which substitute a material for one of like or better quality in 30% or less of the project area, or which increase functionality by adding a feature desired in PUD 14 (e.g. sidewalk, transit stop, bike racks, etc.) can be approved through the staff site plan review committee with the consent of the City Manager and the Planning Commission Chairperson. Errors and omissions in the PUD 14 development plan that do not constitute a material change in the development plan can be corrected in the same manner as a minor revision.

Section 17. BINDING UPON OTHERS.

It shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass the purchaser(s) of the subject property and any assigns or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the

subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development. The term “Developer” is intended to include persons or firms or entities acquiring title to the subject property for the purpose of owning land and/or buildings in the PUD 14 development which they may use for a business location or rental property. The term “Developer” also applies to leaseholders who have the right to make tenant improvements on the property. It is understood that persons and entities coming under the definition of “Developer” may at some point divest themselves of their property interests in PUD 14 such that they are no longer responsible for complying with terms of this ordinance.

Section 18. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. Specifically, where this ordinance is in conflict with any Interstate Gateway Corridor Overlay requirement, the standards of this ordinance shall prevail. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-23 be voted for passage on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance No: 2017-24** – Rezoning 5.26 acres more or less on Paul Huff Parkway, Peerless Extension and Benton Dr NW (Tax Map34I Group B Parcels 10.00) from R3 High Density Residential Zoning District to PUD15 Planned Unit Development (Planning Commission: Approved 7-0; 1 member left during meeting; 1 member absent).

ZONING ORDINANCE NO: 2017-24

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT KNOWN AS “PUD 15” ON CERTAIN PROPERTY ON CERTAIN PROPERTY LOCATED NEAR PAUL HUFF PARKWAY (Tax Map 34I Group B Parcel 10.00.) AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 15; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING CONDITIONS FOR MITIGATION OF NOISE AND VIBRATION; ESTABLISHING SITE PLAN REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR TRAFFIC CIRCULATION ON AND ADJACENT TO THE SITE AND PARKING, FIRE LANES, AND SERVICE AND DELIVERY VEHICLES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING; ESTABLISHING REQUIREMENTS FOR GENERAL APPEARANCE, SIGNAGE AND OUTDOOR DISPLAYS; ESTABLISHING

REQUIREMENTS FOR LITTER AND SOLID WASTE CONTROL AND DRAINAGE STRUCTURE MAINTENANCE; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; REQUIRING PROPER SUBDIVISION AND SITE PLANNING; REQUIRING A PUD DEVELOPMENT PLAN; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; COMMUNICATING THE BINDING EFFECT OF THE ORDINANCE UPON OTHERS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS the City of Cleveland, Tennessee, hereinafter “City”, desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter “PUD”, process as an alternative development standard whereby to accomplish such development; and

WHEREAS City’s 2013 Comprehensive Plan future land use element anticipated market-based redevelopment of the area containing the subject property in a context that included access management planning along Paul Huff Parkway, safety and congestion related improvements along Mouse Creek Road, and reconfiguration of the existing street network to support the redevelopment and proper traffic circulation; and

WHEREAS the aforementioned Comprehensive Plan recommendations can best be achieved by working in coordination with property owners in site planning, access to adjacent or nearby major streets including Paul Huff Parkway and Mouse Creek Road, and the design of new or re-configured internal streets.

WHEREAS it is the desire of the property owner(s), hereinafter “Developers”, to have the flexibility of the PUD process in order to work with the City and adjacent property owners who are also seeking to develop or redevelop their properties in a manner that is mutually beneficial, NOW THEREFORE BE IT ORDAINED:

Section 1. ZONING PLAN AND MAP AMENDMENT. The zoning plan and map are hereby amended so as to zone the property described in Section 4 herein as “PUD 15” . PUD 15 comprises an area of adjacent properties with frontage on Peerless Road Extension, Benton Drive, and Paul Huff Parkway, and the intention is to allow the development of commercial uses within this PUD 15 area. The uses allowed within the PUD 15 area include the following uses allowed within the City’s CH Commercial Highway zoning district: detached single-family dwellings; townhomes; duplexes, triplexes, and quadraplexes; other multi-unit residential structures; houses of worship; office parks; schools (pre-school, primary, secondary, colleges and universities, trade schools and academies, studios); daycare facilities; tourist homes, guest homes, boarding homes, and bed-and-breakfast establishments; congregate living facilities, residential care facilities, nursing homes, and the like; veterinary care facilities; medical offices and clinics; hospitals; public utilities and utility towers; information technology and communications businesses; professional offices; government offices and government facilities; finance, insurance, and real estate businesses; personal service businesses (barber shops, beauty salons, nail salons, and the like); commercial recreation and entertainment facilities; department stores and retail stores; dry cleaners; food and beverage stores; hotels and motels; restaurants with or without drive-up windows; convenience stores with or without gasoline pumps; car washes; oil change facilities; vehicle sales, rental and repairs excluding body work; building supply sales; and farm and garden supply sales. Specifically prohibited uses include outdoor firing ranges, race tracks, adult businesses or sex outlets as defined by the City’s zoning ordinance, fireworks sales, vehicle body work, outdoor flea markets and outdoor sales of used merchandise other than operable vehicles in good repair, and any other use not identified herein as being allowed.

Section 2. DEVELOPMENT STANDARDS. The development standards for the PUD 15 district are those outlined in this ordinance. Where the PUD 15 Ordinance is silent as to a particular development standard, the standard applicable in the CH Commercial Highway zoning district, if there is any such standard, shall be applied in the commercial development area. Where the PUD 15 Ordinance is silent as to a particular development standard, the standard applicable in the R3 Multi-Family Residential zoning district, if there is any such standard, shall be applied in the residential development area. The respective commercial and residential development areas of PUD 15 are to be as further described herein and as illustrated in the PUD development plan.

Section 3. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES. Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 4. PROPERTY DESCRIPTION

PUD 15 includes the property currently described as Tax Map 34I Group B Parcel 10.00.

Section 5. NOISE AND VIBRATION MITIGATION.

Noise and vibrations are to be managed during the construction and operation phases of PUD 15. During construction, construction-related noise, vibrations, and traffic in the PUD 15 zoning district shall be managed so as to not unduly interfere with the nearby residential uses. Developer, developer's heirs or successors or assigns, and all contractors and subcontractors will promptly comply with any directive from City to manage construction-related noise, vibrations, and or traffic. Developer and all businesses in the PUD 15 zoning district shall mitigate potential noise or vibration problems from the site by prompt compliance with any City request to adjust volume, frequency, time, or duration of any noise or vibration that the City determines would be bothersome to a reasonable person off-site. Developer and businesses in the PUD 15 zoning district shall affirmatively manage all activities on the site so as to mitigate any noise or vibration that the City determines to likely be bothersome to reasonable person off-site. If after previous requests to Developer and/or any business located in the PUD 15 zoning district concerning noise or vibrations, City determines that there is a continued persistent pattern of noise or vibration emanating from the PUD 15 district, Developer and/or any business in the PUD 15 zoning district must undertake specific appropriate management actions requested by City to mitigate the problem including, but not limited to, the following actions if applicable: reducing or eliminating outdoor music, private security to eliminate cruising or loitering on-site, etc.

Section 6. SITE PLANNING AND DEVELOPMENT COORDINATION

6.A. Conceptual Site Plan for PUD

A conceptual site plan for PUD 15 will be prepared by a Tennessee licensed surveyor or design professional. The site plan shall be developed in coordination with input from City staff. This conceptual site plan is intended to be general in nature, identifying the location of the commercial and residential development within the PUD 15 area. The conceptual site plan is to identify the location of proposed entrances onto the adjacent roadways as well as right-of-way needed for turn lane improvements in these adjacent roadways (a traffic impact study may be required depending upon the extent of the proposed development impact). Site access, internal traffic circulation areas, and proposed streets would be included in the conceptual site plan. The conceptual site plan would identify an area or areas for stormwater detention based upon the anticipated impervious area within the development. The conceptual site plan would indicate areas of landscaped buffer needed to protect adjacent development in accordance with the City's landscaped buffer ordinance. The conceptual site plan will be the basis of a Developer meeting with the City and Cleveland Utilities staff to develop recommendations for Planning

Commission approval. The conceptual site plan will serve as a master plan for the development of PUD 15, and a basis for coordinating street networks, etc.

6.B. Detailed Site Plans for PUD15 Development

One or more detailed site plans, consistent with the conceptual site plan, are required prior to development of any portion of the site with new commercial or residential buildings. The detailed site plan will meet the normal site plan requirements of City for commercial development or residential development, as the case may be. The reason that more than one detailed site plan may be completed for PUD 15 is that different portions of the PUD 15 area may be developed independently at different times. The detailed site plan(s) for PUD 15 will be reviewed in accordance with City's normal site plan review process except that Planning Commission approval is required for the detailed site plan.

Section 7. ACCESS, TRAFFIC CIRCULATION, PARKING, FIRE LANES, SERVICE AND DELIVERY VEHICLES.

7.A. Access

Properties within the PUD may be served by existing minor local streets. One or more minor streets such as Ellis Circle or Benton Drive are located within the PUD area. Depending upon how the Developer and owners of adjacent property choose to develop, it is possible that drivers visiting any one of several properties in PUD 15 or other adjacent property could utilize the few nearby planned access points to Paul Huff Parkway and Mouse Creek Road. The City's goal is to encourage such access possibilities through the conceptual and detailed site planning process.

7. B. Traffic Circulation, Parking, Fire Lanes, Deliveries, etc.

Driveway entrances to sites within PUD 15 shall be developed with adequate turning radii for entering and exiting vehicles, including delivery vehicles where appropriate. Internal traffic circulation and parking on sites, delivery access, service access for solid waste pick-up, etc., and fire and emergency access must be maintained in the site design and specifically addressed in detailed site planning for individual developments within PUD 15. In the event that the PUD 15 site is served by a public transit service, stopping of transit vehicles for entering or exiting passengers shall be outside the designated fire lane unless otherwise approved by the City's fire department. Any drive-through window facilities that are developed on the site, including the outparcels, shall comply with City standards with respect to vehicle stacking, etc. and shall be designed so as to minimize potential conflicts with other vehicles and pedestrians. Where transit stop areas or bicycle parking areas are provided in PUD 15, these areas will not count against impervious area limits. Parking standards shall be as otherwise required by City zoning regulations, subject to a decrease of up to 30% that may be granted by the Planning Commission in consideration of factors such as pedestrian, bicycle, and transit access, shared parking arrangements, enhanced landscaping, innovative stormwater management practices, and the like.

Section 8. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING.

8.A. Impervious Areas

An impervious area calculation is to be included in detailed site plans for the PUD 15 area. The impervious area of the site is understood to include the foot prints for all structures on the site as well as other paved or concrete areas that do not readily absorb water, generally that which is not greenspace. The impervious area limit in PUD 15 is 80%. Areas devoted to bike lanes, sidewalks which provide pedestrian access to Paul Huff Parkway or Mouse Creek Road, transit stop areas will not be counted toward the 80% impervious limit. A street designed in cooperation with adjacent and nearby property owners and the City which provides a continuous connection between Paul Huff Parkway at Peerless Road Extension and Mouse Creek Road will not be counted toward the 80% impervious limit.

8.B. Stormwater Management

Development within the PUD15 area must meet the City's stormwater regulation requirements. In conjunction with each detailed site plan for development within PUD 15, a drainage plan must be prepared by a professional engineer and approved by the City Engineer prior to development of the site. For purposes of stormwater management, the PUD 15 area will be regarded as an area under a common plan of development and a Notice of Intent (NOI) is required before development of any portion of the site.

8.C. Landscaping

Landscaping serves a variety of purposes and it is a requirement of both the zoning regulations and the stormwater management regulations. Landscaping fulfills a Best Management Practice (BMP) requirement of the stormwater regulations. A landscaping plan shall be submitted with all detailed site plans for the PUD 15 area. The landscaping for the site shall be in accordance with a landscape plan prepared by a Tennessee registrant (engineer, architect, or landscape architect) and approved by the City. The design, installation, and maintenance of the landscaping shall meet the requirements of this ordinance and the City's regulations regarding landscaping. Landscaping shall be provided adjacent to all roadways abutting the site and internal areas within the parking lots and adjacent to buildings. Landscaping shall be professionally installed and maintained in perpetuity by the Developer and all heirs, assigns, and successors in title. Maintenance shall include irrigation, fertilization, pest and disease control, mowing, raking, replacement of dead or diseased plants, and other such activities as may be appropriate to a high quality professionally maintained landscape.

8.D. Tree Preservation

A variety of land cover exists within the PUD 15 area and in nearby properties. In general, mature tree cover creates shade, provides habitat, reduces erosion, provides for effective stream buffer areas, promotes water quality, etc. Re-subdivision of property and site planning concerns with building pads, drainage, and location of streets may indicate removal of existing trees. However, City's Tree Preservation Ordinance will be looked for guidance in the preservation of large trees where possible and where these could be incorporated into buffer areas. The Planning Commission may reduce trees preservation requirements that would otherwise impact PUD 15 if it deems such a reduction appropriate as part of the detailed site plan approval.

8.E. Buffering

The City has a buffering ordinance that is to protect less intensive land uses, e.g. residential, from more intensive land uses, e.g. commercial, that locate on adjacent properties. Buffering for residential properties external to the PUD shall at a minimum adhere to the requirements of the buffering ordinance within the zoning regulations; however, the Planning Commission may approve alternative transitional buffering arrangements for residential property for which there has been a documented non-residential land use planning effort. Developer and all heirs, assigns, and or successors in title shall take particular care to provide and maintain a densely landscaped buffer that mitigates the intrusion of noise, light, and the view of the proposed commercial development in adjoining residential areas.

8. F. Lighting

As part of each detailed site plan for development in PUD 15, a plan shall be provided for the exterior lighting of buildings, parking lots, signs, etc., that demonstrates the buffering of adjacent residential areas, and the mitigation of glare or distraction for adjacent roadways. Outdoor lighting for parking and sidewalk areas are to minimize light intrusion into nearby residential areas; and other exterior lighting and lighted surfaces are to be designed so as to minimize shining or reflecting into the aforementioned residential areas. Exterior lighting will also be

designed in a way that mitigates any glare that would be encountered by motorist on adjacent roadways. Where it is necessary to maintain lighting for security, this lighting will be designed such that escape of lighting onto adjoining residential property is minimized. The lighting plan should include sufficient photometric detail to determine compliance with this ordinance.

Section 9. GENERAL APPEARANCE, SIGNAGE, AND OUTDOOR DISPLAYS.

9.A. General Appearance

Development within the PUD 15 area is to have a high quality appearance. In the commercial development of the PUD 15 area, it is intended that the level of architectural amenity and detail, including quality and cost of materials and craftsmanship, will meet or exceed that found in Cleveland's better commercial developments. The residential development area should achieve the highest quality appearance possible for the price level of units to be produced. Specific designs, color choices, and materials are not prescribed by this ordinance but it is expected that the quality of appearance would be consistent with better quality and comparably priced commercial areas and residential areas found in other communities. Illustrative proposed building elevations and landscaping plans will be considered together by the Planning Commission in order to determine that the proposed development is consistent with these general appearance requirements.

9.B. Signage Plan

When a detailed site plan is prepared for a development within the PUD 15 area it is to include a signage plan for primary signs, such as ground signs and wall signs. The signage plan is to identify the type, size, and general location of the proposed sign(s). The signage plan will demonstrate conformity with the City's sign regulations where those are not otherwise modified by this section. The Planning Commission may consider proposals for innovative grouping of signs other than billboards for development within PUD 15 and adjacent properties and approve such as part of the detailed site plan approval. A primary City concern will be to maintain the high-quality appearance of the area as part of the Exit 27 gateway to Cleveland.

9.C. Outdoor Displays

Outdoor displays of merchandise and outdoor storage of goods and merchandise, including but not limited to materials stored in trailers or shipping containers, is prohibited within 50 feet of any right-of-way. In no event shall any display or storage of merchandise be configured so as to impede the visibility of motorists within or adjacent to the subject property.

Section 10. LITTER, SOLID WASTE, AND DRAINAGE STRUCTURE MAINTENANCE.

The method of solid waste disposal for each use throughout the project site shall be as approved by the City's Director of Public Works. Dumpsters shall be on a concrete pad and shall be screened by a masonry enclosure. Storage for inedible fats or greases shall likewise be enclosed and, if adjacent to a dumpster, shall be separated from the dumpster by a concrete block wall. Litter and debris shall be removed from the parking lots and grounds throughout the project site on a regular basis such that these materials do not accumulate noticeably on-site or migrate to surrounding property. Removal of litter and debris shall include the removal of such materials from drainage structures and other areas where accumulations may occur. Maintenance of drainage structures including removal of sediment, debris, and intrusive vegetation, such that these drainage structures continue to function as designed shall be the continuing responsibility of the developer, or its assigns or successors in title, and shall include effective control of algae, mosquitoes, and other such concerns as may occur with wet stormwater detention areas; such control by the developer will be monitored by the City and shall include technically appropriate means that may include mechanical aeration, application of chemicals, and/or other means.

Mechanical sweeping of the parking lot and driveway areas shall be performed regularly by the Developer to control dirt, litter, and debris.

Section 11. SETBACKS AND BUILDING HEIGHTS

Building setbacks, height limits, and lot dimensions for the commercial development area of PUD 15 shall be as designated for the CH zoning district except as otherwise approved by the Planning Commission as part of the detailed site plan approval process. Likewise, residential lot sizes, building heights, and setbacks shall be as required for the R3 residential zoning district unless otherwise modified by the Planning Commission. However, the setbacks on the internal streets, rather than following the CH or R3 zoning, shall be 20 feet. Building Heights for lots may be adjusted by the Planning Commission to meet the needs of the proposed development.

Section 12. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS.

The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed shopping center and for construction on the outparcels and other construction on or adjacent to the site for which the Developer is responsible. In the event that there are state or federal agency permit requirements arising from PUD 15 development of this site, such as the off-site mitigation for impacts on a blue-line stream as required by the Tennessee Department of Environment and Conservation (TDEC), the Developer is responsible for those permit requirements. If a state or federal agency causes the City of Cleveland to incur costs to comply with any permit requirements for the PUD development of this site, the Developer shall reimburse those costs to the City. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion of construction for fixture installation, furnishing, store stocking, employee training and the like may be granted by the City's Building Official and such permission shall not be unreasonably withheld). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

Section 13. SUBDIVISION AND SITE PLANNING OF OUTPARCELS.

The aggregation of existing parcels into the development sites needed for the various developments within PUD 15 is anticipated to require the subdivision or re-subdivision of land. In order to accomplish this, the Developer is required to prepare a preliminary and final plat for approval by the Cleveland Municipal Planning Commission, and record the final plat(s) once approved. The platting of land into the proper parcels is a necessary precursor to the approval of the detailed site plan for the portion of PUD 15 in question. Such plat(s) should include the provision of right-of-way for any proposed future road improvements that are planned as the PUD 15 project progresses. Platting is to be carried out in accordance with the adopted subdivision regulations.

Section 14. PUD DEVELOPMENT PLAN.

The conceptual site plan and related drawings attached hereto or referenced herein as well as the terms and conditions of this ordinance will comprise the development plan for PUD 15. Detailed site plans as referred to in this ordinance are required to carry out the PUD 15 development and will be considered as part of the development plan when these are subsequently approved by the Planning Commission. It is understood that the owners of the individual properties within the

development are each responsible for the compliance of their respective properties with the terms of this ordinance. The owners of the respective properties are expected to work cooperatively toward the achievement of the common development plan for this PUD 15 but a violation by one landowner will not constitute a violation by another landowner. However, joint responsibility may be established for jointly used and maintained facilities that may be incorporated into the detailed site plan(s).

Section 15. TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING.

The developer must have carried out a substantial development of this project within five years from the effective date of this ordinance or the City may cause the property to revert to its former zoning classification without liability for any damages. Substantial development shall be interpreted to mean commencement of construction on at least one commercial building (hotel, restaurant, etc.) or residential structure within the PUD 15 area.

Section 16. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. The Planning Commission has specific authority to review and approve detailed site plans for the development of PUD 15. Minor revisions to detailed site plans that affect a quantity or dimension by less than 30%, or which substitute a material for one of like or better quality in 30% or less of the project area, or which increase functionality by adding a feature desired in PUD 15 (e.g. sidewalk, transit stop, bike racks, etc.) can be approved through the staff site plan review committee with the consent of the City Manager and the Planning Commission Chairperson. Errors and omissions in the PUD 15 development plan that do not constitute a material change in the development plan can be corrected in the same manner as a minor revision.

Section 17. BINDING UPON OTHERS.

It shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass the purchaser(s) of the subject property and any assigns or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development. The term "Developer" is intended to include persons or firms or entities acquiring title to the subject property for the purpose of owning land and/or buildings in the PUD 15 development which they may use for a business location or rental property. The term "Developer" also applies to leaseholders who have the right to make tenant improvements on the property. It is understood that persons and entities coming under the definition of "Developer" may at some point divest themselves of their property interests in PUD 15 such that they are no longer responsible for complying with terms of this ordinance.

Section 18. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Estes moved that Ordinance No: 2017-24 be voted for passage on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance No: 2017-25** – Rezoning 3.16 acres more or less on Ellis Circle and Benton Dr NW (Tax Map34I Group B Parcels 12.00, 12.01 and 12.02) from R3 High Density Residential Zoning District to PUD16 Planned Unit Development (Planning Commission: Approved 5-0; 2 members recused; 2 members absent).

ZONING ORDINANCE NO: 2017-25

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT KNOWN AS “PUD 16” ON CERTAIN PROPERTY ON CERTAIN PROPERTY LOCATED NEAR PAUL HUFF PARKWAY (Tax Map 34I Group B Parcel 12.00, 12.01 and 12.02.) AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 16; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING CONDITIONS FOR MITIGATION OF NOISE AND VIBRATION; ESTABLISHING SITE PLAN REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR TRAFFIC CIRCULATION ON AND ADJACENT TO THE SITE AND PARKING, FIRE LANES, AND SERVICE AND DELIVERY VEHICLES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING; ESTABLISHING REQUIREMENTS FOR GENERAL APPEARANCE, SIGNAGE AND OUTDOOR DISPLAYS; ESTABLISHING REQUIREMENTS FOR LITTER AND SOLID WASTE CONTROL AND DRAINAGE STRUCTURE MAINTENANCE; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; REQUIRING PROPER SUBDIVISION AND SITE PLANNING; REQUIRING A PUD DEVELOPMENT PLAN; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; COMMUNICATING THE BINDING EFFECT OF THE ORDINANCE UPON OTHERS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS the City of Cleveland, Tennessee, hereinafter “City”, desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter “PUD”, process as an alternative development standard whereby to accomplish such development; and

WHEREAS City’s 2013 Comprehensive Plan future land use element anticipated market-based redevelopment of the area containing the subject property in a context that included access management planning along Paul Huff Parkway, safety and congestion related improvements along Mouse Creek Road, and reconfiguration of the existing street network to support the redevelopment and proper traffic circulation; and

WHEREAS the aforementioned Comprehensive Plan recommendations can best be achieved by working in coordination with property owners in site planning, access to adjacent or nearby major streets including Paul Huff Parkway and Mouse Creek Road, and the design of new or re-configured internal streets.

WHEREAS it is the desire of the property owner(s), hereinafter “Developers”, to have the flexibility of the PUD process in order to work with the City and adjacent property owners who are also seeking to develop or redevelop their properties in a manner that is mutually beneficial, NOW THEREFORE BE IT ORDAINED:

Section 1. ZONING PLAN AND MAP AMENDMENT. The zoning plan and map are hereby amended so as to zone the property described in Section 4 herein as “PUD 16”. PUD 16 comprises an area of adjacent properties with frontage on Peerless Road Extension, Ellis Circle, Benton Drive, and adjacent to Paul Huff Parkway, and the intention is to allow the development of commercial uses within this PUD 16 area. The uses allowed within the PUD 16 area include the following uses allowed within the City’s CH Commercial Highway zoning district: detached single-family dwellings; townhomes; duplexes, triplexes, and quadraplexes; other multi-unit residential structures; houses of worship; office parks; schools (pre-school, primary, secondary, colleges and universities, trade schools and academies, studios); daycare facilities; tourist homes, guest homes, boarding homes, and bed-and-breakfast establishments; congregate living facilities, residential care facilities, nursing homes, and the like; veterinary care facilities; medical offices and clinics; hospitals; public utilities and utility towers; information technology and communications businesses; professional offices; government offices and government facilities; finance, insurance, and real estate businesses; personal service businesses (barber shops, beauty salons, nail salons, and the like); commercial recreation and entertainment facilities; department stores and retail stores; dry cleaners; food and beverage stores; hotels and motels; restaurants with or without drive-up windows; convenience stores with or without gasoline pumps; car washes; oil change facilities; vehicle sales, rental and repairs excluding body work; building supply sales; and farm and garden supply sales. Specifically prohibited uses include outdoor firing ranges, race tracks, adult businesses or sex outlets as defined by the City’s zoning ordinance, fireworks sales, vehicle body work, outdoor flea markets and outdoor sales of used merchandise other than operable vehicles in good repair, and any other use not identified herein as being allowed.

Section 2. DEVELOPMENT STANDARDS. The development standards for the PUD 16 district are those outlined in this ordinance. Where the PUD 16 Ordinance is silent as to a particular development standard, the standard applicable in the CH Commercial Highway zoning district, if there is any such standard, shall be applied in the commercial development area. Where the PUD 16 Ordinance is silent as to a particular development standard, the standard applicable in the R3 Multi-Family Residential zoning district, if there is any such standard, shall be applied in the residential development area. The respective commercial and residential development areas of PUD 16 are to be as further described herein and as illustrated in the PUD development plan.

Section 3. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES. Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 4. PROPERTY DESCRIPTION

PUD 16 includes the property currently described as Tax Map 34I Group B Parcel 12.00, 12.01 and 12.02.

Section 5. NOISE AND VIBRATION MITIGATION.

Noise and vibrations are to be managed during the construction and operation phases of PUD 16. During construction, construction-related noise, vibrations, and traffic in the PUD 16 zoning district shall be managed so as to not unduly interfere with the nearby residential uses. Developer, developer's heirs or successors or assigns, and all contractors and subcontractors will promptly comply with any directive from City to manage construction-related noise, vibrations, and or traffic. Developer and all businesses in the PUD 16 zoning district shall mitigate potential noise or vibration problems from the site by prompt compliance with any City request to adjust volume, frequency, time, or duration of any noise or vibration that the City determines would be bothersome to a reasonable person off-site. Developer and businesses in the PUD 16 zoning district shall affirmatively manage all activities on the site so as to mitigate any noise or vibration that the City determines to likely be bothersome to reasonable person off-site. If after previous requests to Developer and/or any business located in the PUD 16 zoning district concerning noise or vibrations, City determines that there is a continued persistent pattern of noise or vibration emanating from the PUD 16 district, Developer and/or any business in the PUD 16 zoning district must undertake specific appropriate management actions requested by City to mitigate the problem including, but not limited to, the following actions if applicable: reducing or eliminating outdoor music, private security to eliminate cruising or loitering on-site, etc.

Section 6. SITE PLANNING AND DEVELOPMENT COORDINATION

6.A. Conceptual Site Plan for PUD

A conceptual site plan for PUD 16 will be prepared by a Tennessee licensed surveyor or design professional. The site plan shall be developed in coordination with input from City staff. This conceptual site plan is intended to be general in nature, identifying the location of the commercial and residential development within the PUD 16 area. The conceptual site plan is to identify the location of proposed entrances onto the adjacent roadways as well as right-of-way needed for turn lane improvements in these adjacent roadways (a traffic impact study may be required depending upon the extent of the proposed development impact). Site access, internal traffic circulation areas, and proposed streets would be included in the conceptual site plan. The conceptual site plan would identify an area or areas for stormwater detention based upon the anticipated impervious area within the development. The conceptual site plan would indicate areas of landscaped buffer needed to protect adjacent development in accordance with the City's landscaped buffer ordinance. The conceptual site plan will be the basis of a Developer meeting with the City and Cleveland Utilities staff to develop recommendations for Planning Commission approval. The conceptual site plan will serve as a master plan for the development of PUD 16, and a basis for coordinating street networks, etc.

6.B. Detailed Site Plans for PUD16 Development

One or more detailed site plans, consistent with the conceptual site plan, are required prior to development of any portion of the site with new commercial or residential buildings. The detailed site plan will meet the normal site plan requirements of City for commercial development or residential development, as the case may be. The reason that more than one detailed site plan may be completed for PUD 16 is that different portions of the PUD 16 area may be developed independently at different times. The detailed site plan(s) for PUD 16 will be reviewed in accordance with City's normal site plan review process except that Planning Commission approval is required for the detailed site plan.

Section 7. ACCESS, TRAFFIC CIRCULATION, PARKING, FIRE LANES, SERVICE AND DELIVERY VEHICLES.

7.A. Access

Properties within the PUD may be served by existing minor local streets. One or more minor streets such as Ellis Circle or Benton Drive are located within the PUD area. Depending upon how the Developer and owners of adjacent property choose to develop, it is possible that drivers visiting any one of several properties in PUD 16 or other adjacent property could utilize the few nearby planned access points to Paul Huff Parkway and Mouse Creek Road. The City's goal is to encourage such access possibilities through the conceptual and detailed site planning process.

7. B. Traffic Circulation, Parking, Fire Lanes, Deliveries, etc.

Driveway entrances to sites within PUD 16 shall be developed with adequate turning radii for entering and exiting vehicles, including delivery vehicles where appropriate. Internal traffic circulation and parking on sites, delivery access, service access for solid waste pick-up, etc., and fire and emergency access must be maintained in the site design and specifically addressed in detailed site planning for individual developments within PUD 16. In the event that the PUD 16 site is served by a public transit service, stopping of transit vehicles for entering or exiting passengers shall be outside the designated fire lane unless otherwise approved by the City's fire department. Any drive-through window facilities that are developed on the site, including the outparcels, shall comply with City standards with respect to vehicle stacking, etc. and shall be designed so as to minimize potential conflicts with other vehicles and pedestrians. Where transit stop areas or bicycle parking areas are provided in PUD 16, these areas will not count against impervious area limits. Parking standards shall be as otherwise required by City zoning regulations, subject to a decrease of up to 30% that may be granted by the Planning Commission in consideration of factors such as pedestrian, bicycle, and transit access, shared parking arrangements, enhanced landscaping, innovative stormwater management practices, and the like.

Section 8. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING.

8.A. Impervious Areas

An impervious area calculation is to be included in detailed site plans for the PUD 16 area. The impervious area of the site is understood to include the foot prints for all structures on the site as well as other paved or concrete areas that do not readily absorb water, generally that which is not greenspace. The impervious area limit in PUD 16 is 80%. Areas devoted to bike lanes, sidewalks which provide pedestrian access to Paul Huff Parkway or Mouse Creek Road, transit stop areas will not be counted toward the 80% impervious limit. A street designed in cooperation with adjacent and nearby property owners and the City which provides a continuous connection between Paul Huff Parkway at Peerless Road Extension and Mouse Creek Road will not be counted toward the 80% impervious limit.

8.B. Stormwater Management

Development within the PUD16 area must meet the City's stormwater regulation requirements. In conjunction with each detailed site plan for development within PUD 16, a drainage plan must be prepared by a professional engineer and approved by the City Engineer prior to development of the site. For purposes of stormwater management, the PUD 16 area will be regarded as an area under a common plan of development and a Notice of Intent (NOI) is required before development of any portion of the site.

8.C. Landscaping

Landscaping serves a variety of purposes and it is a requirement of both the zoning regulations and the stormwater management regulations. Landscaping fulfills a Best Management Practice (BMP) requirement of the stormwater regulations. A landscaping plan shall be submitted with all

detailed site plans for the PUD 16 area. The landscaping for the site shall be in accordance with a landscape plan prepared by a Tennessee registrant (engineer, architect, or landscape architect) and approved by the City. The design, installation, and maintenance of the landscaping shall meet the requirements of this ordinance and the City's regulations regarding landscaping. Landscaping shall be provided adjacent to all roadways abutting the site and internal areas within the parking lots and adjacent to buildings. Landscaping shall be professionally installed and maintained in perpetuity by the Developer and all heirs, assigns, and successors in title. Maintenance shall include irrigation, fertilization, pest and disease control, mowing, raking, replacement of dead or diseased plants, and other such activities as may be appropriate to a high quality professionally maintained landscape.

8.D. Tree Preservation

A variety of land cover exists within the PUD 16 area and in nearby properties. In general, mature tree cover creates shade, provides habitat, reduces erosion, provides for effective stream buffer areas, promotes water quality, etc. Re-subdivision of property and site planning concerns with building pads, drainage, and location of streets may indicate removal of existing trees. However, City's Tree Preservation Ordinance will be looked for guidance in the preservation of large trees where possible and where these could be incorporated into buffer areas. The Planning Commission may reduce trees preservation requirements that would otherwise impact PUD 16 if it deems such a reduction appropriate as part of the detailed site plan approval.

8.E. Buffering

The City has a buffering ordinance that is to protect less intensive land uses, e.g. residential, from more intensive land uses, e.g. commercial, that locate on adjacent properties. Buffering for residential properties external to the PUD shall at a minimum adhere to the requirements of the buffering ordinance within the zoning regulations; however, the Planning Commission may approve alternative transitional buffering arrangements for residential property for which there has been a documented non-residential land use planning effort. Developer and all heirs, assigns, and or successors in title shall take particular care to provide and maintain a densely landscaped buffer that mitigates the intrusion of noise, light, and the view of the proposed commercial development in adjoining residential areas.

8. F. Lighting

As part of each detailed site plan for development in PUD 16, a plan shall be provided for the exterior lighting of buildings, parking lots, signs, etc., that demonstrates the buffering of adjacent residential areas, and the mitigation of glare or distraction for adjacent roadways. Outdoor lighting for parking and sidewalk areas are to minimize light intrusion into nearby residential areas; and other exterior lighting and lighted surfaces are to be designed so as to minimize shining or reflecting into the aforementioned residential areas. Exterior lighting will also be designed in a way that mitigates any glare that would be encountered by motorist on adjacent roadways. Where it is necessary to maintain lighting for security, this lighting will be designed such that escape of lighting onto adjoining residential property is minimized. The lighting plan should include sufficient photometric detail to determine compliance with this ordinance.

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Development within the PUD 16 area is to have a high quality appearance. In the commercial development of the PUD 16 area, it is intended that the level of architectural amenity and detail, including quality and cost of materials and craftsmanship, will meet or exceed that found in Cleveland's better commercial developments. The residential development area should achieve the highest quality appearance possible for the price level of units to be produced. Specific

designs, color choices, and materials are not prescribed by this ordinance but it is expected that the quality of appearance would be consistent with better quality and comparably priced commercial areas and residential areas found in other communities. Illustrative proposed building elevations and landscaping plans will be considered together by the Planning Commission in order to determine that the proposed development is consistent with these general appearance requirements.

9.B. Signage Plan

When a detailed site plan is prepared for a development within the PUD 16 area it is to include a signage plan for primary signs, such as ground signs and wall signs. The signage plan is to identify the type, size, and general location of the proposed sign(s). The signage plan will demonstrate conformity with the City's sign regulations where those are not otherwise modified by this section. The Planning Commission may consider proposals for innovative grouping of signs other than billboards for development within PUD 16 and adjacent properties and approve such as part of the detailed site plan approval. A primary City concern will be to maintain the high-quality appearance of the area as part of the Exit 27 gateway to Cleveland.

9.C. Outdoor Displays

Outdoor displays of merchandise and outdoor storage of goods and merchandise, including but not limited to materials stored in trailers or shipping containers, is prohibited within 50 feet of any right-of-way. In no event shall any display or storage of merchandise be configured so as to impede the visibility of motorists within or adjacent to the subject property.

Section 10. LITTER, SOLID WASTE, AND DRAINAGE STRUCTURE MAINTENANCE.

The method of solid waste disposal for each use throughout the project site shall be as approved by the City's Director of Public Works. Dumpsters shall be on a concrete pad and shall be screened by a masonry enclosure. Storage for inedible fats or greases shall likewise be enclosed and, if adjacent to a dumpster, shall be separated from the dumpster by a concrete block wall. Litter and debris shall be removed from the parking lots and grounds throughout the project site on a regular basis such that these materials do not accumulate noticeably on-site or migrate to surrounding property. Removal of litter and debris shall include the removal of such materials from drainage structures and other areas where accumulations may occur. Maintenance of drainage structures including removal of sediment, debris, and intrusive vegetation, such that these drainage structures continue to function as designed shall be the continuing responsibility of the developer, or its assigns or successors in title, and shall include effective control of algae, mosquitoes, and other such concerns as may occur with wet stormwater detention areas; such control by the developer will be monitored by the City and shall include technically appropriate means that may include mechanical aeration, application of chemicals, and/or other means. Mechanical sweeping of the parking lot and driveway areas shall be performed regularly by the Developer to control dirt, litter, and debris.

Section 11. SETBACKS AND BUILDING HEIGHTS

Building setbacks, height limits, and lot dimensions for the commercial development area of PUD 16 shall be as designated for the CH zoning district except as otherwise approved by the Planning Commission as part of the detailed site plan approval process. Likewise, residential lot sizes, building heights, and setbacks shall be as required for the R3 residential zoning district unless otherwise modified by the Planning Commission. However, the setbacks on the internal streets, rather than following the CH or R3 zoning, shall be 20 feet. Building Heights for lots may be adjusted by the Planning Commission to meet the needs of the proposed development.

Section 12. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS.

The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed shopping center and for construction on the outparcels and other construction on or adjacent to the site for which the Developer is responsible. In the event that there are state or federal agency permit requirements arising from PUD 16 development of this site, such as the off-site mitigation for impacts on a blue-line stream as required by the Tennessee Department of Environment and Conservation (TDEC), the Developer is responsible for those permit requirements. If a state or federal agency causes the City of Cleveland to incur costs to comply with any permit requirements for the PUD development of this site, the Developer shall reimburse those costs to the City. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion of construction for fixture installation, furnishing, store stocking, employee training and the like may be granted by the City's Building Official and such permission shall not be unreasonably withheld). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

Section 13. SUBDIVISION AND SITE PLANNING OF OUTPARCELS.

The aggregation of existing parcels into the development sites needed for the various developments within PUD 16 is anticipated to require the subdivision or re-subdivision of land. In order to accomplish this, the Developer is required to prepare a preliminary and final plat for approval by the Cleveland Municipal Planning Commission, and record the final plat(s) once approved. The platting of land into the proper parcels is a necessary precursor to the approval of the detailed site plan for the portion of PUD 16 in question. Such plat(s) should include the provision of right-of-way for any proposed future road improvements that are planned as the PUD 16 project progresses. Platting is to be carried out in accordance with the adopted subdivision regulations.

Section 14. PUD DEVELOPMENT PLAN.

The conceptual site plan and related drawings attached hereto or referenced herein as well as the terms and conditions of this ordinance will comprise the development plan for PUD 16. Detailed site plans as referred to in this ordinance are required to carry out the PUD 16 development and will be considered as part of the development plan when these are subsequently approved by the Planning Commission. It is understood that the owners of the individual properties within the development are each responsible for the compliance of their respective properties with the terms of this ordinance. The owners of the respective properties are expected to work cooperatively toward the achievement of the common development plan for this PUD 16 but a violation by one landowner will not constitute a violation by another landowner. However, joint responsibility may be established for jointly used and maintained facilities that may be incorporated into the detailed site plan(s).

Section 15. TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING.

The developer must have carried out a substantial development of this project within five years from the effective date of this ordinance or the City may cause the property to revert to its former zoning classification without liability for any damages. Substantial development shall be

interpreted to mean commencement of construction on at least one commercial building (hotel, restaurant, etc.) or residential structure within the PUD 16 area.

Section 16. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. The Planning Commission has specific authority to review and approve detailed site plans for the development of PUD 16. Minor revisions to detailed site plans that affect a quantity or dimension by less than 30%, or which substitute a material for one of like or better quality in 30% or less of the project area, or which increase functionality by adding a feature desired in PUD 16 (e.g. sidewalk, transit stop, bike racks, etc.) can be approved through the staff site plan review committee with the consent of the City Manager and the Planning Commission Chairperson. Errors and omissions in the PUD 16 development plan that do not constitute a material change in the development plan can be corrected in the same manner as a minor revision.

Section 17. BINDING UPON OTHERS.

It shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass the purchaser(s) of the subject property and any assigns or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development. The term "Developer" is intended to include persons or firms or entities acquiring title to the subject property for the purpose of owning land and/or buildings in the PUD 16 development which they may use for a business location or rental property. The term "Developer" also applies to leaseholders who have the right to make tenant improvements on the property. It is understood that persons and entities coming under the definition of "Developer" may at some point divest themselves of their property interests in PUD 16 such that they are no longer responsible for complying with terms of this ordinance.

Section 18. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. Specifically, where this ordinance is in conflict with any Interstate Gateway Corridor Overlay requirement, the standards of this ordinance shall prevail. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-25 be voted for passage on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance No: 2017-26** – Amending Table 3 of the Zoning Regulations to amend the setbacks and impervious requirements within the residential zoning districts (Planning Commission: Approved 7-0; 2 members absent).

ORDINANCE NO: 2017-26

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING THE RESIDENTIAL SECTIONS WITHIN TABLE 3 TO AMEND THE SETBACKS, IMPERVIOUS REQUIREMENTS, AND GREEN SPACE REQUIREMENTS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS the City of Cleveland has received comments from various residents including those from within the building and construction community; and

WHEREAS the Planning Commission has considered the public comments and evaluated the impact the proposed amendment on future development; and

WHEREAS the proposed amendment will simplify the zoning ordinance to provide for consistent setbacks among the various residential zones; and

WHEREAS the proposed amendment will reduce the number of variances requested to the Board of Zoning Appeals and allow staff to allocate their time to more productive uses; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising the residential zone standards within Table 3 to read as follows:

Table 3						
Building Setbacks, Height, and Impervious Surfaces						
Zoning District	Minimum Setbacks (feet)			Maximum Building Height	Minimum Green Space	Maximum Impervious Surface
	Front Yard	Side Yard	Rear Yard			
R-A	30 ft 25ft	10 ft for the 1st story + 2 ft for each additional story 10ft. (principal) 5 ft (accessory)	30 ft 15 ft (principal) 15 ft 5ft (accessory)	35 feet	0.70 .65	0.30 .35
R-1	30 ft 25ft	10 ft for the 1st story + 2 ft for each additional story 10ft (principal) 5 ft (accessory)	30 ft 15 ft (principal) 10 ft 5ft. (accessory)	35 feet	0.65 .40	0.35 .45
R-2	25 ft	10 ft for the 1st story + 2 ft for each additional story 10ft (principal) 5 ft (accessory)	25 ft 15ft. (principal) 5 ft (accessory)	35 feet	0.55 .40	0.45 .50

R-3	25 ft plus 3 ft for each 10ft, or fraction thereof, of building height above the first 20ft (Principle)	10 ft plus three ft, or fraction thereof, of building height above the first 20ft 10ft (principal) 5 ft (accessory)	20 ft plus three ft, or fraction thereof, of building height above the first 20ft 15ft. (principal) 5 ft (accessory)	70 feet	0.35 .25	0.65 .70
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R-5	35 ft 25ft	15 ft for the first two stories + 2ft for each additional story 10ft	15 ft.	85 ft.	-.50 .40	-.50 .60
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Section 2. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

Section 3. In the event that any part of this ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

Section 4. This ordinance shall take effect immediately upon passage on second reading, the public necessity requiring it.

/s/John F. Kimball
 City Attorney

 Tom Rowland, Mayor

 Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-26 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution No: 2017-36** - A resolution adopt a Plan of Service (POS) for the annexation area of about 3.9 acres located at 1682 South Lee Hwy (Planning Commission: Approved 7-0; 2 members absent).

RESOLUTION NO: 2017-36

A RESOLUTION APPROVING A PLAN OF SERVICES FOR A PROPOSED ANNEXATION OF TERRITORY INTO THE CITY OF CLEVELAND BY OWNER CONSENT

1682 S LEE HWY ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries by owner consent; and

WHEREAS, a Plan of Services for the territory proposed for annexation by owner consent has been reviewed by the Cleveland Municipal Planning Commission; and

WHEREAS, the governing body desires to conduct a public hearing on the proposed annexation and plan of services;

NOW THEREFORE BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That a public hearing is hereby held at 3:00 pm on June 26, 2017 at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning at the southeast corner of the lands of Robert Hembree, as recorded in the BCROD deed book 1736 page 107; thence north 25 degrees east, 311 feet to a point; thence north 66 degrees 45 minutes west, 440 to a point; thence south 25 degrees west, 311 feet to a point; thence south 66 degrees 45 minutes east, 440 feet to the point of beginning.

B. That a copy of this Resolution shall also be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland.

C. That notice of the time and purpose of a public hearing on the proposed annexation by owner consent and the Plan of Services shall be published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing.

WHEREUPON, the Mayor declared the Resolution adopted, affixed a signature and the date thereto, and directed that the same be recorded.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk



APRIL 14, 2017
1682 S LEE HWY ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 3.9 acres located at 1682 S. Lee Hwy as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2017.

This report begins with a brief overview of the annexation process and the report then turns to a proposed Plan of Services (POS) for the annexation area. The services described are those that would be necessary for the City to provide under Tennessee law. This area is proposed to receive city services in accordance with the POS.

Introduction

Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service requirements in a fifty square mile urban fringe area. The UGB was amended in January 2010, expanding it near I-75 Exit 20 and in the vicinity of the new airport site near Dry Valley Road. Cleveland can annex property within its UGB by resolution.

PC 1101 Section 19 requires a “Plan of Services” (POS) prior to annexation and these services must include: police and fire protection; water, electrical and sanitary sewer services; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning services. Public Chapter 225 adopted by the Tennessee General Assembly and signed by Governor Bredesen on June 2, 2003, amended TCA 6-51-102 to include impact on school attendance zones.

This property is currently the site of the Gypsy Rose restaurant and bar. In addition, there is a mobile home on the site. These uses are to expected continue in operation post-annexation.

S Lee Highway



Legal Description

Beginning at the southeast corner of the lands of Robert Hembree, as recorded in the BCROD deed book 1736 page 107; thence north 25 degrees east, 311 feet to a point; thence north 66 degrees 45 minutes west, 440 to a point; thence south 25 degrees west, 311 feet to a point; thence south 66 degrees 45 minutes east, 440 feet to the point of beginning.

Plan of Services

1. Police Protection

Patrolling, radio response to calls and other routine police services using the City’s personnel and equipment will be provided on the effective date of the annexation.

The Gypsy Rose has a history of sufficient number of calls for service over the last 20 years. Although they are in the jurisdiction of the Bradley County Sheriff’s, the Cleveland Police Department has responded to numerous events at this location because of its close to the city limits. The Cleveland Police Department has responded to numerous calls including a homicide investigation, fight calls, and illegal gambling investigations in the last 10 years. This annexation will increase the departments call volume and have an impact on current resources.

2. Fire Protection

Fire protection will be provided from Station One on the effective date of annexation.

3. Domestic Water, Sanitary Sewer Service, and Fire Hydrants

A. Domestic Water--- Water will need to be extended on Old Boyd Farm Road to serve parcel at end of Old Boyd Farm Road. To provide water service, it is estimated to cost \$18,000 and can be completed within eight (8) years after annexation.

B. Sanitary Sewer--- Sanitary sewer facilities will need to be extended to serve the parcel at the end of Old Boyd Farm Road. To provide sanitary sewer facilities, it is estimated to cost \$45,000 and can be completed within eight (8) years after annexation.

C. Fire Hydrants--- To provide fire protection to the parcels at the end of Old Boyd Farm Road, a fire hydrant would need to be installed at the end of the 6-Inch water main extension. It is estimated to cost \$4,500 and would be available in eight (8) years.

SUMMARY OF COSTS

	Water	Sanitary Sewer	Total
South Lee Highway Hembree Property Annexation Area	\$22,500	\$45,000	\$67,500

4. Electric Service

1) The property is currently located within Cleveland Utilities services area. No streets will be included in this annexation. Consequently, no lighting will be needed as a result of this annexation.

5. Public Works

A. Refuse Collection

- a. Current city policies regarding residential, commercial and industrial refuse will apply in all proposed areas per the terms of the City's contract with Waste Connections of Tennessee, Inc.
- b. The City no longer provides curbside recycling and this service will not be provided in the proposed areas, unless the City Council initiates a program in the future.

B. Route Collection Services

- a. Current city policies regarding residential debris, brush, and white good collections will apply in all proposed areas and will begin at the time of annexation. Each residence will be included in the City's ten route collection system. No additional equipment or manpower will be needed at this time.
- b. The current city policies regarding residential leaf collection will be provided annually for a period of approximately three months and will apply in all proposed areas.

C. Street Repair and Maintenance

- a. Emergency maintenance of city streets (i.e. repairing hazardous potholes) within the proposed areas will begin at time of annexation.
- b. Routine maintenance of local streets in the proposed areas will be scheduled on the same basis as such maintenance in the rest of the City.
- c. Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such substantial improvements in the proposed areas (where identified as needed by the governing body) will be accomplished in accordance with the priorities and policies established for the entire city.
- d. It appears that no street name signs or street striping/painting is needed at this time for the proposed areas.

D. Stormwater and Drainage Services

No major drainage problems were identified in these areas. Emergency drainage maintenance (i.e. cleaning catch basins, unstopping tile, installing drainage tile and/or catch basins) within these areas will begin at time of annexation.

E. General Rights-of-Way Maintenance (i.e. street sweeping, snow removal)

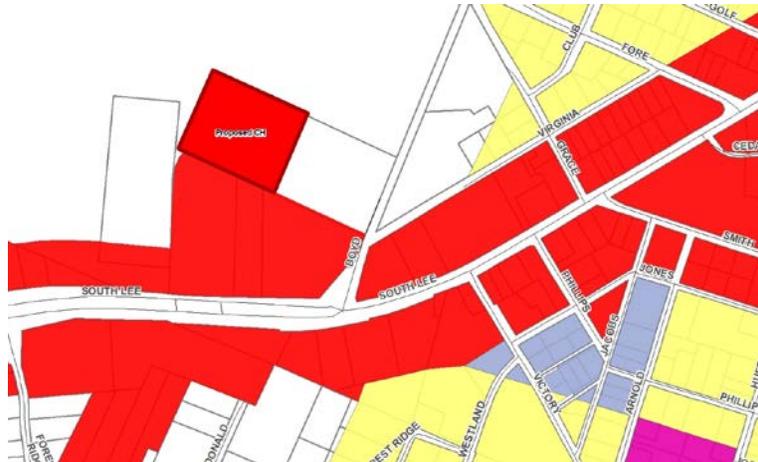
- a. Current city policies for routine street sweeping will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.
- b. Current city policies for snow removal and salting will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.

6. Schools

The annexation of this area does not anticipate any impacts on the City School system.

7. Planning and Zoning

- A. The planning and zoning jurisdiction of the City will extend to the annexation areas upon the effective date of annexations and all municipal planning activities will encompass the needs of the annexed areas.
- B. This property is currently zoned C1 Rural Commercial in the unincorporated County. It is recommended the post-annexation zoning on this property be CH Commercial Highway Zoning District.



- C. In the case of lots of record that are recorded prior to the effective date of annexation, if there are prevailing deed or subdivision restrictions on record, these deed or subdivision restrictions shall apply if in conflict with City zoning or subdivision regulations.

8. Animal Shelter

The City operates a full-time animal control program including an animal shelter. The Animal Shelter is located on Hill Street SE. Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

9. Voting Rights and City Elections

- A. If an eligible voter's permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.
- B. If an eligible voter is in the category of a property rights voter then that voter must register at the Election Commission Office prior to voting in a City election.
- C. This annexation will add approximately 3 residents to the 1st City Council District as it is currently used.

Revenue

The property is has a total appraised value of \$189,000. The total assessed value is \$67,320. The total property tax generated from this area would be about **\$1,188.53** a year.

There is a small mobile home on the site. The city-wide average of 2.5 residents per unit, the property contains approximately 3 residents. The current state shared appropriation is \$115.75 per resident. This would result in approximately **\$347.25** a year.

The approximate revenue generated as a result of this annexation at the time of annexation would be **\$1,535.78**.

Vice Mayor Johnson moved that Resolution No: 2017-36 be accepted as presented. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution No: 2017-37** - A resolution to annex about 3.9 acres located at 1682 South Lee Hwy (Planning Commission: Approved 7-0; 2 members absent).

RESOLUTION NO: 2017-37

A RESOLUTION TO ANNEX CERTAIN TERRITORY UPON WRITTEN CONSENT OF THE OWNERS AND TO INCORPORATE THE SAME WITHIN THE BOUNDARIES OF THE CITY OF CLEVELAND, TENNESSEE

1682 S LEE HWY ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries; and

WHEREAS, the owners of all property within the territory proposed for annexation have given their written consent by notarized petition so that a referendum is not required; and

WHEREAS, this Resolution was also published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland; and

WHEREAS, a Plan of Services for the area proposed for annexation is attached as *Exhibit A* hereto, which Plan of Services addresses the same services and timing of services as required in Tennessee Code Annotated § 6-51-102; and

WHEREAS, the proposed annexation and Plan of Services were submitted to the Cleveland Municipal Planning Commission for study, and it has recommended the same; and

WHEREAS, notice of the time and purpose of a public hearing on the proposed annexation and the Plan of Services was published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing; and

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on June 26, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That the following territory is hereby annexed and incorporated into boundaries of the City of Cleveland, to wit:

Beginning at the southeast corner of the lands of Robert Hembree, as recorded in the BCROD deed book 1736 page 107; thence north 25 degrees east, 311 feet to a point; thence north 66 degrees 45 minutes west, 440 to a point; thence south 25 degrees west, 311 feet to a point; thence south 66 degrees 45 minutes east, 440 feet to the point of beginning.

B. That the Plan of Services for this territory which is attached as *Exhibit A* hereto is approved and the same is hereby adopted. [On file in the City Clerk’s Office.]

C. That the City Clerk’s office will cause a copy of this Resolution to be forwarded to the Mayor of Bradley County including the Plan of Services.

D. That a copy of this Resolution shall be sent to the Tennessee Comptroller of the Treasury and the Bradley County Assessor of Property.

E. That a copy of this Resolution, as well as the portion of the Plan of Services related to emergency services and a detailed map of the annexed area, shall be sent to any affected emergency communication district.

WHEREUPON, the Mayor affixed a signature and date thereto and directed that the same be recorded.

EFFECTIVE DATE: Be it further resolved that this Resolution shall only become effective at the time of the final passage of the ordinance zoning the aforementioned property within the City of Cleveland.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Cassada moved that Resolution No: 2017-37 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance No: 2017-27** – Zoning of about 3.9 acres located at 1682 South Lee Hwy from the unincorporated county to CH Commercial Highway (Planning Commission: Approved 7-0; 2 members absent).

ZONING ORDINANCE 2017-27

AN ORDINANCE TO ZONE THE “1682 S LEE ANNEXATION AREA” WITHIN THE CORPORATE BOUNDARIES OF CLEVELAND, TENNESSEE

WHEREAS, a public hearing before this body was held on the 26th day of June 2017 a notice thereof published in the *Cleveland Daily Banner* on June 11, 2017 and

WHEREAS, a Plan of Service, including a zoning plan consistent with this ordinance, for this property was adopted by Resolution 2017-36; and,

WHEREAS, this property was annexed by Resolution 2017-37; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, zoned from C1 Rural Commercial within the unincorporated County to CH Commercial Highway Zoning District within the corporate limits of the City of Cleveland.

Section 2. The property shown in Exhibit “A” and shall be zoned in accordance with the legal description described in Exhibit “B”, attached hereto and made a part hereof by reference, upon the effective date of this ordinance.

Section 3. Be it further ordained that this Ordinance shall take effect immediately on final reading the public welfare requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A

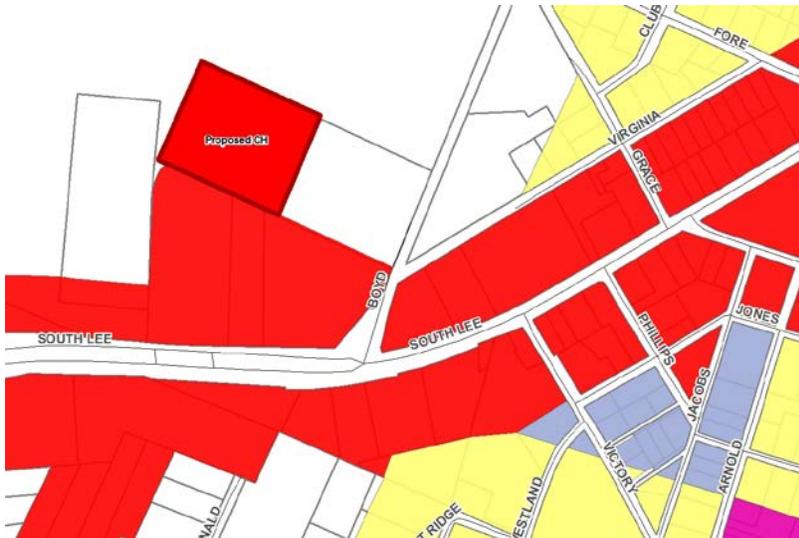


Exhibit B

Legal Description

Beginning at the southeast corner of the lands of Robert Hembree, as recorded in the BCROD deed book 1736 page 107; thence north 25 degrees east, 311 feet to a point; thence north 66 degrees 45 minutes west, 440 to a point; thence south 25 degrees west, 311 feet to a point; thence south 66 degrees 45 minutes east, 440 feet to the point of beginning.

Councilman Cassada moved that Ordinance No: 2017-27 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution No: 2017-38** – A resolution to adopt a Plan of Service (POS) for the annexation area of about 0.98 acres located on Georgetown Rd (Planning Commission: Approved 6-0; 1 member recused; 2 members absent).

RESOLUTION NO. 2017-38

A RESOLUTION APPROVING A PLAN OF SERVICES FOR A PROPOSED ANNEXATION OF TERRITORY INTO THE CITY OF CLEVELAND BY OWNER CONSENT

GEORGETOWN RD ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries by owner consent; and

WHEREAS, a Plan of Services for the territory proposed for annexation by owner consent has been reviewed by the Cleveland Municipal Planning Commission; and

WHEREAS, the governing body desires to conduct a public hearing on the proposed annexation and plan of services;

NOW THEREFORE BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That a public hearing is hereby held at 3:00 pm on June 26, 2017 at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning at the southwest corner of lot 101 of Lee estates, as recorded in the BCROD deed book 1713 page 797; thence north 2 degrees 27 minutes east, 90 feet to a point; thence north 87 degrees 47 minutes east, 150 feet to a point; thence crossing Georgetown Road north 87 degrees 47 minutes east, 90 feet, more or less, to a point in the eastern right of way of Georgetown Road; thence in a southeasterly direction with the eastern right of way of Georgetown Road 480 feet, more or less, to a point where the eastern right of way of Georgetown Road intersects the existing City Limits; thence with the exiting City Limits crossing Georgetown Road in a northwesterly direction, 90 feet, more or less, to the southeast corner of the lands of Thomas and Clinton Taylor, as recorded in BCROD deed book 2294 page 211; thence in a northwesterly direction with the southern line of the lands of Taylor, 199.2 feet, more or less, to the southwest corner of the lands of Taylor; thence north 4 degrees 17 minutes east, 128.8 feet to the point of beginning.

B. That a copy of this Resolution shall also be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland.

C. That notice of the time and purpose of a public hearing on the proposed annexation by owner consent and the Plan of Services shall be published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing.

WHEREUPON, the Mayor declared the Resolution adopted, affixed a signature and the date thereto, and directed that the same be recorded.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk



MAY 12, 2017
GEORGETOWN RD ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately .98 acres located Georgetown Rd as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2017.

This report begins with a brief overview of the annexation process and the report then turns to a proposed Plan of Services (POS) for the annexation area. The services described are those that would be necessary for the City to provide under Tennessee law. This area is proposed to receive city services in accordance with the POS.

Introduction

Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service requirements in a fifty square mile urban fringe area. The UGB was amended in January 2010, expanding it near I-75 Exit 20 and in the vicinity of the new airport site near Dry Valley Road. Cleveland can annex property within its UGB by resolution.

PC 1101 Section 19 requires a “Plan of Services” (POS) prior to annexation and these services must include: police and fire protection; water, electrical and sanitary sewer services; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning services. Public Chapter 225 adopted by the Tennessee General Assembly and signed by Governor Bredesen on June 2, 2003, amended TCA 6-51-102 to include impact on school attendance zones.

The annexation consists of two separate properties with one which is currently vacant and the other which currently has a duplex located on it. It is anticipated that both properties will be used for residential purposes.

Georgetown Rd



Legal Description

Beginning at the southwest corner of lot 101 of Lee estates, as recorded in the BCROD deed book 1713 page 797; thence north 2 degrees 27 minutes east, 90 feet to a point; thence north 87 degrees 47 minutes east, 150 feet to a point; thence crossing Georgetown Road north 87 degrees 47 minutes east, 90 feet, more or less, to a point in the eastern right of way of Georgetown Road; thence in a southeasterly direction with the eastern right of way of Georgetown Road 480 feet, more or less, to a point where the eastern right of way of Georgetown Road intersects the existing City Limits; thence with the exiting City Limits crossing Georgetown Road in a northwesterly direction, 90 feet, more or less, to the southeast corner of the lands of Thomas and Clinton Taylor, as recorded in BCROD deed book 2294 page 211; thence in a northwesterly direction with the southern line of the lands of Taylor, 199.2 feet, more or less, to the southwest corner of the lands of Taylor; thence north 4 degrees 17 minutes east, 128.8 feet to the point of beginning.

Plan of Services

3. Police Protection

Patrolling, radio response to calls and other routine police services using the City’s personnel and equipment will be provided on the effective date of the annexation.

There is no additional cost expected from this annexation.

4. Fire Protection

The Cleveland Fire Department could begin serving this proposed annexation immediately from our current Station Five without budgetary impact.

3. Domestic Water, Sanitary Sewer Service, and Fire Hydrants

- A. Domestic Water--- Water service is available to these parcels.
- B. Sanitary Sewer--- Sanitary sewer facilities will need to be extended to serve the parcels on Georgetown Road. To provide sanitary sewer facilities, it is estimated to cost \$30,000 and can be completed within eight (8) years after annexation.
- C. Fire Hydrants--- Fire protection is currently available to these parcels.

SUMMARY OF COSTS

	Water	Sanitary Sewer	Total
Georgetown Road			
Annexation Area	\$0	\$30,000	\$30,000

10. Electric Service

State law states that Cleveland utilities must pay VEC 25% of the revenues for residential customers for a period of 10 years. It is estimated that this would average \$50 per customer per month. For the single customer, that would be \$600.00 per year for 10 years for a total of \$6,000.00. Facilities to be purchased from Volunteer is negligible. The cost of new electric facilities needed to service this area is estimated to be no more than \$12,000.00.

Lighting would require two new 51 watt LED fixtures. Cost for this improvement is \$1,866.79. If that cost is included in the investment account it would cost \$14.00 per month for a facilities charge and \$2.64 per month for the energy charge.

11. Public Works

C. Refuse Collection

- a. Current city policies regarding residential, commercial and industrial refuse will apply in all proposed areas per the terms of the City's contract with Waste Connections of Tennessee, Inc.
- b. The City no longer provides curbside recycling and this service will not be provided in the proposed areas, unless the City Council initiates a program in the future.

D. Route Collection Services

- a. Current city policies regarding residential debris, brush, and white good collections will apply in all proposed areas and will begin at the time of annexation. Each residence will be included in the City's ten route collection system. No additional equipment or manpower will be needed at this time.
- b. The current city policies regarding residential leaf collection will be provided annually for a period of approximately three months and will apply in all proposed areas.

C. Street Repair and Maintenance

- a. Emergency maintenance of city streets (i.e. repairing hazardous potholes) within the proposed areas will begin at time of annexation.
- b. Routine maintenance of local streets in the proposed areas will be scheduled on the same basis as such maintenance in the rest of the City.
- c. Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such substantial improvements in the proposed areas (where identified as needed by the governing body) will be accomplished in accordance with the priorities and policies established for the entire city.
- e. It appears that no street name signs or street striping/painting is needed at this time for the proposed areas.

D. Stormwater and Drainage Services

No major drainage problems were identified in these areas. Emergency drainage maintenance (i.e. cleaning catch basins, unblocking tile, installing drainage tile and/or catch basins) within these areas will begin at time of annexation.

E. General Rights-of-Way Maintenance (i.e. street sweeping, snow removal)

- a. Current city policies for routine street sweeping will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.
- b. Current city policies for snow removal and salting will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.

12. Schools

The cost to the City for Cleveland City School students is currently \$976 per child. The annexation of this area does not anticipate any impacts on the City School system.

13. Planning and Zoning

- D. The planning and zoning jurisdiction of the City will extend to the annexation areas upon the effective date of annexations and all municipal planning activities will encompass the needs of the annexed areas.
- E. This property is currently zoned R1 Rural Residential in the unincorporated County. It is recommended the post-annexation zoning on this property be CG General Commercial Zoning District.



- F. In the case of lots of record that are recorded prior to the effective date of annexation, if there are prevailing deed or subdivision restrictions on record, these deed or subdivision restrictions shall apply if in conflict with City zoning or subdivision regulations.

14. Animal Shelter

The City operates a full-time animal control program including an animal shelter. The Animal Shelter is located on Hill Street SE. Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

15. Voting Rights and City Elections

- D. If an eligible voter’s permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.
- E. If an eligible voter is in the category of a property rights voter then that voter must register at the Election Commission Office prior to voting in a City election.
- F. This annexation will add approximately 5 residents to the 3rd City Council District as it is currently used.

Revenue

The current total appraised property value both parcels is about **\$86,300**. The total assessed value is **\$31,970**. The property tax generated from this area would be about **\$564.43** a year.

With 2 residential units and approximately 2.5 residents per structure the annexation would add an additional 5 residents. The current state shared appropriation is \$115.75 per resident which would result in approximately **\$578.75** a year.

The monthly stormwater utility fee for this property will be approximately \$4.88 per month which results in **\$58.56** per year.

The approximate revenue generated as a result of this annexation at the time of annexation would be about **\$1,201.74**.

This revenue produced by this property could increase significantly as the site could accommodate approximately 15 total residential units.

Councilman Estes moved that Resolution No: 2017-38 be approved as presented. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution No: 2017-39** – A resolution to annex about 0.98 acres located on Georgetown Rd (Planning Commission: Approved 6-0; 1 member recused; 2 members absent).

RESOLUTION NO: 2017-39

A RESOLUTION TO ANNEX CERTAIN TERRITORY UPON WRITTEN CONSENT OF THE OWNERS AND TO INCORPORATE THE SAME WITHIN THE BOUNDARIES OF THE CITY OF CLEVELAND, TENNESSEE

GEORGETOWN RD ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries; and

WHEREAS, the owners of all property within the territory proposed for annexation have given their written consent by notarized petition so that a referendum is not required; and

WHEREAS, this Resolution was also published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland; and

WHEREAS, a Plan of Services for the area proposed for annexation is attached as *Exhibit A* hereto, which Plan of Services addresses the same services and timing of services as required in Tennessee Code Annotated § 6-51-102; and [on file in the City Clerk's Office.]

WHEREAS, the proposed annexation and Plan of Services were submitted to the Cleveland Municipal Planning Commission for study, and it has recommended the same; and

WHEREAS, notice of the time and purpose of a public hearing on the proposed annexation and the Plan of Services was published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing; and

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on June 26, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That the following territory is hereby annexed and incorporated into boundaries of the City of Cleveland, to wit:

Beginning at the southwest corner of lot 101 of Lee estates, as recorded in the BCROD deed book 1713 page 797; thence north 2 degrees 27 minutes east, 90 feet to a point; thence north 87 degrees 47 minutes east, 150 feet to a point; thence crossing Georgetown Road north 87 degrees 47 minutes east, 90 feet, more or less, to a point in the eastern right of way of Georgetown Road; thence in a southeasterly direction with the eastern right of way of Georgetown Road 480 feet, more or less, to a point where the eastern right of way of Georgetown Road intersects the existing City Limits; thence with the exiting City Limits crossing Georgetown Road in a northwesterly direction, 90 feet, more or less, to the southeast corner of the lands of Thomas and Clinton Taylor, as recorded in BCROD deed book 2294 page 211; thence in a northwesterly direction with the southern line of the lands of Taylor, 199.2 feet, more or less, to the southwest corner of the lands of Taylor; thence north 4 degrees 17 minutes east, 128.8 feet to the point of beginning.

B. That the Plan of Services for this territory which is attached as *Exhibit A* hereto is approved and the same is hereby adopted.

C. That the City Clerk’s office will cause a copy of this Resolution to be forwarded to the Mayor of Bradley County including the Plan of Services.

D. That a copy of this Resolution shall be sent to the Tennessee Comptroller of the Treasury and the Bradley County Assessor of Property.

E. That a copy of this Resolution, as well as the portion of the Plan of Services related to emergency services and a detailed map of the annexed area, shall be sent to any affected emergency communication district.

WHEREUPON, the Mayor affixed a signature and date thereto and directed that the same be recorded.

EFFECTIVE DATE: Be it further resolved that this Resolution shall only become effective at the time of the final passage of the ordinance zoning the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Cassada moved that Resolution No: 2017-39 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance No: 2017-28** - Zoning of about 0.98 acres located on Georgetown Rd from the unincorporated county to CG General Commercial Zoning District (Planning Commission: Approved 6-0; 1 member recused; 2 members absent).

ZONING ORDINANCE NO: 2017-28

**AN ORDINANCE TO ZONE THE “GEORGETOWN RD ANNEXATION AREA”
WITHIN THE CORPORATE BOUNDARIES OF CLEVELAND, TENNESSEE**

WHEREAS, a public hearing before this body was held on the 26th day of June 2017 a notice thereof published in the *Cleveland Daily Banner* on June 11, 2017 and

WHEREAS, a Plan of Service, including a zoning plan consistent with this ordinance, for this property was adopted by Resolution 2017-28; and,

WHEREAS, this property was annexed by Resolution 2017-28; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, zoned from C1 Rural Commercial within the unincorporated County to CH Commercial Highway Zoning District within the corporate limits of the City of Cleveland.

Section 2. The property shown in Exhibit “A” and shall be zoned in accordance with the legal description described in Exhibit “B”, attached hereto and made a part hereof by reference, upon the effective date of this ordinance.

Section 3. Be it further ordained that this Ordinance shall take effect immediately on final reading the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Exhibit B

Legal Description

Beginning at the southwest corner of lot 101 of Lee estates, as recorded in the BCROD deed book 1713 page 797; thence north 2 degrees 27 minutes east, 90 feet to a point; thence north 87 degrees 47 minutes east, 150 feet to a point; thence crossing Georgetown Road north 87 degrees 47 minutes east, 90 feet, more or less, to a point in the eastern right of way of Georgetown Road; thence in a southeasterly direction with the eastern right of way of Georgetown Road 480 feet, more or less, to a point where the eastern right of way of Georgetown Road intersects the existing City Limits; thence with the exiting City Limits crossing Georgetown Road in a northwesterly direction, 90 feet, more or less, to the southeast corner of the lands of Thomas and Clinton Taylor, as recorded in BCROD deed book 2294 page 211; thence in a northwesterly direction with the southern line of the lands of Taylor, 199.2 feet, more or less, to the southwest corner of the lands of Taylor; thence north 4 degrees 17 minutes east, 128.8 feet to the point of beginning.

Vice Mayor Johnson moved that Ordinance No: 207-28 be voted for passage on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Ordinance was the presented in full:

- **Ordinance No: 2017-29** – To abandon a section of 7th St NE located between Church St NE and Parker St NE (Planning Commission: Approved 9-0).

ORDINANCE NO: 2017-29

WHEREAS the owner(s) of all parcels of land fronting on or having their access from the section of City of Cleveland right-of-way described herein, those parcels and owners being identified in the records of Bradley County, Tennessee, have requested that the City of Cleveland abandon its right-of-way in the aforementioned section of right-of-way; and

WHEREAS the need for the subject right-of-way has been reviewed, including the need for any utility easements that were identified by the responsible utilities; and

WHEREAS the proposed right-of-way abandonment has been reviewed and approved by the Cleveland Municipal Planning Commission; and

WHEREAS the proposed right-of-way abandonment has been properly posted and advertised and the procedural requirements of Section 16-123 of the Cleveland Municipal Code for the abandonment of city rights-of-way have otherwise been met; and

WHEREAS the City Council has determined that it is appropriate to approve the requested right-of-way abandonment identified herein, subject to any easements for utilities and/or other conditions as identified herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

1. DESCRIPTION RIGHT-OF-WAY TO BE ABANDONED: Subject to the retention of utility easements and/or any other conditions described in Section 2 below, the City of Cleveland, Tennessee intends to and does hereby abandon its public right-of-way interest in the following section of right-of-way:

7th St NE located between Church St NE and Parker St NE.

2. RETENTION OF EASEMENTS: The City shall retain an easement to maintain access to public electric facilities as long as they remain in place.

3. AREA TO BE ZONED: The area hereby abandoned shall be understood as zoned in the same zoning district as the adjoining zone extending to the centerline of the abandoned right-of-way.

4. CONFLICTS AND SEVERABILITY: All ordinances in conflict herewith are repealed to the extent of said conflict. In the event that any part of this ordinance is ruled to be unlawful by a court of competent jurisdiction, all other parts of the ordinance shall remain in full force and effect.

5. EFFECTIVE DATE: this ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

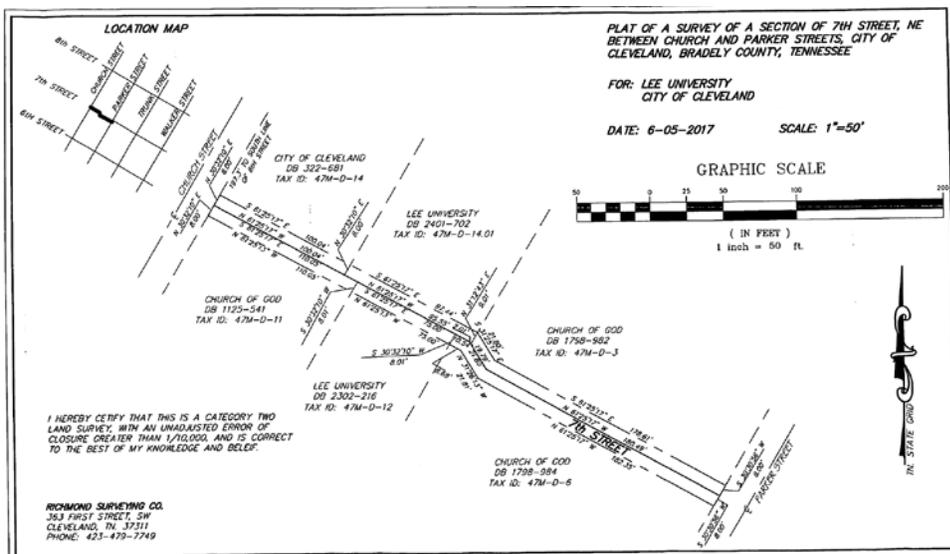
Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Exhibit B



Councilman May moved that Ordinance No: 2017-29 be voted for passage on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed. Councilman Estes stated Lee University is his employer, which does not affect his vote.

The following Ordinance was then presented in full:

- **Ordinance No: 2017-30** – To abandon a portion of 4th St NE located between Parker St NE and Trunk St NE (Planning Commission: Approved 9-0).

ORDINANCE NO: 2017-30

WHEREAS the owner(s) of all parcels of land fronting on or having their access from the section of City of Cleveland right-of-way described herein, those parcels and owners being identified in the records of Bradley County, Tennessee, have requested that the City of Cleveland abandon its right-of-way in the aforementioned section of right-of-way; and

WHEREAS the need for the subject right-of-way has been reviewed, including the need for any utility easements that were identified by the responsible utilities; and

WHEREAS the proposed right-of-way abandonment has been reviewed and approved by the Cleveland Municipal Planning Commission; and

WHEREAS the proposed right-of-way abandonment has been properly posted and advertised and the procedural requirements of Section 16-123 of the Cleveland Municipal Code for the abandonment of city rights-of-way have otherwise been met; and

WHEREAS the City Council has determined that it is appropriate to approve the requested right-of-way abandonment identified herein, subject to any easements for utilities and/or other conditions as identified herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

1. DESCRIPTION RIGHT-OF-WAY TO BE ABANDONED: Subject to the retention of utility easements and/or any other conditions described in Section 2 below, the City of Cleveland, Tennessee intends to and does hereby abandon its public right-of-way interest in the following section of right-of-way:

Beginning at an iron pin located at northwest corner of the lands of Lee University, as recorded in BCROD deed book 2000 page 273, said point being the southeast corner of the intersection of Parker Street and 4th Street; thence north 30 degrees 18 minutes 39 seconds east, 29.21 feet to a point; thence south 61 degrees 3 minutes 19 seconds east, 98.05 feet to an iron pin; thence south 30 degrees 18 minutes 39 seconds west, 29.21 feet to an iron pin; thence north 61 degrees 3 minutes 19 seconds west, 98.05 feet to the point of beginning.

2. RETENTION OF EASMENTS: The City shall retain an easement to maintain access to public electric facilities as long as they remain in place.

3. AREA TO BE ZONED: The area hereby abandoned shall be understood as zoned in the same zoning district as the adjoining zone extending to the centerline of the abandoned right-of-way.

4. CONFLICTS AND SEVERABILITY: All ordinances in conflict herewith are repealed to the extent of said conflict. In the event that any part of this ordinance is ruled to be unlawful by a court of competent jurisdiction, all other parts of the ordinance shall remain in full force and effect.

5. EFFECTIVE DATE: this ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Councilman Banks moved that Ordinance No: 2017-30 be voted for passage on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed. Councilman Estes stated Lee University is his employer, which does not affect his vote.

The following Resolution was then presented in full:

- **Resolution No: 2017-40** – Authorizing the Mayor to sign an agreement with Bradley County and Lee University for a proposed land swap and improvements to the parking lot.

RESOLUTION NO: 2017-40

WHEREAS, the City of Cleveland (hereafter "the City") and Bradley County (hereafter "the County") are joint owners of a parcel of land which is generally identified on Tax Map 49M, Group D, Parcel 14.00 in the Tax Assessor's Office of Bradley County, Tennessee and located at the intersection of the easternmost right of way of Church Street with the northernmost right of way of 7th Street, which is used by the Cleveland Bradley Public Library (hereafter "the Library") for a parking lot. The parcel is more specifically described in Deed Book 322, page 681 in the Register's Office of Bradley County, Tennessee ("ROBCT"); and

WHEREAS, Lee University is the owner of a parcel of land adjacent to the parcel owned by the City and County, which parcel is generally identified on Tax Map 49M, Group D, Parcel 14.01 and as more specifically described in the deed to Lee University in Book 2401, page 702 ROBCT; and

WHEREAS, the Library Board and Lee University have proposed a land swap between the City and County and Lee University which will involve a portion of the parcel owned by the City and County being conveyed to Lee University and a portion of the parcel owed by Lee University being conveyed to the City and County; and

WHEREAS, the proposed land swap is more specifically described in the documents attached hereto and incorporated herein by reference; and

WHEREAS, as part of the land swap, Lee University has agreed to make changes and improvements to the parking lot which is located on the parcel owned by the City and the County. Lee University will submit a conceptual plan to City development and engineering staff for the changes to the parking lot of the parcel owned by the City and County once the land swap has been accomplished; and

WHEREAS, City development and engineering staff shall review the plans for construction of the parking lot and will provide notes and comments which shall be incorporated into the demolition and reconstruction of the parking lot; and

WHEREAS, the City Council has reviewed the proposed land swap described in the attached documents and desires to approve of the same and authorize the Mayor to execute any documents, including deeds, which may be necessary to carry out the land swap; and

WHEREAS, since the demolition and reconstruction of the parking lot on the parcel owned by the City and County will be performed by Lee University on public property an agreement will be necessary between the parties; and

WHEREAS, the proposed agreement between the City and County and Lee University is attached hereto and incorporated herein by reference; and

WHEREAS, the City Council has reviewed the proposed agreement and it desires to approve of the same and to authorize the Mayor to execute the agreement on behalf of the City.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council hereby approves of the proposed land swap between the City and County and Lee University and it hereby authorizes the Mayor to execute any and all documents on behalf of the City that may be necessary to carry out the land swap, including deeds.

BE IT FURTHER RESOLVED that the City Council hereby approves of the proposed agreement between the City and County and Lee University for the demolition and reconstruction of the parking lot on the parcel owned by the City and the County, and it hereby authorizes the Mayor to execute the agreement on behalf of the City.

This 26th day of June, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

AGREEMENT

This Agreement (“Agreement”) is made and entered by and between the **City of Cleveland, Tennessee** (hereinafter to as the “City”) and **Bradley County, Tennessee** (hereinafter referred to as the “County”) and **Lee University, Inc.** (hereinafter referred to as “Lee University”).

RECITALS

WHEREAS, the City and County are joint owners of a parcel of land which is generally identified on Tax Map 49M, Group D, Parcel 14.00 in the Tax Assessor's Office of Bradley County, Tennessee and located at the intersection of the easternmost right of way of Church Street with the northernmost right of way of 7th Street, which is used by the Cleveland Bradley Public Library (hereafter "the Library") for a parking lot;

WHEREAS, Lee University is the owner of a parcel of land adjacent to the parcel owned by the City and County, which parcel is generally identified on Tax Map 49M, Group D, Parcel 14.01 and as more specifically described in the deed to Lee University in Book 2401, page 702 in the Register's Office of Bradley County, Tennessee;

WHEREAS, the Parties to this Agreement desire to exchange a portion of each their respective property as set out on the survey of Jimmy L. Richmond dated 18 June 2017 and attached hereto as Exhibit A; and

WHEREAS, as part of the consideration for this Agreement, Lee University has agreed that upon the conveyance of property from the City and County, it will reconstruct the parking lot on the City and County parcel.

NOW THEREFORE, in consideration of the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Lee University hereby agrees to convey title to the strip of property consisting of approximately 16 to 17 feet of land as shown as the hatched "Section A" on the attached Exhibit A to the City and County.
2. The City and County hereby agree to convey the strip of property consisting of approximately 16 feet of land as shown as the hatched "Section B" on the attached Exhibit A to Lee University.
3. Upon the conveyance of the respective property, Lee University shall submit an engineering plan (hereinafter called "*Plan*") identified as "Improvements to Library Parking Lot" to City engineering and development staff for review.
4. City engineering and development staff shall review the *Plan* and provide the Engineer with notes and comments, which shall be incorporated in an amended *Plan* which shall be prepared by Lee University's *Engineer* and submitted to the City.
5. Lee University will complete said project according to the amended *Plan* in a timely manner at no cost to the City.
6. Lee University shall bear all cost related to said project, except the City will provide construction signage that may be needed during the construction phase. The County will incur no cost or expense in connection with said project.
7. The City has the right to inspect said project during the construction phase to insure that all work is done in accordance with the amended *Plan*.
8. Lee University agrees to convey to the City all rights-of-way and easements that may be needed at the completion of said project. This conveyance shall be at no cost to the City or County.
9. Each party hereby acknowledges that this Agreement represents the full agreement among them, and neither has relied on any other conditions, promises, or considerations other than those expressly stated herein.
10. Lee University agrees to assume all liability in connection with the construction project and agrees to hold harmless and indemnify the City and County for any claims that arise out of or relate to any construction or construction related activities during the construction phase of said project.
11. Lee University further agrees to provide liability insurance in the amount of at least \$1,000,000 per occurrence to the City and County during the construction phase of said project, and to add the City and County as additional insured to its existing insurance policy. Lee University shall furnish the City and County a Certificate of Insurance in compliance with the above requirement before the commencement of any construction.

- 12. This agreement may only be amended by mutual consent of all parties.
- 13. This Agreement shall become effective upon its approval and execution by all parties.
- 14. The parties agree that the laws of the State of Tennessee govern the terms of this Contract.
- 15. This Agreement was approved by the City Council of the City of Cleveland, Tennessee on _____ and the Bradley County Commission on June 19, 2017.

IN WITNESS WHEREOF, the Mayor of the City of Cleveland, the Mayor of Bradley County and and the President of Lee University has affixed their names hereto on this _____ day of _____, 2017.

CITY OF CLEVELAND, TENNESSEE
By: _____

BRADLEY COUNTY, TENNESSEE
By: _____

LEE UNIVERSITY
By: _____

Councilman May moved that Resolution No: 2017-40 be accepted as presented. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed. Councilman Estes stated Lee University is his employer, which does not affect his vote.

ANNOUNCEMENTS

Mayor Rowland announced City Offices will be closed on Tuesday, July 4 in observance of Independence Day.

Mr. Eddie Rice asked about the notice for the Michigan Avenue property rezoning that was at the previous Planning Commission meeting. Mayor Rowland stated a legal notice will run 15 days before the public hearing. Mr. Kimball stated the owner who wanted his property annexed pulled his request. If he wanted to start over it would start at Planning Commission. Mr. Rice stated they just wanted to be kept up to date. Mr. Kimball stated part of the owner’s property is inside the City which is zoned R2 and he can build what is allowed without the rest being annexed. They are two separate issues. If you see development don’t confuse it that the rest of the property was annexed.

There being no future business the meeting was adjourned at 3:53 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JULY 26, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Tom Cassada, David May, Jr. and Richard Banks. Councilmen Bill Estes and Dale Hughes were absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Bryant, Support Services Manager, Fire Chief Ron Harrison; Bryan Turner, Building Inspector; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Dan Hartman; Assistant Director of Parks and Recreation; Jeff Davis, Personnel Director, Eleazar Diaz, Network Administrator; Brian Moran, Social Media Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; City School Board Members Dawn Robinson, Charlie Cogdill, Tom Cloud and Carolyn Ingram; Pastors Gary and James Sears; Edward Johnson; Joe Edwards; Hal Taylor; Shannon and Allen Clark; Joyce Stapek; Joe Day; Mathew Turner; Teresa Torbett, CDBG Coordinator; Dennis Epperson, Library Director Andrew Hunt; Mitch Kinder; Martha Ledford; Attorney Travis Henry; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Pastor Joe Day the following business was then entered into:

Councilman Cassada moved to excuse Councilman Dale Hughes from the meeting due to illness. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on June 26, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the 2017 Annual Action Plan for the CDBG Program. Mayor Rowland asked if anyone would like to speak in favor of the approval of the action plan. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the approval of the action plan. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by Joe Edwards for .56 acres more or less on Paul Huff Parkway and Holiday Inn Express Way (Tax Map34I Group A Parcels 7.00 & 7.01) from R3 High Density Residential Zoning District to PUD14 (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by Barbara Davis for 1.54 acres more or less on Ellis Circle (Tax Map34I Group A Parcels 3.00) from R3 High Density Residential Zoning District to PUD14 (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by Vina Belle Herron for 1.10 acres more or less on Ellis Circle (Tax Map34I Group B Parcels 13.03) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by James R. and Sherry Hunt for 1.38 acres more or less on Ellis Circle (Tax Map34H Group M Parcels 10.01, 11.00, 12.00) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request for 19.4 acres more or less on Tasso Ln NE (Tax Map 34 Parcel 25.00) from R2 Low Density Single and Multi-Family Residential Zoning District to PUD17 (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is also being held as a public hearing to hear public comments concerning a resolution to annex about 9.5 acres located off Dockery Ln and Hewitt St and a resolution to adopt a Plan of Service for the annexation area (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the annexation. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the annexation. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the zoning of about 9.5 acres located off Dockery Ln SE and Hewitt St SE from the unincorporated county to PI Professional Institutional Zoning District (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the zoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the zoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a resolution to annex about 11.6 acres located on Dry Valley Rd and a resolution to adopt a Plan of Service for the annexation area (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the annexation. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the annexation. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the zoning of about 11.6 acres located Dry Valley Rd NE from the unincorporated county to IL Light Industrial Zoning District (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the zoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the zoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning an amendment to section 2.11 and Table 1 of the zoning regulations to create provisions which allow mini-warehouses which are internally accessed as a principally permitted use within the CH Commercial Highway Zoning District (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the amendment. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the amendment. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request by Edward Johnson and Sandra Herron for .71 acres more or less on Ellis Circle (Tax Map34I Group B Parcels 13.01) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a rezoning request for 3.6 acres more or less at 640 West Inman St (Tax Map49N Group D Parcel 11.00) from MU Mixed Use Zoning District and CH Commercial Highway Zoning District to PUD18 (Planning Commission: Approved 9-0). Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the items on the consent agenda.

- **Final Passage - Ordinance No: 2017-20** – heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 434; amending Title 18, Chapter 3 Section 18-301 through 18-314 of the Municipal Code pertaining to the City's MS4 Phase II Stormwater Management Program.
- **Final Passage - Zoning Ordinance No: 2017-22** – heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 484; rezoning 20.07 acres more or less on Paul Huff Parkway and Mouse Creek Rd NW (Tax Map 34I Group B Parcel 14.00) from RA Residential Agricultural and R3 High Density Residential Zoning District to PUD13 Planned Unit Development (Planning Commission: Approved 7-1; 1 member absent).
- **Final Passage - Zoning Ordinance No: 2017-23** – heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 491; rezoning 3.27 acres more or less on Paul Huff Parkway, Ellis Circle and Benton Dr NW (Tax Map 34I Group A Parcel 4.00, 5.00 and 6.00 and Tax Map34I Group B Parcels 11.00 and 64.00) from R3 High Density Residential Zoning District to PUD14 Planned Unit Development (Planning Commission: Approved 8-0; 1 member absent).
- **Final Passage - Zoning Ordinance No: 2017-24** – heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 499; rezoning 5.26 acres more or less on Paul Huff Parkway, Peerless Extension and Benton Dr NW (Tax Map34I Group B Parcels 10.00) from R3 High Density Residential Zoning District to PUD15 Planned Unit Development (Planning Commission: Approved 7-0; 1 member left during meeting; 1 member absent).

- **Final Passage - Zoning Ordinance No: 2017-25** – heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 507; rezoning 3.16 acres more or less on Ellis Circle and Benton Dr NW (Tax Map34I Group B Parcels 12.00, 12.01 and 12.02) from R3 High Density Residential Zoning District to PUD16 Planned Unit Development (Planning Commission: Approved 5-0; 2 members recused; 2 members absent).
- **Final Passage - Ordinance No: 2017-26** – heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 515; amending Table 3 of the Zoning Regulations to amend the setbacks and impervious requirements within the residential zoning districts (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Zoning Ordinance No: 2017-27** – heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 524; zoning of about 3.9 acres located at 1682 South Lee Hwy from the unincorporated county to CH Commercial Highway (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Zoning Ordinance No: 2017-28** - heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 533; zoning of about 0.98 acres located on Georgetown Rd from the unincorporated county to CG General Commercial Zoning District (Planning Commission: Approved 6-0; 1 member recused; 2 members absent).
- **Final Passage - Ordinance No: 2017-29** – heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 534; to abandon a section of 7th St NE located between Church St NE and Parker St NE (Planning Commission: Approved 9-0).
- **Final Passage - Ordinance No: 2017-30** – T heretofore approved on first reading June 26, 2017 and found in Minute Book 28, Page 536; to abandon a portion of 4th St NE located between Parker St NE and Trunk St NE (Planning Commission: Approved 9-0).
- **Resolution No: 2017-45** – Approving the 2017 Annual CDBG Action Plan.

RESOLUTION NO: 2017-45

**RESOLUTION FOR APPROVAL OF THE
2017 ANNUAL ACTION PLAN
FOR THE
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

WHEREAS, the City Council of the City of Cleveland, Tennessee received a document, *City of Cleveland 2017 Annual Action Plan* which is incorporated herein as EXHIBIT A; and

WHEREAS, the aforementioned *2017 Action Plan* was the subject of public hearings on September 26, 2016, January 31, 2017, and again on February 21, 2017. A draft of the *Action Plan* was available on June 25th, 2017 which began a fourteen day comment period ending on July 8, 2017 with copies of the Plan being made available at the Development and Engineering Services Office, the Cleveland Public Library, and on the City’s website www.clevelandtn.gov as advertised in the *Cleveland Daily Banner* on June 25, 2017 and *Noticias Libres* on June 29, 2017;

WHEREAS, the aforementioned Plan has been reviewed by the Cleveland Municipal Planning Commission whose members were provided with the document and given the opportunity to comment; and

WHEREAS, comments concerning the aforementioned Action Plan were received by City staff and reported to the City Council and the City Council has considered the comments:

NOW, THEREFORE, BE IT RESOLVED, the *2017 Action Plan* is incorporated herein as EXHIBIT A be approved by the City Council, and be it further resolved that City staff are authorized to submit the aforementioned Plan to the United States Department of Housing and Urban Development (HUD), and be it resolved that the Mayor is authorized to sign all grant agreements, contracts and certifications with HUD that are required to carry out the CDBG program described in the Action Plan.

Approved this 10th day of July, 2017

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-46** – Authorizing the submission of the 2017 Child Safety Grant.

RESOLUTION NO: 2017-46

A RESOLUTION AUTHORIZING THE SUBMISSION OF THE 2017 CHILD SAFETY GRANT

WHEREAS, the City Council of the City of Cleveland, Tennessee desires to enhance the safety of child passengers traveling in motor vehicles with the goal of improving the number of child passenger restraints used in Cleveland; and,

BE IT THEREFORE RESOLVED by the City Council that the Mayor be and hereby is authorized to submit an application, including all the understanding and assurances contained therein, to the Tennessee Department of Health & Human Services for the 2017 Child Safety Grant. Said grant funding shall be used to purchase and distribute child restraint systems for low income families at or below 100% federal Poverty. Child restraint systems will be for children between the ages of birth through eight-year-old. If said grant is approved, the Mayor is hereby designated as Cleveland’s representative to act in connection with the application and to provide additional information as may be required;

BE IT FURTHER RESOLVED that the City of Cleveland agrees to submit a quarterly report of all child restraint systems purchased and distributed with money from the Child Safety Fund to the Tennessee Department of Health’s Injury, Rape and Violence Prevention Program for said grant.

Adopted this 10th day of July, 2017

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- Accepting the funding memo from City Manager Joe Fivas concerning Candy’s Creek Cherokee Elementary School.

To: Mayor & City Council

From: Joseph Fivas, City Manager

Date: July 10th, 2017

Re: Funding for the Candy’s Creek Cherokee Elementary School

One of the priorities of the City Council during our budgeting process was to construct the new elementary school without a tax increase. City staff has worked hard to accomplish this goal and are ready to propose a funding and finance package to obtain this goal. This funding package again shows the strong partnership and relationship between the City Council and City School Board. Good discussions and dialogue have allowed the City to have one of the strongest City school districts in Tennessee. We look forward to the groundbreaking and ribbon cutting for an opening date in the fall of 2019.

City staff and City School staff have been working on a funding proposal to cover the costs of this needed elementary school. The City Schools have requested that the City Council finalize a funding and financing package on July 10th, 2017 so they can approve the final construction plans and documents later in July 2017. My understanding is that the City School Board is aware of this agreement, and any disagreement or concerns have not been communicated to City staff.

The new Candy's Creek Cherokee Elementary School was recently bid out, and after cost reductions and value engineering the final elementary school construction will cost a proposed total of \$15,691,900. This cost includes architectural and engineering fees and \$275,000 in contingency funds.

The City proposes to fund up to \$15,417,000 in construction costs for the new elementary school. The City will fund the project with \$9 million in bond funds, and the remainder with a combination of the County contribution and City general funds. The \$9 million is the same as staff indicated in the FY 2018 budget. If the total construction costs do not exceed \$15,417,000 for reason, then the City is obligated to just transfer up to the total construction cost amount. The City Schools will be responsible for any schools related expenditures above the \$15,417,000 amount. The City will essentially fund the entire school construction cost, with the possible exception of some contingency funds.

Furthermore, the City and City Schools have allowed Bradley County to delay the transfer of funds from the American Uniform Education Project until July 2019. When these American Uniform Education Project funds are transferred from the County to the City/City School in July 2019. Then, the City will first be reimbursed any school construction related general fund expenditures per the August 8th, 2016 Council approved 'Reimbursement Resolution'. Then, second the City Schools will be reimbursed for any construction costs from general fund/sales tax funds spent above the \$15,417,000 approved amount. Then, third any remaining funds from the American Uniform Education Project will be used to pay debt contributed to the \$9 million in bond funds used on this project. The goal is the fund the project while holding the City and City Schools general funds harmless once the reimbursement is dispersed. If there are no funds transferred from the American Uniform Education Project, then there will be no reimbursement. The use of this reimbursement mechanism will save the City from bonding another approximate \$1 million. Moreover, by using this financing and reimbursement mechanism, our City taxpayers and the City will save approximately \$400,000-\$450,000 over twenty years in interest payments for this project.

Furthermore, part of the 2016 agreement with the City Schools indicated they will provide all operational costs for the new elementary school, any new staff required, and will use approximately \$300,000 of their sales tax funds for furnishings.

Lastly, with the City Council's approval, this funding and financing agreement will allow the City Schools to approve and finalize this project. If the City Council has any concerns, questions, or changes to this agreement between the City and City Schools, it would be prudent to address those issues at July 10th, 2017 City Council meeting. City staff will bring a bond financing resolution for \$9 million for the City Council's approval at the appropriate time. We will place this memo into the minutes of July 10th, 2017 for a record of these discussions and agreement.

JAF

Councilman Cassada moved to approve the Consent Agenda. The motion was seconded by Councilman May; and upon roll call, the motion to approve the consent agenda unanimously passed. Councilman Banks asked Attorney Travis Henry to confirm that the developer concerning Zoning Ordinance No: 2017-22 does not intent to open the streets onto Robin Hood. Mr. Henry replied yes that is correct and understands that the property owners are seeking to close the access. His client is not opposed to the closing. Councilman Cassada questioned the buffer zone. Mr. Henry stated yes there is a 25-foot buffer zone.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman McKenzie inquired about the structure at 306 Emmett Avenue. Building Official Bryan Turner stated letters have been sent and the appeal time is out on July 5. They have been asked to obtain permits by July 17 and if they don't the City will look into further options. Councilman McKenzie then asked about what the City is going to do with the Moore Building on Inman Street. Mayor Rowland stated a decision hasn't been made and will need further discussion at a later time.

Councilman Cassada asked about the status of the Candies Lane/Inverness road project to alleviate flooding. Mr. Fivas replied we are beginning the environmental phase, which includes the surveys and proper permits to get into the waterway. Once the approval has been received we will begin obtaining contracts and possibly by the end of this fiscal year we could begin construction. Councilman Cassada then asked that Codes look into the requirements for fences around pools because of the safety concerns with kids and pets and encourage owners to fence their pools. Mr. McKay stated Codes has investigated several and sent the required notices. They will continue to monitor. Councilman Cassada then inquired about any updates on Hwy 60 project. Mayor Rowland stated we've been given an approximate 2-year start with the new funding. Lastly, he asked if a pickelball court was still planned to be placed at Deer Park. Mr. Fivas stated yes, in the budget you've approved there were funds to improve the park and pickelball court was included.

Councilman Banks asked Joe Edwards' opinion on the traffic concerns in Cleveland and his thoughts of an access road parallel to I-75, if we could acquire the needed right-of-ways, would work rather than improving/widening Mouse Creek Road. Mr. Edwards stated that has been looked at over the years and right-of-way and flood plains have made it too difficult. As far as traffic, it is getting worse. Problem areas from years ago are no problem anymore. The relief artery, the bypass, helped. We'd widen intersections but by the time you were through traffic grew to take up the slack you had created. Unless you have relief arteries you don't really get true relief from traffic.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-31** - Rezoning .56 acres more or less on Paul Huff Parkway and Holiday Inn Express Way (Tax Map34I Group A Parcels 7.00 & 7.01) from R3 High Density Residential Zoning District to PUD14 (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-31

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R3 High Density Residential Zoning District to PUD14 Planned Unit Development.

Approximately .56 acres, more or less, located at Paul Huff Parkway and Holiday Inn Express Way as shown on the attached map.

For reference, see Book 1869 Page 383 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 34I Group A Parcel 7.00 & 7.01, in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Councilman May moved that Zoning Ordinance No: 2017-31 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-32** - Rezoning 1.54 acres more or less on Ellis Circle (Tax Map34I Group A Parcels 3.00) from R3 High Density Residential Zoning District to PUD14 (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-32

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R3 High Density Residential Zoning District to PUD14 Planned Unit Development.

Approximately 1.54 acres, more or less, located at Ellis Circle as shown on the attached map.

For reference, see Book 1947 Page 636 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 34I Group A Parcel 3.00, in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Vice Mayor Johnson moved that Zoning Ordinance No: 2017-32 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-33** - Rezoning 1.10 acres more or less on Ellis Circle (Tax Map34I Group B Parcels 13.03) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-33

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R3 High Density Residential Zoning District to PUD16 Planned Unit Development.

Approximately 1.10 acres, more or less, located at Ellis Circle as shown on the attached map.

For reference, see Book 2374 Page 841 in the Register's Office of Bradley County, Tennessee, and being shown on Tax Map 34I Group B Parcel 13.00, in the Assessor's Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Councilman Cassada moved that Zoning Ordinance No: 2017-33 be voted for passage on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-34** - Rezoning 1.38 acres more or less on Ellis Circle (Tax Map34H Group M Parcels 10.01, 11.00, 12.00) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-34

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R3 High Density Residential Zoning District to PUD16 Planned Unit Development.

Approximately 1.38 acres, more or less, located at Ellis Circle as shown on the attached map.

For reference, see Book 385 Page 77, Book 322 Page 152 and Book 353 Page 114 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 34H Group M Parcel 10.01, 11.00 and 12.00, in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Vice Mayor Johnson moved that Zoning Ordinance No: 2017-34 be voted for passage on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-35** - Rezoning 19.4 acres more or less on Tasso Ln NE (Tax Map 34 Parcel 25.00) from R2 Low Density Single and Multi-Family Residential Zoning District to PUD17 (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-35

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS TASSO LANE SUBDIVISION “PUD 17” ON PROPERTY DESCRIBED AS TAX MAP 34 PARCELS 25.02, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 17; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING LISTS OF PERMITTED USES AND PROHIBITED USES; ESTABLISHING DEVELOPMENT STANDARDS AND PROCESSES AND RELATED REQUIREMENTS; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS the City of Cleveland, Tennessee, hereinafter “City”, desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter “PUD”, process as an alternative development standard whereby to accomplish such development; and whereas it is intended that the developers of the property or any subsequent owners, shall hereinafter be referred to as “Developers” and; and whereas the City desires to establish a unique zoning district with special use restrictions and development standards for the property described herein through the adoption of this PUD, NOW THEREFORE BE IT ORDAINED:

Section 1. ZONING PLAN AND MAP AMENDMENT.

The zoning plan and map are hereby amended so as to zone the property described in Section 3 herein as “PUD 17” subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 17 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD17 district are those outlined in this ordinance, including requirements for plan approval, and compliance with applicable permitting requirements.

Section 2. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES.

Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 3. PROPERTY DESCRIPTION.

PUD 17, The Tasso Lane Subdivision (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 34 Parcels 25.02. Exhibit A illustrates the overall Tasso Lane Subdivision development plan for the subject property more particularly described as indicated in Exhibit B.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of The Tasso Lane Subdivision. The project consists of a mixture of detached single family homes on small lots and attached single-family dwellings in multi-unit townhome structures. Exhibit A shows the proposed location of the detached single-family dwelling lots and the townhome lots and the general location of proposed infrastructure. The project is intended to be similar to an R2 zoning district development in terms of overall allowable density, not exceeding one unit per 5000 square feet for lots containing single-family detached homes; two units per 7500 square feet on lots containing two-unit structures; and three units per 10,000 square feet on lots containing three-unit structures. The developer may include common open space designed within the development, including any permanent retention or detention pond areas or landscaped common area.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 17 Tasso Lane Subdivision allows for the construction of up to 71 dwelling units in detached single family houses and multi-unit townhome structures with up to three dwelling units per building. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community pool, clubhouse, etc. are allowed in the event that the developer wishes to amend the development plan through the Cleveland Municipal Planning Commission to include these.. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 17 that would further restrict the allowable uses within a particular part of the development or from excluding a particular use from the development altogether through the operation of private restrictions or covenants. The location of particular residential uses within the Tasso Lane Subdivision will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit A unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland’s zoning ordinance are allowed unless prohibited by the Developer. There are no conditional

uses within the PUD 17 district. Uses other than those described as permitted or allowed herein are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibit A) for PUD17, The Tasso Lane Subdivision was prepared by MAP Engineering, LLC for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting June 20, 2017. The conceptual plan consists of a site plan for the overall development and additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD17 must be consistent with this Conceptual Plan with regard to development standards, development types, and generally with regards to the delineation of the single-family detached and townhome areas, unless subsequently modified by agreement of the Cleveland Municipal Planning Commission (modification may not increase the total number of dwelling units beyond 71 without a revision to the PUD ordinance approved by the City Council). Additional plans, plats, and other development-related documents and permits will be necessary to carry out the construction of this project. It is recognized that the plats and detailed block plans for The Tasso Lane Subdivision may ultimately reflect some alteration in the conceptual plan such as the exact location of each specific residential development typology within the residential areas. Other variations may include the width or alignment of streets, or the precise placement of buildings, but these will be generally consistent with the conceptual plan, mutually consistent with one another, and not violate any features of this ordinance as these relate to adjoining properties and infrastructure (e.g. external intersection locations and traffic improvements, buffers with external properties, etc.).

All streets within the PUD 17 Tasso Lane Subdivision shall be constructed with a 50-foot ROW and sidewalks on both sides of the street. Existing Right of Way along Tasso Lane is narrow adjacent to PUD 17 and the intention is that the Tasso Lane ROW be at least 50 feet in width; therefore the developer grants additional ROW to the City of Cleveland such that the ROW is at least 25 feet from the existing center line of Tasso Lane along the entire property so as to make room for future city improvements to the Tasso Lane roadway including sidewalks. Exhibit A shall be modified to reflect the additional ROW along Tasso Lane

6.B. PLATS.

One or more plats will be prepared for the PUD17 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plats will describe and dedicate public streets any other public properties; identify lots; and identify easements that are necessary for various purposes within the development such as utilities, access, maintenance, and conservation, etc.

6.C. PRIVATE DEVELOPMENT DOCUMENTS.

The Developer shall prepare and implement such master covenants, restrictions, condominium association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 17 as envisioned herein. It is a requirement of this ordinance that such documents are in place and enforced by the Developer (or Developer's heirs, successors, or assigns) to the extent necessary for PUD 17 to function as described herein. The City of Cleveland assumes no responsibility to review these documents, or to determine their adequacy to these purposes, or to enforce any of their provisions, or to otherwise be a party to them.

6.D. DETAILED BLOCK PLANS AND SITE PLANS.

The Developer shall prepare and submit to the City of Cleveland, TN for approval by the Cleveland Municipal Planning Commission detailed block plans for each phase of development. These detailed block plans shall indicate lot configurations, setbacks, structure types, streets, lanes, sidewalks, common areas, utility locations, etc. The information in the detailed block plan will be congruous with the plat developed for the lots and adjacent public street infrastructure. The content and level of detail of the detailed block plan will be sufficient for City staff to determine compliance of the proposed development with this ordinance and any other applicable City ordinances.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD17 shall be those established in this ordinance or incorporated herein. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R2 zone, from the City of Cleveland's zoning regulations.

For residential areas units of identical elevation types must be separated by at least two different elevations. This will result in at least three different elevation plans per cluster. No two adjacent structures shall be built with the same building size or orientation (reverse elevations do not count as different building elevations), facade, materials, or colors.

Residential areas must also incorporate a variety of building elements and treatments for single family detached and townhome style housing. Structures must include articulation, change in materials or texture, windows, or other architectural features. No blank walls along street elevations are allowed.

Requirements of the City's adopted building codes, fire codes, stormwater regulations and other ordinances affecting the development, use, and maintenance of property shall apply.

7.A. BUILDING SETBACKS

Minimum setback are to be reflected in the individual block plan site approval. The minimum setbacks and lot width requirements are to be as for the R2 zoning district except that the minimum lot width for single-family detached home sites is 46 feet (townhome sites shall comply with existing city townhome regulations for lot width), front setback requirements are 20 feet, and side setback requirements are 5 feet. Individual site plans are required for all single-family residential structures in the development prior to construction and corners must be pinned by a surveyor at the foundation stage; townhome must follow the City's established process requiring a site plan for construction and a final plat subsequent to construction. Storage sheds and similar accessory structures, if allowed by the Developer shall be limited to yard areas behind the primary structure and are not to encroach within five feet of any property line. Covered porches, sunrooms, and other covered additions to the primary structure, if allowed by the developer are to maintain the required setbacks for the primary structure. Open patios and decks, if allowed by the Developer, may extend to within 10 feet of a rear property line or a lesser distance if required by the developer. The guidelines for approval of a minor encroachment as established within the Cleveland Zoning Ordinance may be utilized to establish variations in setbacks subsequent to any Planning Commission approvals.

Section 8. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS.

The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed PUD 17 Tasso Lane Subdivision. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion by the City's Building Official). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

Section 9. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a detailed block plan and/or site plan, or the future approval of a plat by the Cleveland Municipal Planning Commission, and where this ordinance contemplates the future refinement of plans to conform with permitting requirements or conditions of approval necessitated by staff review, and where the Developer and the City of Cleveland may enter into future agreements regarding possible public facilities, infrastructure, and/or services within PUD17, an amendment to this ordinance is not required to implement such detailed block plan, site plan, plat, refinement to plans necessitated by permitting or review requirements, or agreement pertaining to public facilities, infrastructure, or services.

Section 10. BINDING UPON OTHERS. This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD17 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass CTP Properties of Chattanooga, TN or any heirs, assigns, or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development.

Section 13. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE. Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Zoning Ordinance No: 2017-35 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Resolution was presented in full:

- **Resolution No: 2017-47** - A resolution to adopt a Plan of Service for the annexation area of about 9.5 acres located off Dockery Ln and Hewitt St (Planning Commission: Approved 9-0).

RESOLUTION NO: 2017-47

A RESOLUTION APPROVING A PLAN OF SERVICES FOR A PROPOSED ANNEXATION OF TERRITORY INTO THE CITY OF CLEVELAND BY OWNER CONSENT

HEWITT ST AND DOCKERY LN ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries by owner consent; and

WHEREAS, a Plan of Services for the territory proposed for annexation by owner consent has been reviewed by the Cleveland Municipal Planning Commission; and

WHEREAS, the governing body desires to conduct a public hearing on the proposed annexation and plan of services;

NOW THEREFORE BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That a public hearing is hereby held at 3:00 pm on July 10, 2017 at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning at the southeast corner of the lands of the Trousdale Property Holding, LLC., as recorded in the BCROD deed book 2082 page 941, said property currently housing the Trousdale School; thence with the southern line of the aforementioned property N 66° 36' 4" W a distance of 373.9 feet, more or less, to the southwest corner of the aforementioned property; thence N 24° 1' 39" E a distance of 23.5 feet, more or less, to the intersect of the cul-de-sac; thence following a radius of 50 feet around the cul-de-sac a distance of 106 feet; thence continuing with the western line of the aforementioned property N 24° 1' 38" E a distance of 752.1 feet, more or less; thence N 68° 58' 55" W a distance of 49.3 feet, more or less; thence N 24° 11' 22" E a distance of 20.4 feet, more or less; thence N 48° 20' 31" E a distance of 242.6 feet, more or less, to the northwestern corner of the aforementioned property; thence S 66° 47' 48" E a distance of 328.1 feet, more or less, to the northeastern corner of the aforementioned property; thence S 24° 16' 50" W a distance of 1102.3 feet with the eastern line of the property, more or less, to the point of beginning.

B. That a copy of this Resolution shall also be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland.

C. That notice of the time and purpose of a public hearing on the proposed annexation by owner consent and the Plan of Services shall be published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing.

WHEREUPON, the Mayor declared the Resolution adopted, affixed a signature and the date thereto, and directed that the same be recorded.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk



JUNE 16, 2017
HEWITT ST-DOCKERY LN ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 9.5 acres located Dry Valley Rd as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2017.

This report begins with a brief overview of the annexation process and the report then turns to a proposed Plan of Services (POS) for the annexation area. The services described are those that would be necessary for the City to provide under Tennessee law. This area is proposed to receive city services in accordance with the POS.

Introduction

Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service requirements in a fifty square mile urban fringe area. The UGB was amended in January 2010, expanding it near I-75 Exit 20 and in the vicinity of the new airport site near Dry Valley Road. Cleveland can annex property within its UGB by resolution.

PC 1101 Section 19 requires a "Plan of Services" (POS) prior to annexation and these services must include: police and fire protection; water, electrical and sanitary sewer services; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning services. Public Chapter 225 adopted by the Tennessee General Assembly and signed by Governor Bredesen on June 2, 2003, amended TCA 6-51-102 to include impact on school attendance zones.

This property is the site of the Trousdale School, a private non-profit post-secondary school that serves adults with intellectual disabilities. The school is planning on expanding their current services which would include developing a program for residential services.

Hewitt St-Dockery Ln Annexation Area



Legal Description

Beginning at the southeast corner of the lands of the Trousdale Property Holding, LLC., as recorded in the BCROD deed book 2082 page 941, said property currently housing the Trousdale School; thence with the southern line of the aforementioned property N 66° 36' 4" W a distance of 373.9 feet, more or less, to the southwest corner of the aforementioned property; thence N 24° 1' 39" E a distance of 23.5 feet, more or less, to the intersect of the cul-de-sac; thence following a radius of 50 feet around the cul-de-sac a distance of 106 feet; thence continuing with the western line of the aforementioned property N 24° 1' 38" E a distance of 752.1 feet, more or less; thence N 68° 58' 55" W a distance of 49.3 feet, more or less; thence N 24° 11' 22" E a distance of 20.4 feet, more or less; thence N 48° 20' 31" E a distance of 242.6 feet, more or less, to the northwestern corner of the aforementioned property; thence S 66° 47' 48" E a distance of 328.1 feet, more or less, to the northeastern corner of the aforementioned property; thence S 24° 16' 50" W a distance of 1102.3 feet with the eastern line of the property, more or less, to the point of beginning.

Plan of Services

1. Police Protection

Patrolling, radio response to calls and other routine police services using the City's personnel and equipment will be provided on the effective date of the annexation.

There is no additional cost expected from this annexation.

2. Fire Protection

The Cleveland Fire Department's Station One could service this site immediately and without any budgetary impact.

3. Domestic Water, Sanitary Sewer Service, and Fire Hydrants

Water, Sewer, and Fire Protection services are currently available to this area.

4. Electric Service

Cleveland Utilities Electric is already serving this location and there would be no additional cost associated with this annexation.

5. Public Works

A. Refuse Collection

- a. Current city policies regarding residential, commercial and industrial refuse will apply in all proposed areas per the terms of the City's contract with Waste Connections of Tennessee, Inc.
- b. The City no longer provides curbside recycling and this service will not be provided in the proposed areas, unless the City Council initiates a program in the future.

B. Route Collection Services

- a. Current city policies regarding residential debris, brush, and white good collections will apply in all proposed areas and will begin at the time of annexation. Each residence will be included in the City's ten route collection system. No additional equipment or manpower will be needed at this time.
- b. The current city policies regarding residential leaf collection will be provided annually for a period of approximately three months and will apply in all proposed areas.

C. Street Repair and Maintenance

- a. Emergency maintenance of city streets (i.e. repairing hazardous potholes) within the proposed areas will begin at time of annexation.
- b. Routine maintenance of local streets in the proposed areas will be scheduled on the same basis as such maintenance in the rest of the City.
- c. Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such substantial improvements in the proposed areas (where identified as needed by the governing body) will be accomplished in accordance with the priorities and policies established for the entire city.
- d. It appears that no street name signs or street striping/painting is needed at this time for the proposed areas.

D. Stormwater and Drainage Services

No major drainage problems were identified in these areas. Emergency drainage maintenance (i.e. cleaning catch basins, unstopping tile, installing drainage tile and/or catch basins) within these areas will begin at time of annexation.

E. General Rights-of-Way Maintenance (i.e. street sweeping, snow removal)

- a. Current city policies for routine street sweeping will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.
- b. Current city policies for snow removal and salting will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.

6. Schools

The annexation of this area does not anticipate any impacts on the City School system.

7. Planning and Zoning

- A. The planning and zoning jurisdiction of the City will extend to the annexation areas upon the effective date of annexations and all municipal planning activities will encompass the needs of the annexed areas.
- B. This property is currently zoned FAR Forestry, Agricultural, Residential in the unincorporated County. It is recommended the post-annexation zoning on this property be PI Professional Institutional Zoning District.



- C. In the case of lots of record that are recorded prior to the effective date of annexation, if there are prevailing deed or subdivision restrictions on record, these deed or subdivision restrictions shall apply if in conflict with City zoning or subdivision regulations.

8. Animal Shelter

The City operates a full-time animal control program including an animal shelter. The Animal Shelter is located on Hill Street SE. Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

9. Voting Rights and City Elections

- A. If an eligible voter's permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.
- B. If an eligible voter is in the category of a property rights voter then that voter must register at the Election Commission Office prior to voting in a City election.
- C. This annexation will add approximately 0 residents to the 1st City Council District as it is currently used.

Revenue

This property would be tax exempt and not contribute any property tax revenue to the City of Cleveland, however there would be storm water fees associated with this property based on the total impervious area. The stormwater fee would be approximately \$64.35 per month.

Councilman May moved that Resolution No: 2017-47 be accepted as presented. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Resolution was presented in full:

- **Resolution No: 2017-48** - A resolution to annex about 9.5 acres located off Dockery Ln and Hewitt St (Planning Commission: Approved 9-0).

RESOLUTION NO: 2017-48

A RESOLUTION TO ANNEX CERTAIN TERRITORY UPON WRITTEN CONSENT OF THE OWNERS AND TO INCORPORATE THE SAME WITHIN THE BOUNDARIES OF THE CITY OF CLEVELAND, TENNESSEE

HEWITT ST AND DOCKERY LN ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries; and

WHEREAS, the owners of all property within the territory proposed for annexation have given their written consent by notarized petition so that a referendum is not required; and

WHEREAS, this Resolution was also published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland; and

WHEREAS, a Plan of Services for the area proposed for annexation is attached as *Exhibit A* hereto, which Plan of Services addresses the same services and timing of services as required in Tennessee Code Annotated § 6-51-102; and

WHEREAS, the proposed annexation and Plan of Services were submitted to the Cleveland Municipal Planning Commission for study, and it has recommended the same; and

WHEREAS, notice of the time and purpose of a public hearing on the proposed annexation and the Plan of Services was published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing; and

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on July 10, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That the following territory is hereby annexed and incorporated into boundaries of the City of Cleveland, to wit:

Beginning at the southeast corner of the lands of the Trousdale Property Holding, LLC., as recorded in the BCROD deed book 2082 page 941, said property currently housing the Trousdale School; thence with the southern line of the aforementioned property N 66° 36' 4" W a distance of 373.9 feet, more or less, to the southwest corner of the aforementioned property; thence N 24° 1' 39" E a distance of 23.5 feet, more or less, to the intersect of the cul-de-sac;

thence following a radius of 50 feet around the cul-de-sac a distance of 106 feet; thence continuing with the western line of the aforementioned property N 24° 1' 38" E a distance of 752.1 feet, more or less; thence N 68° 58' 55" W a distance of 49.3 feet, more or less; thence N 24° 11' 22" E a distance of 20.4 feet, more or less; thence N 48° 20' 31" E a distance of 242.6 feet, more or less, to the northwestern corner of the aforementioned property; thence S 66° 47' 48" E a distance of 328.1 feet, more or less, to the northeastern corner of the aforementioned property; thence S 24° 16' 50" W a distance of 1102.3 feet with the eastern line of the property, more or less, to the point of beginning.

B. That the Plan of Services for this territory which is attached as *Exhibit A* [on file in the City Clerk's Office.] hereto is approved and the same is hereby adopted.

C. That the City Clerk's office will cause a copy of this Resolution to be forwarded to the Mayor of Bradley County including the Plan of Services.

D. That a copy of this Resolution shall be sent to the Tennessee Comptroller of the Treasury and the Bradley County Assessor of Property.

E. That a copy of this Resolution, as well as the portion of the Plan of Services related to emergency services and a detailed map of the annexed area, shall be sent to any affected emergency communication district.

WHEREUPON, the Mayor affixed a signature and date thereto and directed that the same be recorded.

EFFECTIVE DATE: Be it further resolved that this Resolution shall only become effective at the time of the final passage of the ordinance zoning the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Vice Mayor Johnson moved that Resolution No: 2017-48 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-36-** Zoning of about 9.5 acres located off Dockery Ln SE and Hewitt St SE from the unincorporated county to PI Professional Institutional Zoning District (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-36

AN ORDINANCE TO ZONE THE "HEWITT ST AND DOCKERY LN ANNEXATION AREA" WITHIN THE CORPORATE BOUNDARIES OF CLEVELAND, TENNESSEE

WHEREAS, a public hearing before this body was held on the 10th day of July 2017 a notice thereof published in the *Cleveland Daily Banner* on June 25, 2017 and

WHEREAS, a Plan of Service, including a zoning plan consistent with this ordinance, for this property was adopted by Resolution 2017-47; and,

WHEREAS, this property was annexed by Resolution 2017-48; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, zoned from FAR Forestry/Agricultural/Residential within the unincorporated County to MU Mixed Use Zoning District within the corporate limits of the City of Cleveland.

Section 2. The property shown in Exhibit “A” and shall be zoned in accordance with the legal description described in Exhibit “B”, attached hereto and made a part hereof by reference, upon the effective date of this ordinance.

Section 3. Be it further ordained that this Ordinance shall take effect immediately on final reading the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Exhibit B

Legal Description

Beginning at the southeast corner of the lands of the Trousdale Property Holding, LLC., as recorded in the BCROD deed book 2082 page 941, said property currently housing the Trousdale School; thence with the southern line of the aforementioned property N 66° 36' 4" W a distance of 373.9 feet, more or less, to the southwest corner of the aforementioned property; thence N 24° 1' 39" E a distance of 23.5 feet, more or less, to the intersect of the cul-de-sac; thence following a radius of 50 feet around the cul-de-sac a distance of 106 feet; thence continuing with the western line of the aforementioned property N 24° 1' 38" E a distance of 752.1 feet, more or less; thence N 68° 58' 55" W a distance of 49.3 feet, more or less; thence N 24° 11' 22" E a distance of 20.4 feet, more or less; thence N 48° 20' 31" E a distance of 242.6 feet, more or less, to the northwestern corner of the aforementioned property; thence S 66° 47' 48" E a distance of 328.1 feet, more or less, to the northeastern corner of the aforementioned property; thence S 24° 16' 50" W a distance of 1102.3 feet with the eastern line of the property, more or less, to the point of beginning.

Councilman May moved that Zoning Ordinance No: 2017-36 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Resolution was presented in full:

- **Resolution No: 2017-49-** A resolution to adopt a Plan of Service for the annexation area of about 11.6 acres located on Dry Valley Rd (Planning Commission: Approved 9-0).

RESOLUTION NO: 2017-49

**A RESOLUTION APPROVING A PLAN OF SERVICES FOR A PROPOSED
ANNEXATION OF TERRITORY INTO THE CITY OF CLEVELAND BY OWNER
CONSENT**

DRY VALLEY RD NE-CLEVELAND UTILITIES ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries by owner consent; and

WHEREAS, a Plan of Services for the territory proposed for annexation by owner consent has been reviewed by the Cleveland Municipal Planning Commission; and

WHEREAS, the governing body desires to conduct a public hearing on the proposed annexation and plan of services;

NOW THEREFORE BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That a public hearing is hereby held at 3:00 pm on July 10, 2017 at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning at the southeast corner of the lands of the City of Cleveland, as recorded in the BCROD deed book 93 page 34, said property currently housing a Cleveland Utilities waste water treatment plant; thence with the southern line of the aforementioned property in a northwesterly direction 723 feet, more or less, to the southwest corner of the aforementioned property; thence in a north easterly direction with the western line of the aforementioned property 700 feet, more or less, to the northwest corner of the aforementioned property; thence in a southeasterly direction with the northern line of the aforementioned property 723 feet, more or less, to the northeast corner of the aforementioned property; thence in a southwesterly direction with the eastern line of the aforementioned property 700 feet, more or less, to the point of beginning.

B. That a copy of this Resolution shall also be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland.

C. That notice of the time and purpose of a public hearing on the proposed annexation by owner consent and the Plan of Services shall be published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing.

WHEREUPON, the Mayor declared the Resolution adopted, affixed a signature and the date thereto, and directed that the same be recorded.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk



JUNE 16, 2017
DRY VALLEY RD CLEVELAND UTILITIES ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 11.61 acres located Dry Valley Rd as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2017.

This report begins with a brief overview of the annexation process and the report then turns to a proposed Plan of Services (POS) for the annexation area. The services described are those that would be necessary for the City to provide under Tennessee law. This area is proposed to receive city services in accordance with the POS.

Introduction

Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service requirements in a fifty square mile urban fringe area. The UGB was amended in January 2010, expanding it near I-75 Exit 20 and in the vicinity of the new airport site near Dry Valley Road. Cleveland can annex property within its UGB by resolution.

PC 1101 Section 19 requires a "Plan of Services" (POS) prior to annexation and these services must include: police and fire protection; water, electrical and sanitary sewer services; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning services. Public Chapter 225 adopted by the Tennessee General Assembly and signed by Governor Bredesen on June 2, 2003, amended TCA 6-51-102 to include impact on school attendance zones.

This property is the site of Cleveland Filter Plant which is operated by the Water and Wastewater Division Engineering at Cleveland Utilities. The purpose of this annexation is for the Cleveland Utilities Electric Division to serve the Cleveland Filter Plant if it is determined to be feasible.

Dry Valley Rd Annexation Area



Legal Description

Beginning at the southeast corner of the lands of the City of Cleveland, as recorded in the BCROD deed book 93 page 34, said property currently housing a Cleveland Utilities waste water treatment plant; thence with the southern line of the aforementioned property in a northwesterly direction 723 feet, more or less, to the southwest corner of the aforementioned property; thence in a north easterly direction with the western line of the aforementioned property 700 feet, more or less, to the northwest corner of the aforementioned property; thence in a southeasterly direction with the northern line of the aforementioned property 723 feet, more or less, to the northeast corner of the aforementioned property; thence in a southwesterly direction with the eastern line of the aforementioned property 700 feet, more or less, to the point of beginning.

Plan of Services

4. Police Protection

Patrolling, radio response to calls and other routine police services using the City's personnel and equipment will be provided on the effective date of the annexation.

There is no additional cost expected from this annexation.

5. Fire Protection

The Cleveland Fire Department could begin providing service immediately to this location from our current Station Two without any increase in cost to the department.

3. Domestic Water, Sanitary Sewer Service, and Fire Hydrants

A. Domestic Water--- Water service is available to this parcel.

B. Sanitary Sewer--- Sanitary sewer facilities will need to be extended to serve this parcel. To provide sanitary sewer facilities, it is estimated to cost \$30,000 and can be completed within eight (8) years after annexation.

C. Fire Hydrants--- Fire protection is available to this parcel

SUMMARY OF COSTS

	Water	Sanitary Sewer	Total
CFP on Dry Valley Road Annexation Area	\$0	\$30,000	\$30,000

10. Electric Service

There are some costs associated with facilities and agreements with Volunteer Electric. However, Cleveland Utilities supports the annexation and is expected to bear any costs associated with these improvements.

11. Public Works

C. Refuse Collection

- a. Current city policies regarding residential, commercial and industrial refuse will apply in all proposed areas per the terms of the City’s contract with Waste Connections of Tennessee, Inc.
- b. The City no longer provides curbside recycling and this service will not be provided in the proposed areas, unless the City Council initiates a program in the future.

D. Route Collection Services

- a. Current city policies regarding residential debris, brush, and white good collections will apply in all proposed areas and will begin at the time of annexation. Each residence will be included in the City’s ten route collection system. No additional equipment or manpower will be needed at this time.
- b. The current city policies regarding residential leaf collection will be provided annually for a period of approximately three months and will apply in all proposed areas.

C. Street Repair and Maintenance

- a. Emergency maintenance of city streets (i.e. repairing hazardous potholes) within the proposed areas will begin at time of annexation.
- b. Routine maintenance of local streets in the proposed areas will be scheduled on the same basis as such maintenance in the rest of the City.
- c. Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such substantial improvements in the proposed areas (where identified as needed by the governing body) will be accomplished in accordance with the priorities and policies established for the entire city.
- e. It appears that no street name signs or street striping/painting is needed at this time for the proposed areas.

D. Stormwater and Drainage Services

No major drainage problems were identified in these areas. Emergency drainage maintenance (i.e. cleaning catch basins, unblocking tile, installing drainage tile and/or catch basins) within these areas will begin at time of annexation.

E. General Rights-of-Way Maintenance (i.e. street sweeping, snow removal)

- a. Current city policies for routine street sweeping will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.
- b. Current city policies for snow removal and salting will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.

12. Schools

The annexation of this area does not anticipate any impacts on the City School system.

13. Planning and Zoning

- D. The planning and zoning jurisdiction of the City will extend to the annexation areas upon the effective date of annexations and all municipal planning activities will encompass the needs of the annexed areas.
- E. This property is currently zoned I2 Industrial in the unincorporated County. It is recommended the post-annexation zoning on this property be IL Light Industrial District.



- F. In the case of lots of record that are recorded prior to the effective date of annexation, if there are prevailing deed or subdivision restrictions on record, these deed or subdivision restrictions shall apply if in conflict with City zoning or subdivision regulations.

14. Animal Shelter

The City operates a full-time animal control program including an animal shelter. The Animal Shelter is located on Hill Street SE. Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

15. Voting Rights and City Elections

- D. If an eligible voter’s permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.
- E. If an eligible voter is in the category of a property rights voter then that voter must register at the Election Commission Office prior to voting in a City election.
- F. This annexation will add approximately 0 residents to the 4th City Council District as it is currently used.

Revenue

This property would be tax exempt and not contribute any property tax revenue to the City of Cleveland, however there would be storm water fees associated with this property based on the total impervious area. The stormwater fee would be approximately \$74.23 per month.

Vice Mayor Johnson moved that Resolution No: 2017-49 be accepted as presented. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Resolution was presented in full:

- **Resolution No: 2017-50** - A resolution to annex about 11.6 acres located on Dry Valley Rd (Planning Commission: Approved 9-0).

RESOLUTION NO: 2017-50

A RESOLUTION TO ANNEX CERTAIN TERRITORY UPON WRITTEN CONSENT OF THE OWNERS AND TO INCORPORATE THE SAME WITHIN THE BOUNDARIES OF THE CITY OF CLEVELAND, TENNESSEE

DRY VALLEY RD NE-CLEVELAND UTILITIES ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries; and

WHEREAS, the owners of all property within the territory proposed for annexation have given their written consent by notarized petition so that a referendum is not required; and

WHEREAS, this Resolution was also published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland; and

WHEREAS, a Plan of Services for the area proposed for annexation is attached as *Exhibit A* hereto, which Plan of Services addresses the same services and timing of services as required in Tennessee Code Annotated § 6-51-102; and

WHEREAS, the proposed annexation and Plan of Services were submitted to the Cleveland Municipal Planning Commission for study, and it has recommended the same; and

WHEREAS, notice of the time and purpose of a public hearing on the proposed annexation and the Plan of Services was published in a newspaper of general circulation in the City of Cleveland

not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing; and

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on July 10, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That the following territory is hereby annexed and incorporated into boundaries of the City of Cleveland, to wit:

Beginning at the southeast corner of the lands of the City of Cleveland, as recorded in the BCROD deed book 93 page 34, said property currently housing a Cleveland Utilities waste water treatment plant; thence with the southern line of the aforementioned property in a northwesterly direction 723 feet, more or less, to the southwest corner of the aforementioned property; thence in a north easterly direction with the western line of the aforementioned property 700 feet, more or less, to the northwest corner of the aforementioned property; thence in a southeasterly direction with the northern line of the aforementioned property 723 feet, more or less, to the northeast corner of the aforementioned property; thence in a southwesterly direction with the eastern line of the aforementioned property 700 feet, more or less, to the point of beginning.

B. That the Plan of Services for this territory which is attached as *Exhibit A* [on file in the City Clerk’s office.] hereto is approved and the same is hereby adopted.

C. That the City Clerk’s office will cause a copy of this Resolution to be forwarded to the Mayor of Bradley County including the Plan of Services.

D. That a copy of this Resolution shall be sent to the Tennessee Comptroller of the Treasury and the Bradley County Assessor of Property.

E. That a copy of this Resolution, as well as the portion of the Plan of Services related to emergency services and a detailed map of the annexed area, shall be sent to any affected emergency communication district.

WHEREUPON, the Mayor affixed a signature and date thereto and directed that the same be recorded.

EFFECTIVE DATE: Be it further resolved that this Resolution shall only become effective at the time of the final passage of the ordinance zoning the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Resolution No: 2017-50 be accepted as presented. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-37** - Zoning of about 11.6 acres located Dry Valley Rd NE from the unincorporated county to IL Light Industrial Zoning District (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-37

AN ORDINANCE TO ZONE THE “DRY VALLEY RD-CLEVELAND UTILITIES ANNEXATION AREA” WITHIN THE CORPORATE BOUNDARIES OF CLEVELAND, TENNESSEE

WHEREAS, a public hearing before this body was held on the 10th day of July 2017 a notice thereof published in the *Cleveland Daily Banner* on June 25, 2017 and

WHEREAS, a Plan of Service, including a zoning plan consistent with this ordinance, for this property was adopted by Resolution 2017-49; and,

WHEREAS, this property was annexed by Resolution 2017-50; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, zoned from FAR Forestry/Agricultural/Residential within the unincorporated County to MU Mixed Use Zoning District within the corporate limits of the City of Cleveland.

Section 2. The property shown in Exhibit “A” and shall be zoned in accordance with the legal description described in Exhibit “B”, attached hereto and made a part hereof by reference, upon the effective date of this ordinance.

Section 3. Be it further ordained that this Ordinance shall take effect immediately on final reading the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A

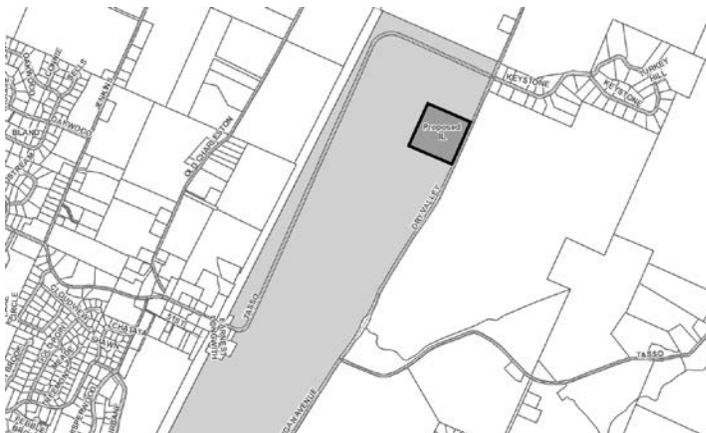


Exhibit B

Legal Description

Beginning at the southeast corner of the lands of the City of Cleveland, as recorded in the BCROD deed book 93 page 34, said property currently housing a Cleveland Utilities waste water treatment plant; thence with the southern line of the aforementioned property in a northwesterly direction 723 feet, more or less, to the southwest corner of the aforementioned property; thence in a north easterly direction with the western line of the aforementioned property 700 feet, more or less, to the northwest corner of the aforementioned property; thence in a southeasterly direction with the northern line of the aforementioned property 723 feet, more or less, to the northeast corner of the aforementioned property; thence in a southwesterly direction with the eastern line of the aforementioned property 700 feet, more or less, to the point of beginning.

Vice Mayor Johnson moved that Zoning Ordinance No: 2017-37 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was presented in full:

- **Ordinance No: 2017-38** - Amending section 2.11 and Table 1 of the zoning regulations to create provisions which allow mini-warehouses which are internally accessed as a principally permitted use within the CH Commercial Highway Zoning District (Planning Commission: Approved 9-0).

ORDINANCE NO: 2017-38

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTION 2.11.1 AND TABLE 1 SO AS TO PROVIDE FOR PROVISIONS FOR MINI-WAREHOUSES WITHIN THE COMMERCIAL HIGHWAY ZONING DISTRICT; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS the City Council of the City of Cleveland, Tennessee, having considered the comments of the Cleveland Municipal Planning Commission, has evaluated the possibility of provisions for allowing mini-warehouses in the Commercial Highway Zoning District; and

WHEREAS the City Council has determined that mini-warehouse facilities which access the storage units internally are less offensive than other permitted uses within the CH zone and create significantly less traffic; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 2.1 to read as follows:

Section 2. 2.11.1 shall include the following as a permitted use:

“mini-warehouse facilities provided that storage units are accessed internally from within the building”

Section 3. Table 1 within the Zoning Ordinance shall reflect the following:

“Internally accessed mini-storage facilities” shall be amended to be reflected as a permitted use within the Commercial Highway Zoning Districts.

Section 4. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

Section 5. In the event that any part of this ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

Section 6. This ordinance shall take effect immediately upon passage on second reading, the public necessity requiring it.

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-38 be voted for passage on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-39** – Rezoning .71 acres more or less on Ellis Circle (Tax Map34I Group B Parcels 13.01) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-39

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R3 High Density Residential Zoning District to PUD16 Planned Unit Development.

Approximately .71 acres, more or less, located at Ellis Circle as shown on the attached map.

For reference, see Book 382 Page 300 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 34I Group B Parcel 13.01, in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Vice Mayor Johnson moved that Zoning Ordinance No: 2017-39 be voted for passage on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance No: 2017-40** – Rezoning 3.6 acres more or less at 640 West Inman St (Tax Map49N Group D Parcel 11.00) from MU Mixed Use Zoning District and CH Commercial Highway Zoning District to PUD18 (Planning Commission: Approved 9-0).

ZONING ORDINANCE NO: 2017-40

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS GREENWAY GABLES “PUD 18” ON PROPERTY DESCRIBED AS TAX MAP 49N GROUP D PARCELS 11.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 18; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING LISTS OF PERMITTED USES AND PROHIBITED USES; ESTABLISHING DEVELOPMENT STANDARDS AND PROCESSES AND RELATED REQUIREMENTS; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS the City of Cleveland, Tennessee, hereinafter “City”, desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter “PUD”, process as an alternative development standard whereby to accomplish such development; and whereas it is intended that the developers of the property or any subsequent owners, shall hereinafter be referred to as “Developers” and; and whereas the City desires to establish a unique zoning district with special use restrictions and development standards for the property described herein through the adoption of this PUD, NOW THEREFORE BE IT ORDAINED:

Section 1. ZONING PLAN AND MAP AMENDMENT.

The zoning plan and map are hereby amended so as to zone the property described in Section 3 herein as “PUD 18” subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 18 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD18 district are those outlined in this ordinance, including requirements for plan approval, and compliance with applicable permitting requirements.

Section 2. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES.

Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 3. PROPERTY DESCRIPTION.

PUD 18, Greenway Gables (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 49N Group D Parcel 11.00. Exhibit A illustrates the overall Greenway Gables development plan for the subject property more particularly described as indicated in Exhibit B.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of Greenway Gables Development. It is proposed that lot 1 shown in Exhibit A shall become a public street and a public parking lot with no less than 20 lots for public use shall be constructed on this lot. The remaining lots are proposed for future commercial or residential development with an easement for an extension to the Cleveland/Bradley Greenway along the adjoining Mouse Creek and Woolen Mill Branch.

Section 5. PERMITTED USES AND PROHIBITED USES.

All uses permitted by right within the CH Commercial Highway Zoning District are allowed within the boundaries of PUD18. There are no conditional uses within PUD18.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibit A) for PUD18, Greenway Gables was prepared by Ingram, Gore and Associates, LLC for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting June 20, 2017. The conceptual plan consists of a site plan for the overall development and additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD18 must be consistent with this Conceptual Plan with regard to development standards and generally with regards to the delineation of proposed lot lines, unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. Additional plans, plats, and other development-related documents and permits will be necessary to carry out the construction of this project. It is recognized that the plats and detailed block plans for Greenway Gables may ultimately reflect some alteration in the conceptual plan such as the exact location of property lines may be adjusted or altered but are consistent with the overall concept.

Subject to City Council approval, it is proposed that lot 1 shown in Exhibit A shall become a public street and a public parking lot with no less than 20 lots for public use shall be constructed on this lot. The remaining lots are proposed for future commercial or residential development with an easement for an extension to the Cleveland/Bradley Greenway along the adjoining Mouse Creek and Woolen Mill Branch.

6.B. PLATS.

One or more plats will be prepared for the PUD18 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plats will describe and dedicate public streets any other public properties; identify lots; and identify easements that are necessary for various purposes within the development such as utilities, access, maintenance, and conservation, etc.

6.C. PRIVATE DEVELOPMENT DOCUMENTS.

The Developer shall prepare and implement such master covenants, restrictions, condominium association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 18 as envisioned herein. It is a requirement of this ordinance that such documents are in place and enforced by the Developer (or Developer's heirs, successors, or assigns) to the extent necessary for PUD 18 to function as described herein. The City of Cleveland assumes no responsibility to review these documents, or to determine their adequacy to these purposes, or to enforce any of their provisions, or to otherwise be a party to them.

6.D. DETAILED SITE PLANS.

The Developer shall prepare and submit to the City of Cleveland, TN for approval by the Development and Engineering staff site plans for each phase of development. These site plans shall indicate lot configurations, setbacks, structure types, streets, lanes, sidewalks, common areas, utility locations, etc. The information in the detailed block plan will be congruous with the plat developed for the lots and adjacent public street infrastructure. The content and level of detail of the site plan will be sufficient for City staff to determine compliance of the proposed development with this ordinance and any other applicable City ordinances.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD18 shall be those established in this ordinance or incorporated herein. Where development standards are not otherwise included in this ordinance, the standards shall be those in the CH Commercial Highway zone, from the City of Cleveland's zoning regulations.

Requirements of the City's adopted building codes, fire codes, stormwater regulations and other ordinances affecting the development, use, and maintenance of property shall apply.

7.A. BUILDING SETBACKS

Unless alternate setbacks are expressly approved by the Planning Commission internal side setbacks for both principle and accessory structures shall be no less than 5'. No principle or accessory structure shall encroach into the proposed greenway easement. The front setback along the proposed internal street (name Her Way is subject to change without further approval of the Planning Commission) shall be no less than 20'. Consistent with the existing buildings along Inman St, no structure may be within 10' of the right-of-way along Inman St or within 20' of the outside edge of any traveling lane.

7.B. STORMWATER AND FLOODPLAIN REQUIREMENTS.

All improvements must comply with any applicable state or federal law or regulation concerning stormwater or floodplain requirements. All developments must meet the requirements of the City's Flood Hazard Reduction Ordinance except that the finished floor elevations may be reduced to one foot above any established 100-year flood year elevation.

7D. SIGNAGE

No part of any sign shall be within 5' of Inman St right-of-way or within 2' of any internal street. Wall signs may be allowed up to 30% of any building elevation. No sign shall be located in such a way as to obstruct the view of traffic or create any safety hazard and is subject to approval of the City's Transportation Engineer. One ground sign not to exceed 100 square feet is permitted on each individual lot. All other standards within the City's sign ordinance shall apply unless in direct conflict with this ordinance in which case this ordinance shall apply.

7.D. MISCELLANEOUS STANDARDS

Impervious area shall comprise no more than 80% of the total site regardless of any division of land within the boundaries of PUD18. Parking for commercial uses shall be provided on each individual lot at a rate not less than 1 parking space per 250 square feet of building area. Parking for any residential development shall be provided on each individual lot at a rate not less than 2 parking space per residential unit.

Section 8. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS.

The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed PUD 18 Greenway Gables. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion by the City's Building Official). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

Section 9. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a detailed block plan and/or site plan, or the future approval of a plat by the Cleveland Municipal Planning Commission, and where this ordinance contemplates the future refinement of plans to conform with permitting requirements or conditions of approval necessitated by staff review, and where the Developer and the City of Cleveland may enter into future agreements regarding possible public facilities, infrastructure, and/or services within PUD18, an amendment to this ordinance is not required to implement such site plan, plat, or refinement to plans necessitated by permitting or review requirements, or agreement pertaining to public facilities, infrastructure, or services.

Section 10. BINDING UPON OTHERS.

This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD18 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass the current owner of record, any heirs, assigns, or

successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term “Developer” is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development.

Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Zoning Ordinance No: 2017-40 be voted for passage on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Joyce Stapek asked for an update on the new interchange and when the road will be opened on the north side. Mr. Fivas responded the State is actively working on right-of-way for one parcel to finish the project. She then asked if anyone knew what would be built. Mayor Rowland stated we are hopeful that the south side will be industrial and commercial and some good prospects for the north side.

There being no future business the meeting was adjourned at 3:27 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JULY 24, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Vice Mayor Avery Johnson. Also present were Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr. and Richard Banks. Mayor Tom Rowland and Councilman Dale Hughes were absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Jeff Davis, Personnel Director, Kris Miller, IT Director; Brian Moran, Social Media Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; Joe Edwards; David and Sadie ware; Patricia Kibble; Tad Bacon with Cleveland Utilities; Lou Patten; Andy Bryant; Michael Williamson; Pam Edgemon; Rob Renner; Leslie Haywood; Edward Johnson; Hal Taylor; Gray Epperson; Tom Robertson; Isaac Nimley; John Porte; Jim Davis; Dan Moore; Martha Ledford; Doug Berry with the Chamber of Commerce; Nicholas Lillios; Gerald Kersey; Vadim and Roman Strellov; Barbara Jackson; Greg and Faye Holmes; Joe and Kathy Mika; Christopher Coulter; Scott Cavanaugh; Joe Mason; J.F. Thaggard; Joe Pesterfield; Arnold Tarpley; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson the following business was then entered into:

Councilman Cassada moved to excuse Mayor Rowland and Councilman Dale Hughes from the meeting due to illness. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

WAIVE READING OF MINUTES

Councilman Cassada moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on June 26, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning the City's intent to exceed the certified tax rate. Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the rate. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the approval of the rate. Pam Edgemon from District 3 asked if it was possible to have the increase in increments rather than all at once. She recalled she did see on a social media site where they listed the breakdown in cents for the new school, fire station and infrastructure but has been unable to find it again. She stated she is certainly a progressive person, but asked if it all have to be this year. City Manager Joe Fivas replied we proposed three options to the City Council on April 10 and it is structured so that it creates additional funds, which will fund a number of infrastructure projects this next year. If we phase it in you would have to restructure pretty much everything you've put together. The Mouse Creek intersection, Peerless/25th St intersection and the Peerless/Paul Huff intersection projects, if you phase it in you may not have those funds available. Simply, yes, you can do it but that would be a different vote and they would have to make the determination to redo some things in the budget if you were to phase it in. Mr. Joe Pesterfield stated you want to do all this construction soon. Mr. Fivas stated if you phase it in you would not be able to do some of the things the Council had asked us to do. Mr. Pesterfield asked if you raise the tax rate now to cover projects would it later drop back down? Mr. Fivas replied there is already a phasing mechanism, we are building a fire station, hiring at least 12 firefighters and that would come online late. One-time project money would be used

and then later, when the positions come in, the portion of the money would be used to fund them. Mr. Pesterfield stated he looked over the budget over the weekend and according to the FY2013 budget about 48% of the people live in residences they own, which must mean that half of the residents live in apartments. He is an apartment owner and if you started several years ago building apartments it gets hard to compete with people now building mega-apartments with 40-year HUD loans. Personally, the average increases were about 28 cents on property taxes and you are hitting us at a bad time. You have an increase in your assessments and then you're asking for 28 cents more in your property tax. The average assessment went up about 10%. His went up about 25%. His own situation, out of 60 residents, each tenant will have to pay \$11 more a month, just for reappraisals and \$8.25 more a month for the tax increase. A lot of people are on leases that you can't do it right now. You shouldn't pass on 39%. He asked the City Council to look at 6, 7 or 8%, spread it out and make it easier for property owners and tenants. Gray Epperson stated he shares the same concerns as Mr. Pesterfield. He then asked if all the businesses would pay a 30% increase as well, for example Whirlpool, is it equal to them. Councilman Estes stated they have a PILOT agreement and once that's complete they will. Doug Berry with the Chamber works on the PILOT investments, brings them before the Council and we discuss. He feels this is too much of an increase for a year. Councilman McKenzie asked how much of an increase did he calculate. Mr. Epperson stated he hadn't put pen to paper but it could cost him personally \$30,000 a year and he is just a small business owner. Ms. Haywood, who lives in Blueberry Hills stated she is also progressive. The statistic that 48% of residents are renters. She asked if there was another way for those that rent that don't have property that can share in these fees, like sales tax. She doesn't mind paying her fair share but if everyone is using it there should be some way that everyone chips in. Vice Mayor Johnson replied we've already raised the sales tax rate, the highest in the State. We have really gotten behind in infrastructure and a lot of things that the City needs to address and we just can't put it off. Ms. Haywood stated she would be for option B, which seems fair. Mr. Tom Robertson stated most people here today are small businesses, maybe some big corporations but it pretty well does not affect. There is good reason. Small businesses have to get in there and do it, on their own for lack of resources and technology. He is happy for what we have now and must need the new schools but every small increase affects small businesses. He stated what we have and manage right now in our City is fine as it is and we need ways to cut instead of an increase. Vice Mayor Johnson replied we do live in a good community and no one likes a tax increase. Our tax rate is the lowest in the state, with our size of school system. It's one of those things that you don't want to have to do it unless you just have to do it. Our growth is phenomenal and if we are going to be ready to improve our infrastructure and traffic flow, which is a serious problem, we need to do something. We should've started several years ago with increments but if you were sitting where we're sitting, had the information and see what we are up against you'd probably make some of the same decisions we have. Mr. Tucker Duncan stated it sounds like this is already going to pass, and just hopes that all the voters can stomach this amount of an increase, at the next election, they can make a decision on what they have to pay. There is traffic everywhere so it's not just a Cleveland thing. All he wants to say is remember the people, the voters and make your decision. Mr. Joe Mason, CFO of Jones Property stated they are large supporters of property downtown who experience 2-3% per year increase in the ability to increase rents and if we're talking about mid 30% increase at one time, that is 12 years before we can recover from additional rent from primarily downtown renters. We want to support downtown and the problem is all at one time. He then asked about the compensation changes built into the budget and asked how they fit in to the overall increase. Mr. Fivas replied the City Council adopted a revised compensation plan, which gave a step increase every year and that is all we are doing, keeping up with the step increases. If you don't keep up with it, in the past we've had employees who have been here 3-4 years and making the same as a new employee. So the step increase keeps up with rates, which is a 3.5% step. Councilman Cassada asked when was the last time City Council passed a tax increase. Mr. Fivas stated 3 years. Councilman Cassada asked about the amount of increases Mr. Mason had yearly. Mr. Mason clarified that is an increase to renters yearly for growth. Councilman Cassada stated he understands the impact on small businesses and people want us to

invest in the community and make sure we have the services, public safety, infrastructure and education we need. As we grow as a community we have to make these investments. It's hard, but it's the right thing to do. Someone stated from the audience that it seemed like a done deal and asked if there were any room for negotiation. Councilman Cassada responded this has been about a 5-6 month process we've been through and can't speak for the rest of the Council if it's a done deal or not. Vice Mayor Johnson stated we have looked at all the options and everything that needs to be done now and in the near future. He stated he appreciates all the comments and wishes we had this discussion years ago. Nicholas Lillios stated appearances are everything and there are needs and wants. You are spending a million dollars on a tennis complex and a million dollars for a football field. Talk about our needs, infrastructure, police, firefighters, you are spending money on recreation that are used by very limited number of residents. He will pass the increase on to tenants, but due to lease cycles it will be delayed. There has been enough of what we've been doing and what we want. When you have extra money you spend it on the wants and when you have a need you do a tax increase. To say you had a tax increase 3 years ago is false. There was a Stormwater increase last year. That affects every resident in the city. We have constantly been under tax increases. This is a tremendous increase compounded on top of ones we've already had. We are paying for football fields and tennis complexes that a very few people in town play and the Country Club offers a cheap membership, \$100 to play. I would guess some would rather pay the club fees over the property tax increase. Vice Mayor Johnson declared the public hearing to be closed.

Councilman Estes moved to declare the service weapon for Officer Jeff Griggs as surplus property and hereby given to him as a token of the City's appreciation for his 25 years of service to the Cleveland Police Department. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed. Vice Mayor Johnson then presented Officer Griggs with his weapon and thanked him for his service.

CONSENT AGENDA

Vice Mayor Johnson reviewed the following items on the consent agenda.

- **Final Passage - Zoning Ordinance No: 2017-31** – heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 547; rezoning .56 acres more or less on Paul Huff Parkway and Holiday Inn Express Way (Tax Map34I Group A Parcels 7.00 & 7.01) from R3 High Density Residential Zoning District to PUD14 (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance No: 2017-32** - heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 548; rezoning 1.54 acres more or less on Ellis Circle (Tax Map34I Group A Parcels 3.00) from R3 High Density Residential Zoning District to PUD14 (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance No: 2017-33** - heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 549; rezoning 1.10 acres more or less on Ellis Circle (Tax Map34I Group B Parcels 13.03) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance No: 2017-34** - heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 550; rezoning 1.38 acres more or less on Ellis Circle (Tax Map34H Group M Parcels 10.01, 11.00, 12.00) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance No: 2017-35** - heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 551; rezoning 19.4 acres more or less on Tasso Ln NE (Tax Map 34 Parcel 25.00) from R2 Low Density Single and Multi-Family Residential Zoning District to PUD17 (Planning Commission: Approved 9-0).

- **Final Passage - Zoning Ordinance No: 2017-36-** heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 562; zoning of about 9.5 acres located off Dockery Ln SE and Hewitt St SE from the unincorporated county to PI Professional Institutional Zoning District (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance No: 2017-37 -** heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 571; zoning of about 11.6 acres located Dry Valley Rd NE from the unincorporated county to IL Light Industrial Zoning District (Planning Commission: Approved 9-0).
- **Final Passage - Ordinance No: 2017-38 -** heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 572; amending section 2.11 and Table 1 of the zoning regulations to create provisions which allow mini-warehouses which are internally accessed as a principally permitted use within the CH Commercial Highway Zoning District (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance No: 2017-39 –** heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 573; rezoning .71 acres more or less on Ellis Circle (Tax Map34I Group B Parcels 13.01) from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance No: 2017-40 –** heretofore passed on first reading July 10, 2017 and found in Minute Book 28, Page 574; rezoning 3.6 acres more or less at 640 West Inman St (Tax Map49N Group D Parcel 11.00) from MU Mixed Use Zoning District and CH Commercial Highway Zoning District to PUD18 (Planning Commission: Approved 9-0).
- **Resolution No: 2017-51 –** 2016 Tax Refund - Harold Thompson; \$67.00.

RESOLUTION NO: 2017-51

WHEREAS, Stanley M. Thompson, Assessor of Property, has recently notified the City of Cleveland, Tennessee, that a change has been made in the 2016 real property taxes assessed to Harold W. Thompson; and

WHEREAS, a copy of the Assessor's notice to the City is attached hereto and incorporated herein by reference; and

WHEREAS, as a result of the notice from the assessor's office, this taxpayer is entitled to a refund for the overpayment of his 2016 real property taxes; and

WHEREAS, the parcel of property is generally identified as Map 049C, Group E, Parcel 016.00 SI 000 (2016 Receipt Number 19998); and

WHEREAS, this taxpayer has been determined by the Assessor's office to be entitled to a tax refund of \$67.00 for 2016.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Clerk be, and hereby is, authorized to refund to Harold W. Thompson the sum of \$67.00 for the overpayment of his 2016 real property taxes.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Reappointment** – *Cleveland Utilities Board* – Aubrey Ector for an additional 4-year term to expire July, 2021.
- **Reappointment** – *Beer Board* – Donald Humes for an additional 2-year term to expire July, 2019.
- **Reappointment** – *Beer Board* – Ellie St. Pierre for an additional 2-year term to expire July, 2019.
- **Appointment** – *Animal Shelter Board* – Pat Ownby to replace Stephen Kinder for a 4-year term to expire June, 2021.

Councilman May moved to approve the Consent Agenda. The motion was seconded by Councilman Estes; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman May asked for an update concerning traffic along Blueberry Hill Road. The study didn't warrant a four way stop but would like the area to be looked at again to somehow slow traffic. Secondly, he inquired about Joe V. Williams' downtown property that doesn't appear any work is being done. Mr. Jobe stated the last court date was Thursday, July 20 and the contractor told the Judge he pulled off due to lack of payment. Mr. Williams is currently receiving a fine of \$50 per day on two properties. Councilman May asked if there was a Plan B. Mr. Jobe stated if he doesn't move on the repairs we could still condemn the property for demolition. Councilman May asked if there was a schedule. Mr. Jobe stated the ordinance is pretty vague and we can get with Bryan Turner to set a date to give Mr. Williams to commence construction. Councilman Cassada asked if the building could be saved without demolition. Mr. Jobe stated when they could get to the second floor, it was worse than originally thought, so the building could exceed the 50% value. Councilman Estes asked for an update if they have court this Thursday and what is determined going forward and our next step.

Councilman Banks stated today nine people spoke in opposition to the proposed tax increase. I am close personal friends and know eight of them. I appreciate all their comments but it is important for all of you to appreciate our job and our duty to who we represent. One of them made a comment to worry about being voted out of office. That is what is wrong with America today. Politicians are more worried about keeping their job than doing it. With that said we have to deal, every two weeks, with what's in the monthly reports, upsurge in gang violence, problems with the infrastructure and number of students we have. One of the speakers in opposition is the husband of a School Board Member, who is a duly elected School Board Member. They make their decisions and we don't have control over how they spend money. Sometimes this is a thankless job. I got my check for two weeks and it was \$72.38. Someone once calculated we make about \$0.50 cents an hour. We are elected to represent all the people and all the people spoke in the community survey. Over 1,000 people stated what they want. What they want Cleveland to look in the future. I emphasize and sympathize with the fact that I wish this hadn't been a one-time deal but as with all things political in nature, it takes a majority vote. I can't anticipate the vote today but based on comments I can somewhat surmise that the Council is going to try to "catch up" on what we've been lacking for a few years, and that is an increase in taxes that would put us in par, and still below Tullahoma, Oak Ridge, Dyersburg, Bristol, Kingsport, Greenville and Maryville and hears Johnson City will be raising theirs. So out of the ten cities with K-12 School Systems in the State of Tennessee we are at the low end and will be third from the lowest, if in fact this tax increase is approved. I will state that Councilman May has previously stated he'd like to delay the vote. I'm not in favor of that but there is a second vote for final passage. I would ask the final vote not be at the next meeting because I will be out. I think all the Council, including the Mayor should be here for the final vote and anyone who would like to come and readdress the Council on their concerns or review any of the information we look at I would welcome that and ask City Staff to provide that. We are at a crossroads here

in Cleveland, in my opinion and I have lived here 35-years. We've got the Whirlpool site right over here and drive through and start seeing some of the, for lack of a better word, undesirable activity. When that activity comes to Cleveland, property values will go down. One major property owner once told me, if I have a gang shooting and two people killed in a drug deal gone bad in my parking lot, the value of my property will go down 40%. We have to address that. With that said, I welcome your comments and will still be your friend, no matter how I vote or how you think I should vote. The public office is open to anyone. All you have to do is go to the Election Commission and pick up an application for the next election. I appreciate you being here today.

NEW BUSINESS AND ORDINANCES

Councilman May moved to postpone the vote on increase the tax until everyone is present. I think all City Council, along with the Mayor should be here. The motion was seconded by Councilman McKenzie. Upon roll call Councilman May and Councilman McKenzie voted aye. Councilmen Estes, Cassada, Banks and Vice Mayor Johnson voted no. The motion failed 2:4.

Vice Mayor Johnson stated he would like to enter in a motion that we go ahead and vote on the Ordinance today and what I'd like to say really is that we save the final vote until the Mayor is here and Councilman Hughes, if he gets better, is here. We just put the final vote off into the future and do the first vote today. I put that to a motion. The motion was seconded by Councilman Banks. Upon roll call, Vice Mayor Johnson, Councilman Banks, Councilman McKenzie, Councilman Estes and Councilman Cassada voted aye. Councilman May voted no. The motion passed 5:1. Councilman Estes stated he believes he might have misunderstood the motion. City Attorney John Kimball stated the motion from Vice Mayor Johnson was to go ahead and vote on the Ordinance for first reading today and not vote at the next meeting because Councilman Banks will not be here and Councilman Hughes may not be here, which would put the final vote at the second meeting in August but you still have not voted on the Ordinance itself. You need to vote on Ordinance No: 2017-41 – adopting the 2017 tax rate.

The following Ordinance was presented in full:

- **Ordinance No: 2017-41** - Adopting the 2017 Tax Rate.

ORDINANCE NO: 2017-41 TAX ORDINANCE - YEAR 2017

AN ORDINANCE TO PROVIDE AND FIX FOR THE CITY OF CLEVELAND, TENNESSEE, FOR THE YEAR 2017, AND SUBSEQUENT YEARS, THE TAX RATE ON ALL PROPERTY, BOTH REAL AND PERSONAL; TO PROVIDE A BUSINESS TAX; TO PROVIDE FOR A SPECIAL FRANCHISE PRIVILEGE TAX, IN ACCORDANCE WITH AND AS SET FORTH IN THE "BUSINESS TAX ACT" KNOWN AS CHAPTER 387 OF THE PUBLIC ACTS OF 1971, PASSED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, WITHIN THE CORPORATE LIMITS OF THE CITY OF CLEVELAND, AND TO FIX A PENALTY FOR ANY PERSON, FIRM OR CORPORATION EXERCISING ANY SUCH VOCATION, OCCUPATION OR BUSINESS WITHIN SAID CITY OF CLEVELAND WITHOUT FIRST PAYING SAID TAX.

SECTION 1. BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, that the tax levy on all property, both real and personal, for the year 2017, and each subsequent year thereafter be, and is, \$2.06 on each One Hundred Dollars (\$100.00) of assessed valuation.

SECTION 2. BE IT FURTHER ORDAINED by the City Council of the City of Cleveland, Tennessee, that all persons, firms and corporations engaged in any location, occupation or business within the corporate limits of said City shall pay a business tax to the City of Cleveland equal to and in the same amount as the business tax prescribed to be paid by such person, firm or corporation under the terms and provisions of the "Business Tax Act", known and designated as Chapter 387 of the Public Acts of 1971, as passed by the aforesaid Act hereto attached, read and understood by the said City Council, and made a part of this Ordinance; and the rate of taxes on such business is made a part hereof as fully as if the same

were incorporated in full herein; and the rate of taxes on such privilege and privileges named in said Act for retail businesses shall be as follows:

Class 1A	1/10 of 1% retail 1/40 of 1% wholesale
Class 1B	1/10 of 1% retail 3/80 of 1% wholesale
Class 1C	1/10 of 1% retail 3/80 of 1% wholesale
Class 1D	1/20 of 1%
Class 2	3/20 of 1% retail 3/80 of 1% wholesale
Class 3	3/16 of 1% retail 3/80 of 1% wholesale
Class 4	1/10 of 1%

and the taxes shall be paid to the City Clerk as provided by law and Ordinances for the collection of all revenues for the City of Cleveland, Tennessee.

SECTION 3. BE IT FURTHER ORDAINED by the City Council of the City of Cleveland, Tennessee, that there is also levied a special franchise privilege tax, in accordance with the provisions of Chapter 311 of the Public Acts of the 85th General Assembly of the State of Tennessee, on all public utility corporations, domestic and foreign, and which do business, own property, or operate as a public utility in the City of Cleveland, Tennessee. The base of such tax shall be determined as set forth in Chapter 311 aforesaid. The rate of said tax shall be \$2.06 for each one hundred dollars (\$100.00) of assessed valuation.

SECTION 4. BE IT FURTHER ORDAINED by the City Council of the City of Cleveland, Tennessee, that it shall be unlawful for any person, firm or corporation to exercise the privileges set forth and referred to in this Ordinance before complying with the provisions of the Ordinance, and anyone exercising any of the forgoing privileges without paying the tax prescribed shall be guilty of a misdemeanor and liable to a fine on conviction of not less than \$5.00, nor more than \$50.00, for each such privilege which is exercised without a license, to be imposed by the City Judge of the City of Cleveland.

SECTION 5. BE IT FURTHER ORDAINED by the City Council of the City of Cleveland, Tennessee, that if any Section or part of this Ordinance shall be declared invalid or unenforceable, the invalidity of such Section or part shall not otherwise affect its validity but the remaining Sections or parts of this Ordinance shall be enforced without regard to the Section or part declared to be invalid.

SECTION 6. BE IT FURTHER ORDAINED by the City Council of the City of Cleveland, Tennessee, that all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed; however, this Ordinance shall not be the exclusive means of taxation within the City of Cleveland, Tennessee, but is in addition to any other valid Ordinances in existence at the present time by which the City may collect a tax or taxes, and this Ordinance shall take effect from and after its passage, the public welfare of the City of Cleveland requiring it.

Signed in Open Meeting:

Councilman McKenzie

ATTEST:

Councilman Estes

Shawn McKay, City Clerk

Councilman Cassada

Councilman May

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Councilman Hughes

Councilman Banks

Tom Rowland, Mayor

Vice Mayor Johnson

Vice Mayor Johnson moved that Ordinance No: 2017-41 be voted for passage on first reading [with final passage be held on August 28]. The motion was seconded by Councilman Banks. Upon roll call, Vice Mayor Johnson, Councilman Banks, Councilman Estes and Councilman Cassada voted aye. Councilman McKenzie and Councilman May voted no. The motion passed 4:2.

Vice Mayor Johnson stated in the future you will be hearing about Cleveland's 175-year celebration. The Mayor has put together a committee that will be working on an event. If anyone has any ideas or suggestions, please give the Mayor a call.

There being no future business the meeting was adjourned at 3:58 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, AUGUST 14, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada and David May, Jr. Councilmen Richard Banks and Dale Hughes were absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Jeff Davis, Personnel Director, Kris Miller, IT Director; Brian Moran, Social Media Coordinator; Kim Spence, Safety and Wellness; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; Hal Taylor; Martha Ledford; Doug Berry with the Chamber of Commerce; David Benton; Jean Clayton; Ronald Watson; Joe Johnson; Steve Weber; Robert Jenkins; Phil Griffin; Ted Lewis; Jim Blackburn; Clifford Plemons; Randy Moore; Charlotte Peak; Troy Spence; Derek Wooley; Kay and Dale Lambert; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Pastor Phil Griffith the following business was then entered into:

Councilman Cassada moved to excuse Councilmen Richard Banks and Dale Hughes from the meeting. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on July 24, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Charlotte Peak and Lake Mantooth, who are representing the Ocoee Regional Builders Association addressed the City Council concerning the noise ordinance pertaining to quiet hours for building operations. They are asking that the hours be changed from 9:00 p.m. to 7:00 a.m. to 10:00 p.m. to 6:00 a.m. because of their concerns of heat exhaustion for framers, roofers and workers. By noon it is just too hot and not enough time to work. Secondly, when it gets too hot the roof shingles could get damaged so you have to break and go back later in the evening to finish a job. They would like to tie the hours to the daylight savings time so everyone will know what they are. Councilman May stated he didn't have any concerns and asked Mr. Kimball to prepare an ordinance for the next meeting. Councilman Cassada stated he has concerns because it is not only about building, it includes lawn crews and tree services. In his neighborhood, he is not for it. People want to sleep in on the weekends and this affects the noise regulations for other businesses. Ms. Peak stated there is a different section for other noise regulations and they are only asking for building regulations. Councilman Cassada felt you do for one, you do for all. Ms. Peak stated she understands but this is a life-safety issue with the heat and is willing to limit it to Monday-Friday. Councilman Cassada stated he is still opposed, for consideration for residents and needs to stay like it is. Ms. Peak stated she understands his position. Mr. Kimball clarified hours they were requesting and stated he would draft an ordinance to present at the next meeting.

Cleveland Amateur Radio Club submitted a letter requesting the City transfer the title of the property leased at 560 Johnson Blvd to them in order for them to expand their building due to growth. Troy Spence spoke for the most part EMA is in agreement but would request the portion that the tower is placed on be given an easement or something to Bradley County. They will need access to the tower for possible repairs and maintenance. Mayor Rowland stated the Radio Club gives a great deal of service to the public. Mr. Spence stated yes, they are considered volunteers for EMA and provide a great service. We are not in disagreement with what they want to do, we just want to make sure the tower will always be there. Mr. Kimball stated their donor would like them to own the property but your Charter only allows you to give property to another governmental entity. They are going to check with their donor if they were willing to do a longer term lease than what you currently have. You could extend the lease and convey the strip to Bradley County for the tower or lease it to them. It seems there needs to be an access agreement between the two. Mr. Spence stated they just want to be able to retain and maintain the tower site. Steve Weber stated they would discuss with their donor and would possibly entertain a 99-year lease. Mr. Kimball stated that is an option and this is the time to separate the leases, or you could convey a portion to Bradley County. Mr. Spence stated his concern is to protect the property and the towers. Mr. Kimball reminded everyone they need to think about the improvements to the land and building and if the lease expires what would happen. He then suggested a lease to Bradley County and a lease to the Radio Club with extended terms and an agreement between the Radio Club and Bradley County for use of the property. Mr. Weber stated they would discuss with their donor about extending the lease. Mayor Rowland stated let's have the Radio Club meet with their donor, look at the possibility of a long term lease and bring something back for the Council to review. Councilman Estes stated if we decide on a long term lease, he would like the language at the end of the lease be modified that the City will maintain control and keep the improvements. Mayor Rowland stated we will discuss again in two weeks.

Mayor Rowland stated the State Form CT-0253 – Relating to the Spring Branch Industrial Park (\$3,000,000) was in the packet and no action is necessary.

Mayor Rowland stated today's meeting is being held to hear public comments to hear public comments concerning a request to abandon a portion of unopened right-of-way described as Fernwood Dr NW located off of Robinhood Dr NW. Mayor Rowland asked if anyone would like to speak in favor of the approval of the abandonment. Mr. Clifford Plemons stated he is in support of the abandonment. The Planning Commission was presented a petition with over 50 signatures in support of the abandonment. They feel closing this would make their neighborhood safer. Councilman May stated the Planning Commission felt the same was and also approved the abandonment. Randy Moore stated he also is in support of the abandonment. Mayor Rowland asked if anyone would like to speak in opposition to the approval of the abandonment. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held to hear public comments concerning a request to abandon a portion of unopened right-of-way described as Hays Dr NW located off of Robinhood Dr NW. Mayor Rowland asked if anyone would like to speak in favor of the approval of the abandonment. Randy Moore stated they are also in favor of this abandonment. Mayor Rowland asked if anyone would like to speak in opposition to the approval of the abandonment. No one spoke. Mayor Rowland then declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone .43 acres, more or less, located at 4407/4405/4403 Ellis Circle, from R3 High Density Residential Zoning District to PUD16. Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the approval of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the following items on the consent agenda.

- Surplus Property Update – Accepting the bid for 0.22 acres located on Hill St SE.

MEMO:

TO: MAYOR & CITY COUNCIL
 FROM: Melinda Carroll
 DATE: August 7, 2017
 SUBJECT: Surplus Property - Update

The City Council declared the Hill Street property surplus on June 21, 2017, and a sealed bid was received on August 1, 2017 from Frank Almazan. This is for the sale of property, approximately .22 acres located in the 300 block of Hill Street. Recommendation is to accept the bid of \$5,500.00 from Mr. Almazan. The appraisal for the lot is \$8,000.

- **Resolution No: 2017-52** – Authorizing the City of Cleveland to participate in the Pool’s Safety Partners Matching Grant Program.

RESOLUTION NO: 2017-52

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND
 TO PARTICIPATE IN THE POOL’S
 “SAFETY PARTNERS” MATCHING GRANT PROGRAM.

WHEREAS, the safety and well-being of the employees of the City of Cleveland is of the greatest importance; and

WHEREAS, all efforts shall be made to provide a safe and hazard-free workplace for the City of Cleveland employees; and

WHEREAS, The Pool seeks to encourage the establishment of a safe workplace by offering a “Safety Partners” Matching Grant program; and

WHEREAS, the City of Cleveland seeks to participate in this important program;

BE IT THEREFORE RESOLVED by the City Council that the Mayor is hereby authorized to submit an application for a “Safety Partners” Matching Grant program through The Pool;

BE IT FURTHER RESOLVED that the City of Cleveland agrees to provide a matching sum to serve as a match for any monies provided by this grant.

Adopted this 14th day of August, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
 City Attorney

 Tom Rowland, Mayor

 Shawn McKay, City Clerk

Councilman May moved to approve the Consent Agenda. The motion was seconded by Vice Mayor Johnson; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Mayor Rowland stated a letter has been received from the Chairman of the Airport Authority recommending Ben Chandler be appointed to the Authority at the end of Mr. Norwood's term, which ends in September. Vice Mayor Johnson moved to accept the recommendation from the Airport Authority. The motion was seconded by Councilman May. Councilman Estes asked if the Airport Authority made this recommendation? Mayor Rowland stated we just got a letter from the Chairman. Vice Mayor Johnson stated he has spoken with some members of the Board and they do recommend it. This is a change, a new member on the Board, but they do recommend it. Again, he has spoken with a couple of people on the Board. Councilman Cassada asked if it could be delayed until next meeting. Vice Mayor Johnson stated he would withdraw his motion. Councilman Estes stated if the Airport Authority wants to step in and give some recommendation he would love to hear from them. Councilman May withdrew his second. Mayor Rowland stated we would bring it back at the next meeting.

Councilman Estes stated he appreciated seeing extra patrol and crossing guards out last week in front of schools for safety. Secondly, on Friday and Saturday we have 850 new Freshman moving in to Lee University and about 4,000 coming back over the weekend, so the downtown area will be active. Also, closing of 11th Street for the Showcase day was very helpful.

Councilman Cassada thanked the City Council for their contribution when his father-in-law passed away. Second, he asked about 20th Street sidewalks timeframe. Mr. Jobe stated the consultant has resubmitted the drawings back to TDOT two weeks ago and now we are waiting on their approval. The next step is right-of-way, which we are hoping for in the next month and next July to begin construction. Third, on Park Avenue, he appreciates the signs and extra patrol to slow traffic. Also, on Ohio Avenue there is a speed sign that is covered with brush and also at Georgetown and Ohio Avenue there is a sign that is covered completely. Lastly, Candies Lane Greenway. He appreciates signs that have been placed but asked if they could get extra patrol in the area since motorized vehicles are still riding on the path.

Councilman May asked about the status on the Joe V. Williams properties. Mr. Jobe stated he has until the next court date, which is in September and he is still being fined \$50 per day for each property. Mr. Fivas stated there has been numerous internal conversations on what the City's next steps could be if there is not a resolution. We are working on a plan.

Vice Mayor Johnson thanked Mr. Fivas for the handout on the proposed tax increase and appreciates the additional information.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-42

WHEREAS the owner(s) of all parcels of land fronting on or having their access from the section of City of Cleveland right-of-way described herein, those parcels and owners being identified in the records of Bradley County, Tennessee, have requested that the City of Cleveland abandon its right-of-way in the aforementioned section of right-of-way; and

WHEREAS the need for the subject right-of-way has been reviewed, including the need for any utility easements that were identified by the responsible utilities; and

WHEREAS the proposed right-of-way abandonment has been reviewed and approved by the Cleveland Municipal Planning Commission; and

WHEREAS the proposed right-of-way abandonment has been properly posted and advertised and the procedural requirements of Section 16-123 of the Cleveland Municipal Code for the abandonment of city rights-of-way have otherwise been met; and

WHEREAS the City Council has determined that it is appropriate to approve the requested right-of-way abandonment identified herein, subject to any easements for utilities and/or other conditions as identified herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

1. DESCRIPTION RIGHT-OF-WAY TO BE ABANDONED: Subject to the retention of utility easements and/or any other conditions described in Section 2 below, the City of Cleveland, Tennessee intends to and does hereby abandon its public right-of-way interest in the following section of right-of-way:

Beginning at the northern corner of the lands of Morgan Malonna, as recorded in the BCROD deed book 2043 page 882; thence with the northwest line of the aforementioned property S 62° 15' 39" W a distance of 118.22 feet, more or less, to the northwest corner of the aforementioned property; thence N 28° 26' 48" W a distance of 49.81 feet, more or less, to the perpendicular intersection with the southern line of the lands of Leslie M May, as recorded in the BCROD deed book 1124 page 403; thence with the southern line of the lands of Leslie M May N 61° 33' 11" E a distance of 67.08 feet, more or less; thence with the eastern line of the lands of Leslie M May along an arc of a curve to the northwest having a radius of 33.7 feet, more or less, which arc is subtended by a chord bearing and distance of N 5° 31' 9" E 49.38 feet, more or less; thence following the right-of-way line of Robin Hood Drive S 43° 49' 21" E a distance of 95.68 feet, more or less, to the point of beginning.

2. RETENTION OF EASEMENTS: The City shall retain an easement to maintain access to public electric facilities as long as they remain in place.

3. AREA TO BE ZONED: The area hereby abandoned shall be understood as zoned in the same zoning district as the adjoining zone extending to the centerline of the abandoned right-of-way.

4. CONFLICTS AND SEVERABILITY: All ordinances in conflict herewith are repealed to the extent of said conflict. In the event that any part of this ordinance is ruled to be unlawful by a court of competent jurisdiction, all other parts of the ordinance shall remain in full force and effect.

5. EFFECTIVE DATE: this ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Vice Mayor Johnson moved that Ordinance No: 2017-42 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed. Mr. Fivas stated this is only closing a portion of the right-of-way and at a later date we will bring back the back portion of the right-of-way after the Church votes on the request.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-43

WHEREAS the owner(s) of all parcels of land fronting on or having their access from the section of City of Cleveland right-of-way described herein, those parcels and owners being identified in the records of Bradley County, Tennessee, have requested that the City of Cleveland abandon its right-of-way in the aforementioned section of right-of-way; and

WHEREAS the need for the subject right-of-way has been reviewed, including the need for any utility easements that were identified by the responsible utilities; and

WHEREAS the proposed right-of-way abandonment has been reviewed and approved by the Cleveland Municipal Planning Commission; and

WHEREAS the proposed right-of-way abandonment has been properly posted and advertised and the procedural requirements of Section 16-123 of the Cleveland Municipal Code for the abandonment of city rights-of-way have otherwise been met; and

WHEREAS the City Council has determined that it is appropriate to approve the requested right-of-way abandonment identified herein, subject to any easements for utilities and/or other conditions as identified herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

1. DESCRIPTION RIGHT-OF-WAY TO BE ABANDONED: Subject to the retention of utility easements and/or any other conditions described in Section 2 below, the City of Cleveland, Tennessee intends to and does hereby abandon its public right-of-way interest in the following section of right-of-way:

Beginning at the southwest corner of the lands of Joe Flores, as recorded in the BCROD deed book 1807 page 293; thence with the northern line of the lands of First Cumberland Presbyterian Church as recorded in the BCROD deed book 2349 page 901 N 66° 30' 20" W a distance of 54.79 feet, more or less, to the southeast corner of the lands of Clifford Pless Plemons as recorded in the BCROD deed book 182 page 19; thence with the southeast line of the lands of

Clifford Pless Plemons N 24° 16' 25" E a distance of 105.18 feet, more or less; thence along an arc of a curve to the northwest having a radius of 21.22 feet, more or less, which arc is subtended by a chord bearing and distance of N 27° 39' 40" W 29.61 feet, more or less; thence following the right-of-way line of Robin Hood Drive S 68° 30' 55" E a distance of 97.53 feet, more or less; thence with the northwest line of the lands of Joe Flores along an arc of a curve to the southwest having a radius of 20.59 feet, more or less, which arc is subtended by a chord bearing and distance of S 69° 37' 32" W 27.47 feet, more or less; thence following the eastern line of the lands of Joe Flores S 24° 9' 2" W a distance of 108.15 feet, more or less, to the point of beginning.

2. RETENTION OF EASEMENTS: The City shall retain an easement to maintain access to public electric facilities as long as they remain in place.

3. AREA TO BE ZONED: The area hereby abandoned shall be understood as zoned in the same zoning district as the adjoining zone extending to the centerline of the abandoned right-of-way.

4. CONFLICTS AND SEVERABILITY: All ordinances in conflict herewith are repealed to the extent of said conflict. In the event that any part of this ordinance is ruled to be unlawful by a court of competent jurisdiction, all other parts of the ordinance shall remain in full force and effect.

5. EFFECTIVE DATE: this ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Ordinance No: 2017-43 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ZONING ORDINANCE NO: 2017-44

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R3 High Density Residential Zoning District to PUD16 Planned Unit Development.

Approximately .43 acres, more or less, located at 4403,4405 and 4407 Ellis Circle as shown on the attached map.

For reference, see Book 354 Page 674 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 34H Group M Parcel 18.00, in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Vice Mayor Johnson moved that Zoning Ordinance No: 2017-44 be approved on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

Martha Ledford addressed the City Council concerning Tinsley Park and how she would like to see a short sidewalk between the trail and the restrooms. Mayor Rowland stated they will look into it. She also asked that sidewalks be install along South Lee Highway. It’s an ugly sight. Councilman McKenzie stated he has tried to get sidewalks in the area and will continue trying.

Mr. Fivas announced that we received notification that the Gaut Street sidewalks has been funded. Mayor Rowland included four houses are also getting rehabbed in Councilman Estes’ district.

There being no future business the meeting was adjourned at 3:58 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, AUGUST 28, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr. and Richard Banks. Councilman Dale Hughes was absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Jeff Davis, Personnel Director, Kris Miller, IT Director; Brian Moran, Social Media Coordinator; Kim Spence, Safety and Wellness; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; Dawn Robinson, Dr. Russell Dyer, Charlie Cogdill and Hal Taylor, all with Cleveland City Schools; Doug Berry with the Chamber of Commerce; Patrick Abercrombie; Marti and John Powell; Mike Callaway; Roger Jenne; David Benton; Dustin Tommey; Jake Strum; Verrill Norwood and Lou Patten, Airport Authority Members; Pam Edgemon; Jim Williams; Michael Williamson; Gray Epperson; John Stanbery; Carl Lansden; Sherry Crye; Lisa Pickel; Max Phillips; Carl Bracken; Daniel Jones; Stanley Thompson; Arnold Tarpley; W. B. Campbell; Eric and Drew Spencer; T. L. Jones; Cameron Fisher; Mel Pruitt; Tom Robertson; Kim Randolph; Larry Allen; Sharon Marr with Mainstreet Cleveland; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson the following business was then entered into:

Councilman Cassada moved to excuse Councilmen Dale Hughes from the meeting. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed. Councilman Banks stated he spoke with Councilman Hughes, who is sorry he couldn't be here again today. He sounded weak and has lost 50 pounds. Everyone please keep him in your prayers.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on August 14, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today we are swearing-in three Police Officers to the Cleveland Police Department. He stated officers sometimes can be the first line of greeting someone in our community and you never get a second chance at a first impression. He reminded each officer that he, as well as the City Council and department managers support the police officers and wished them well and safety. Mayor Rowland then administered the Oath of Office to Police Officers Justin West, Bryson Riggs and Jordan Rymer and welcomed them to the Cleveland Police Department. Chief Gibson introduced each officer and gave a brief background of their qualifications and welcomed them to the department.

Mayor Rowland stated during the work session we had considerable discussion concerning the proposed tax rate and asked if anyone else has any comments or different approach to the City Council. No one spoke.

CONSENT AGENDA

Mayor Rowland reviewed the following items on the consent agenda.

- **Final Passage - Ordinance No: 2017-42** – heretofore passed on first reading August 14, 2017 and found in Minute Book 28, Page 590; abandoning a portion of unopened right-of-way described as Fernwood Dr NW located off of Robinhood Dr NW. (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Ordinance No: 2017-43** – heretofore passed on first reading August 14, 2017 and found in Minute Book 28, Page 592; abandoning a portion of unopened right-of-way described as Hays Dr NW located off of Robinhood Dr NW (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Zoning Ordinance No: 2017-44** - heretofore passed on first reading August 14, 2017 and found in Minute Book 28, Page 593; rezoning 0.43 acres, more or less, located at 4407/4405/4403 Ellis Circle, from R3 High Density Residential Zoning District to PUD16 (Planning Commission: Approved 7-0; 2 members absent).
- **Resolution No: 2017-53** – Accepting Clinton’s Pass as a City Street.

RESOLUTION NO: 2017-53

WHEREAS, Clinton's Pass is a street shown by a plat of the Silver Springs Subdivision, Phase III, recorded on February 25, 2015 in Plat Book 29, page 91, in the Register of Deeds’ Office of Bradley County, Tennessee; and

WHEREAS, Clinton's Pass is located inside the City limits of the City of Cleveland; and

WHEREAS, the developer of this subdivision has requested that the City accept Clinton's Pass as a City street; and

WHEREAS, City engineering staff have inspected Clinton's Pass to confirm that this street has been constructed to City of Cleveland street construction standards; and

WHEREAS, City engineering staff is now recommending that the City accept Clinton's Pass as a City street.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, in regular session assembled, that the City does hereby accept a Clinton's Pass as a City Street.

This 28th day of August, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-54** – Accepting Commerce Boulevard as a City Street.

RESOLUTION NO: 2017-54

WHEREAS, Commerce Boulevard is a street shown by a plat recorded on August 19, 2015 in Plat Book 29, page 119, in the Register of Deeds’ Office of Bradley County, Tennessee; and

WHEREAS, Commerce Boulevard is located inside the City limits of the City of Cleveland; and

WHEREAS, the developer of this street has requested that the City accept Commerce Boulevard as a City street; and

WHEREAS, City engineering staff have inspected Commerce Boulevard to confirm that this street has been constructed to City of Cleveland street construction standards; and

WHEREAS, City engineering staff is now recommending that the City accept Commerce Boulevard for a distance of 1030 feet from the south line of Pleasant Grove Road as a City street.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, in regular session assembled, that the City does hereby accept a Commerce Boulevard for a distance of 1030 feet from the south line of Pleasant Grove Road as a City street.

This 28th day of August, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-55** – Amending the contract with Cannon & Cannon for engineering and design work at Georgetown Road/Westside Drive.

RESOLUTION NO. 2017-55

WHEREAS, the City of Cleveland and Cannon & Cannon, Inc. previously entered into a professional services agreement dated March 12, 2012 for Professional Survey and Engineering Design Services for the Georgetown Road/Westside Drive at 25th Street Intersection Improvements; and

WHEREAS, the City has recently received the attached proposed change order #2 to the agreement with Cannon & Cannon, Inc., which would raise the total contract amount by \$8,300 to \$40,000; and

WHEREAS, based upon the recommendation of City staff, the City Council desires to approve of this change order and to further authorize the Mayor to execute the supplemental agreement incorporating the change order on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached change order #2 to the referenced agreement with Cannon & Cannon, Inc., and it further authorizes the Mayor to execute the supplemental agreement incorporating the change order on behalf of the City of Cleveland.

This 28th day of August, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-56** - Authorizing the Mayor to sign a grant application for the 2017 Edward Byrne Grant to be used for in-car camera systems.

RESOLUTION NO: 2017-56

**AUTHORIZING THE CITY OF CLEVELAND TO APPLY
FOR AN EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT
FOR FY2017 THROUGH THE UNITED STATES DEPARTMENT OF JUSTICE,
BUREAU OF JUSTICE ASSISTANCE**

WHEREAS, the City of Cleveland desires to apply for a FY2017 Edward Byrne Memorial Justice Assistance Grant in the amount of \$36,481 through the United States Department of Justice, Bureau of Justice Assistance, to be used for in-car camera systems; and

WHEREAS, the City Council desires to apply for this grant, and to authorize the Mayor to sign all documents and to take all actions on behalf of the City that may be necessary or appropriate in connection with the grant application and the grant if approved.

NOW, THEREFORE, BE IT RESOLVED that the City of Cleveland is authorized to apply for this grant, and the Mayor is hereby authorized to sign all documents on behalf of the City that may be necessary or appropriate for the completion of the grant application.

BE IT FURTHER RESOLVED that if the City is awarded the grant, that the Mayor is further authorized to sign all documents or take any other action on behalf of the City that may be necessary or appropriate for the City to accept the grant.

This 28th day of August, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Estes moved to approve the Consent Agenda. The motion was seconded by Councilman Cassada; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Mayor Rowland asked if the Council voted for option 2 out of the three budget options presented concerning the tax increase, would it include everything needed to fund the Police and Fire departments, Public Works and Parks & Recreation and if the only thing option 3 holds back is the downtown revitalization, which the Council can look at in another year. Mr. Fivas replied option 2 has the investments in the paving cycle, sidewalks, public infrastructure for the downtown revitalization. Mayor Rowland asked for clarification on option 3. Mr. Fivas stated option 3 includes 12 Police Officers, 12 Firefighters, which are phased in. Also, the one-time projects like the fire training center and intersection improvements at Mouse Creek/Paul Huff, Peerless/25th Street and Paul Huff/Peerless. Mayor Rowland asked if option 2 was eliminated how much would that save. Mr. Fivas stated roughly 9 cents.

Vice Mayor Johnson thanked everyone for their public input then stated there is a lot of information with this tax increase. We've asked departments to cut and sacrifice and now hearing from the public, it appears we are moving too fast. However, he has a hard time slowing down because he hears the needs of the departments and City Schools. People here support Police and Fire but when it comes to funding you don't want to. You have to fund it if you're going to support it. He then asked if the rate can be lowered to \$1.99 and still make everything work, which he feels this shows we hear the people but also we know the needs. Mr. Fivas stated at \$1.99 we would lose maybe two one-time projects this year and we could tweak some of the phased-in items. You could still achieve what you want to do, you're just not getting it as fast as you want it. He suggested the Council adopt a rate and we'll bring back a revised budget. He then stated the downtown revitalization funds are not only for the Whirlpool site, it includes Inman Street, parking, a portion of the greenway project, the Taylor's Springs project, street-scaping project with Lee University and hanging baskets. There are numerous projects. Mayor Rowland stated he would just like to separate Whirlpool property from the discussion. Councilman Banks asked Councilman McKenzie what were his thoughts. Councilman McKenzie stated \$1.99 is not much different from \$2.06. Councilman Banks asked what would he like to do away with. Councilman McKenzie asked if we needed 12 firefighters. Councilman Banks stated we have already funded Station 6 and if we want to open it we'll need them. Vice Mayor Johnson asked if we needed Station 6 and 7, specifically Station 6 for the industrial park. Chief Harrison replied yes, we are two stations behind. These areas are outside our four minute response time and Station 6 does not depend on the industrial park. Councilman Banks asked about the number of gangs in Cleveland. Chief Gibson stated in the last five years we've had an increase of validated gang members booked into the Bradley County Jail and also through Juvenile Court.

Councilman Cassada stated he is for keeping up the services we currently now have and moving the City forward. Also, any revenue we might have at the end of the projects he is all for paying down debt service. We need to be a stronger community as a whole.

Councilman May asked for an update on the Joe V. Williams properties. Mr. Jobe stated papers have been served for the Church Street location. He has to start physical work because the sidewalk has been closed due to falling debris.

Councilman May then moved for the City Attorney to prepare an ordinance for the next meeting related to property tax freeze. Mr. Kimball clarified to adopt the State's Tax Freeze program. Councilman May stated correct. The motion was seconded by Councilman Banks. Councilman Estes asked that it include a financial scale, because it's fluctuates year-to-year. Mr. Kimball stated the Ordinance is simple, you desire to adopt the State's Tax Freeze Program. The City will only take applications and submit them to the State. Upon roll call, the motion unanimously passed.

Councilman May continued that he is not against a tax increase but is not for the current proposed tax rate. Councilman Banks asked him what could he live with. Councilman May replied it doesn't need to be something we just come up with off the top of our heads. Councilman Cassada stated we take things off the sheet we have been given, which lists the projects. Councilman May stated he wasn't ready today to take things off the sheet. He'd like to put some thought into it.

Councilman Banks stated on first reading he voted for \$2.06. He's listened to all the needs and looked at all the statistics and like always, we have to support those who protect us. We have the same number of police officers we had 13 years ago and we are growing at a rate of 1,000 people a year that says we haven't kept up with the times and we should've been increasing the tax rate every year as our needs developed. We can't make a wish list and not vote to fund it. We can't annex or grow our city. We have 60 acres at Whirlpool and a chance to help them make it something special. We are at a crossroads. We can say it's a great increase but when you compare it to other cities our size. Politics get in the way but when you look at what you're getting for what you're paying, well, he's sticking with the \$2.06. Councilman May stated we've asked in the past for departments to cut their budgets 5-10%. We've created this problem and now all of a sudden we're going to catch up in one year. We are putting too much on the taxpayer. Councilman Banks stated he is not opposed, once the intersections are completed, to allocate any additional money towards debt service. Councilman May stated he believes we should phase in what we are trying to do. It is very unlikely all the projects will be completed in one year. Councilman Banks stated we owe it to our community to provide what they need downtown, restaurants and entertainment. We don't need to be divided over this, we need to be unanimous. Councilman McKenzie commented about taxes received from Lee University. Councilman Banks stated they do a lot for this town. Councilman May stated they bring a tremendous amount of sales tax dollars. Councilman Banks stated if Vice Mayor Johnson pushes \$1.99 he will vote for it but feels \$2.06 is a good rate.

Vice Mayor Johnson stated we need to lower the paving cycle, we have a great school system, have industry coming to the area, we have a good quality of life and all these things cost money. People want to live in a community where they feel safe. I hate to drop the rate but if the public wants us to slow it down and not be able to do much of anything we can't go lower than \$1.99. He continued that if there was a not a majority to vote for \$2.06 he'd make a motion for \$1.99.

Councilman McKenzie stated if he votes to raise taxes people are going to get rid of him at the next election. If he votes to not raise taxes people are going to get rid of him, so what is he supposed to do. He stated he is not getting any more on his social security so he can't go up.

Councilman Estes stated he had a few comments, which the first four are in order of importance and the rest are important to him. One, very few things are more regressive than a property tax. When we talk freezing rates, he understands but we don't have tools to raise revenues. The younger generation is not going to come here if we don't have good Police and Fire, Greenway and good schools. Two, he is a firm believer of good stewardship theory. We have to be good stewards of what we have, which means reinvesting and giving back. On a local level you can talk about schools. You never get tired of paying for good schools. We take care of others. It's not always politics, it's value. Yes, we invest and we are good stewards. We have to keep it up and raise taxes to provide better service. Three, nothing will happen downtown if we do not get control of the Summit/Cherokee Hotel. If it comes on the market and there is not a commercial buyer out there we must step in. We need money to step to the table. Four, in the Tennessean there was a great article on Williamson County and their struggle with growth and funding services and schools. The values and politics are in the article. Five, well over fifty people contact him about the tax rate. He had many more people in favor of the full option 3. He doesn't think the people in the room today set the tenor for the entire community. He wishes they could be unanimous and anyone who feels Lee University doesn't contribute to the community needs a small course in finance. Lastly, in two weeks can we have the audio working. It's simple, get it working.

Mayor Rowland stated on the agenda is final passage of Ordinance No: 2017-41; adopting the 2017 Tax Rate at \$2.06; heretofore passed on first reading July 24, 2017 and found Minute Book 28, Page 584. Councilman Banks moved to approve Ordinance No: 2017-41 on final reading. The motion was seconded by Councilman Estes. Upon roll call, Councilman Banks, Councilman Estes, Councilman Cassada and Vice Mayor Johnson voted aye. Councilman May and Councilman McKenzie voted no. The motion passed 4:2.

NEW BUSINESS AND ORDINANCES

Mayor Rowland stated he is reappointing Amy Banks, David May, Jr., Jo Benjamin, Will Jones and Dale Hughes to the Tree Board all with terms to expire August 28, 2019.

Mayor Rowland stated the next items is the appointment – *Cleveland Airport Authority* – Ben Chandler for a five-year term to begin on September 28, 2017 and expire September 27, 2022 (Replacing Verrill Norwood, whose term expires on September 27, 2017). Councilman Cassada asked Verrill Norwood if he wanted to continue to serve on the Airport Authority. Mr. Norwood stated yes. Councilman Banks recommends Ben Chandler go to the next Airport Authority meeting on September 22 and be introduced to the Board and then Council to vote on September 25. Councilman Cassada stated he would like to delay until the September 25 meeting.

There being no future business the meeting was adjourned at 4:10 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, SEPTEMBER 11, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Councilman Bill Estes was absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Fire Chief Ron Harrison; Jeff Davis, Personnel Director, Executive Secretary Beverley Lindsey; Kris Miller, IT Director; Sue Zius, Assistant to the Mayor/Legislative Liaison; Brian Moran, Social Media Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; Dawn Robinson, Gary Farlow and Doug Berry with the Chamber of Commerce; Verrill Norwood, Airport Authority Member; Pam Edgemon; Connie and Roger Kennard; Matt Turner; Rob Alderman; Erin Meek; Sharon Marr with Mainstreet Cleveland; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Connie Kennard with the Peerless Road Church of God of Prophecy, the following business was then entered into:

Mayor Rowland asked for a moment of silence to remember those who lost their lives on September 11, 2001.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on August 28, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

State Representative Kevin Brooks presented Chief Gibson and the Cleveland Police Department with two proclamations from Speaker Beth Harwell and Governor Bill Haslam in honor of Patriots Day on September 11, 2017, which thanked them for their continued efforts to protect the citizens of Cleveland.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request to abandon a portion of excess right-of-way located on Linden Ave SE at 2nd St SE. Mayor Rowland asked if anyone would like to speak in favor of the abandonment. No one spoke. Mayor Rowland then asked if anyone would like to speak in opposition of the abandonment. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning an amendment to section 2.10.1 and Table 1 of the Zoning Regulations to create provisions which allow mini-warehouses which are internally accessed as a principally permitted use within the CG General Highway Zoning District. Mayor Rowland asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Rowland then asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request to rezone 5.0 acres described as Unity Subdivision located on Unity Dr NE from IL Light Industrial Zoning District and R2 Low Density Single and Multi-Family Residential Zoning District to R1 Single Family Residential. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Rowland then asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning an ordinance to amend the sign regulations of PUD6 located at Cleveland Towne Center on Paul Huff Parkway, Frontage Rd and Interstate 75. Mayor Rowland asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Rowland then asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the Stormwater Division's annual report to Tennessee Department of Environment and Conservation (TDEC) Division of Water Pollution Control. Mayor Rowland asked if anyone would like to speak in favor of the annual report. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the approval of the annual report. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the application for a Certificate of Public Convenience and Necessity for a taxi cab permit request by Estela Liermann of 3448 Brighton Blvd NW. Mayor Rowland asked if anyone would like to speak in favor of the approval of the permit. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the approval of the permit. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the use of a 2017 Edward Byrne Memorial Justice Assistance Grant to be received by the Cleveland Police Department. Mayor Rowland asked if anyone would like to speak concerning use of the grant. No one spoke. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the following items on the consent agenda.

- **Motion** – Approving the application for a Certificate of Public Convenience and Necessity for a taxi cab permit requested by Estela Liermann of 3448 Brighton Blvd.
- **Resolution No: 2017-57** – Supporting an application to TDOT for the Transportation Alternatives Grant for 25th Street Corridor Area Sidewalks and Multi-Modal Improvements Project.

RESOLUTION NO: 2017-57

RESOLUTION TO SUPPORT AN APPLICATION TO THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE TRANSPORTATION ALTERNATIVES (TA) GRANT FUNDING APPLICATION FOR 25th STREET CORRIDOR AREA SIDEWALKS AND MULTI-MODAL IMPROVEMENTS PROJECT

WHEREAS, the City of Cleveland desires to submit an application to the Tennessee Department of Transportation (TDOT) for funding under the Transportation Alternatives (TA) program for a project described as the “25th Street Corridor Area Sidewalks and Multi-modal Improvements project”; and

WHEREAS, the City of Cleveland has worked with the Cleveland Urban Area MPO, Cleveland Urban Area Transit, and others to develop the concept plan for the “25th Street Corridor Area Sidewalks and Multi-modal Improvements project” TA grant application in accordance with TDOT guidance;

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

1. The application for TAP funds is hereby endorsed for the “25th Street Corridor Area Sidewalks and Multi-modal Improvements project” with a total construction cost of up to \$900,000 and a City of Cleveland matching share of 25% of the total construction costs. The Mayor is authorized to sign a letter to that effect as well as any related grant contract or documents for the purpose of securing these funds.

2. The City of Cleveland would be responsible for environmental, design, ROW, and utilities costs related to the project.

Approved this 11th day of September, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-58** – Authorizing the Mayor to sign an agreement with AirMed Care Network for continued air ambulance transportation for city residents.

RESOLUTION NO: 2017-58

WHEREAS, the City has received the attached proposal and agreement for a one-year renewal for AirMedCare Network Municipal Site Membership from Air Medical Group Holdings, Inc. doing business as the AirMedCare Network (hereafter referred to as the AirMedCare Network); and

WHEREAS, the proposal to the City Council provides for air ambulance transportation for medical necessity by LIFE FORCE or any other AirMedCare Network Provider for transports of city residents from a pickup location in Bradley County, Tennessee, subject to the standard terms and conditions of the proposal to the City which is attached hereto and incorporated herein by reference; and

WHEREAS, the City Council has reviewed the proposal and now desires to accept the proposal and to enter into the attached agreement with the AirMedCare Network, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby accept the proposal and approve of the attached agreement with Air Medical Group Holdings, Inc. doing business as the AirMedCare Network, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 11th day of September, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-59** – Amending the Authorized Employees List for the FY2018 Budget to reclassify one MEO I position to an MEO II position in the Parks and Recreation Department.

RESOLUTION NO: 2017-59

A RESOLUTION TO AMEND THE AUTHORIZED EMPLOYEES LIST FOR THE FY2018 BUDGET

WHEREAS, the City Council of the City of Cleveland has previously established and adopted the FY2018 City Budget; and

WHEREAS, this document contains the Authorized Employees By Fund, Department, and Position Classification”; and

WHEREAS, the City Manager and Human Resources Director are recommending that one of the MEO I position in the Parks and Recreation Department be upgraded to an MEO II position.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the document entitled “Authorized Employees By Fund, Department, and Position Classification” located on pages 292 through 297 of the FY2018 City Budget is hereby amended to reclassify one MEO I position to an MEO II position.

That this Resolution shall become effective from and after its approval by the Cleveland City Council.

Adopted this 11th day of September, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-60** – Authorizing City planning staff to move forward with acquisition/demolition projects related to the FEMA Flood Mitigation Assistance Program.

RESOLUTION NO: 2017-60

WHEREAS, the City Council previously authorized an application to the Federal Emergency Management Agency's (FEMA) Flood Mitigation Assistance Program; and

WHEREAS, the City has received communications from the Tennessee Emergency Management Agency (TEMA) and the Federal Emergency Management Agency (FEMA) indicating that FEMA has approved two Acquisition/Demolition projects for the City of Cleveland under the Flood Mitigation Assistance Grant program; and

WHEREAS, the City has now received the attached agreements from TEMA which are the reimbursement agreements for the City for these projects; and

WHEREAS, the City Council desires to approve of these agreements and authorize the Mayor to execute the same on behalf of the City; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, that the City Council hereby approves of the attached agreements and authorizes the Mayor to execute the same on behalf of the City.

This 11th day of September, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-61** – Authorizing the Mayor to sign a grant application with Norfolk Southern Foundation.

RESOLUTION NO. 2017-61

WHEREAS, the Cleveland Police Department has investigated the possibility of the City applying for grant funding to cover a bomb response vehicle for the bomb unit; and

WHEREAS, a memorandum prepared by the police department with information about the grant program is attached to this Resolution and incorporated herein by reference; and

WHEREAS, the Police Chief is recommending to the City Council that the City authorize the application for grant funding through this program; and

WHEREAS, the City Council desires to authorize the City to apply for grant funding for this project and to further authorize the Mayor to execute the grant application and any other documents which may be necessary or appropriate for the City to apply for the grant on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the City’s application for grant funding for this project and it further authorizes the Mayor to execute the grant application and any other documents which may be necessary or appropriate for the City to apply for the grant.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved to approve the Consent Agenda. The motion was seconded by Councilman Banks; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Hughes stated he was glad to be back. He's been out since June 7 with some complications from neck surgery. He shared his story of his challenging recovery. He stated he was thankful for all the cards, prayers, visits and that God continued to be faithful in his situation. He held onto Isaiah 26:3; keeping his mind on Christ for peace and Psalms 46; the Lord is his strength and refuge. When you're down you need peach and strength. He thanked everyone again for their kindness.

Councilman Banks welcomed Councilman Hughes back and continued he missed his input and appreciates everything he does for the City of Cleveland.

Vice Mayor Johnson concurred it was good to have Councilman Hughes back. All members of the Council and staff have been praying for him. It's an honor to be on the Council and we disagree from time-to-time but we still need each other to do a good job. He was missed and it's good to have him back.

Councilman Cassada echoed the comments on Councilman Hughes. There has been a hole in the Council and he is glad Councilman Hughes is back. Councilman Cassada continued by thanking the Cleveland Daily Banner for the article discussing drugs in the community. He spoke with District Attorney Steve Crump about the situation in Cleveland and Mr. Crump asked if it was possible to have a joint meeting with the Council, Bradley County Commission, both law enforcement agencies, all Department Heads and both school systems because it's across the board, age wise, and we can help make Cleveland a better place. Mayor Rowland thanked Councilman Cassada for his efforts.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

ORDINANCE NO. 2017-45

WHEREAS the owner(s) of all parcels of land fronting on or having their access from the section of City of Cleveland right-of-way described herein, those parcels and owners being identified in the records of Bradley County, Tennessee, have requested that the City of Cleveland abandon its right-of-way in the aforementioned section of right-of-way; and

WHEREAS the need for the subject right-of-way has been reviewed, including the need for any utility easements that were identified by the responsible utilities; and

WHEREAS the proposed right-of-way abandonment has been reviewed and approved by the Cleveland Municipal Planning Commission; and

WHEREAS the proposed right-of-way abandonment has been properly posted and advertised and the procedural requirements of Section 16-123 of the Cleveland Municipal Code for the abandonment of city rights-of-way have otherwise been met; and

WHEREAS the City Council has determined that it is appropriate to approve the requested right-of-way abandonment identified herein, subject to any easements for utilities and/or other conditions as identified herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

1. DESCRIPTION RIGHT-OF-WAY TO BE ABANDONED: Subject to the retention of utility easements and/or any other conditions described in Section 2 below, the City of Cleveland, Tennessee intends to and does hereby abandon its public right-of-way interest in the following section of right-of-way:

Being 1572.83 square feet as shown on the Survey J.N. 17-151 prepared by Barry Savage dated 6/30/2017 and Revised 8/2/17 which is attached hereto as Exhibit A, and which is further described as follows:

Beginning at the western corner of the lands of Jason B. Haun, as recorded in Deed book 14 page 206 in the Register of Deeds office of Bradley County, Tennessee; thence with the northwest line of the aforementioned property N 51° 46' 28" E a distance of 142.68 feet, more or less, to the northern property corner; thence along the South right of way line of 2nd Street SE along an arc of a curve to the northwest having a radius of 38.44 feet, more or less, which arc is subtended by a chord bearing of N 81° 41' 08" W and a length of 34.96 feet, more or less; thence along the East right of way line of Linden Avenue along an arc of a curve to the southwest having a radius of 331.56 feet, more or less, which arc is subtended by a chord bearing of S 40° 35' 21" W and a length of 121.01 feet, more or less; thence along a line to the southeast S 40° 33' 06" E a distance of 1.90 feet, more or less, to the Point of Beginning.

2. RETENTION OF EASEMENTS: The City shall retain an easement to maintain access to public electric facilities as long as they remain in place.

3. AREA TO BE ZONED: The area hereby abandoned shall be understood as zoned in the same zoning district as the adjoining zone extending to the centerline of the abandoned right-of-way.

4. CONFLICTS AND SEVERABILITY: All ordinances in conflict herewith are repealed to the extent of said conflict. In the event that any part of this ordinance is ruled to be unlawful by a court of competent jurisdiction, all other parts of the ordinance shall remain in full force and effect.

5. EFFECTIVE DATE: this ordinance shall take effect from and after its passage on final reading and subject to the adjoining property owner conveying 261.38 square feet to the public right-of-way adjoining 2nd St SE as shown in Exhibit B, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

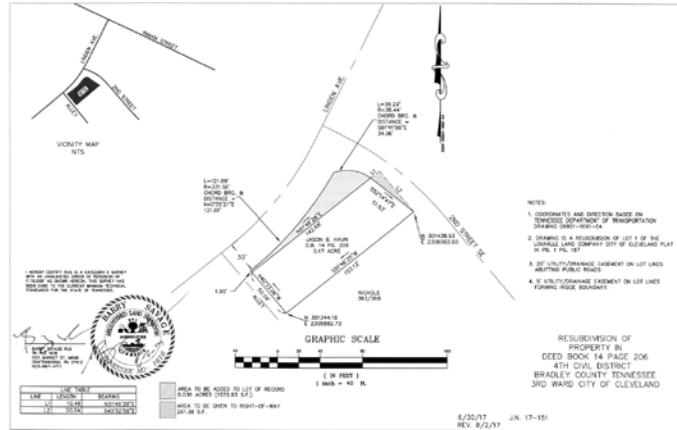
Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



Exhibit B



Vice Mayor Johnson moved that Ordinance No: 2017-45 be voted for passage on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-46

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTION 2.10.1 AND TABLE 1 SO AS TO PROVIDE FOR PROVISIONS FOR MINI-WAREHOUSES WITHIN THE COMMERCIAL HIGHWAY ZONING DISTRICT; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS the City Council of the City of Cleveland, Tennessee, having considered the comments of the Cleveland Municipal Planning Commission, has evaluated the possibility of provisions for allowing mini-warehouses in the Commercial Highway Zoning District; and

WHEREAS the City Council has determined that mini-warehouse facilities which access the storage units internally are less offensive than other permitted uses within the CH zone and create significantly less traffic; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 2.1 to read as follows:

Section 2. 2.10.1 shall include the following as a permitted use:
“mini-warehouse facilities provided that storage units are accessed internally from within the building”

Section 3. Table 1 within the Zoning Ordinance shall reflect the following:
“Internally accessed mini-storage facilities” shall be amended to be reflected as a permitted use within the General Commercial Zoning Districts.

Section 4. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

Section 5. In the event that any part of this ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

Section 6. This ordinance shall take effect immediately upon passage on second reading, the public necessity requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved that Ordinance No: 2017-46 be voted for passage on first reading. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

Zoning Ordinance No: 2017-47

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from IL Light Industry and R2 Low Density Single and Multi-Family Residential Zoning District to R1 Single Family Residential Zoning District.

Approximately 3.89 acres, more or less, located on Unity Dr NE as shown on the attached map.

For reference, see lots 1-18 of Unity Subdivision shown in Plat Book 22 Page 42 in the Register's Office of Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-47 be voted for passage on first reading. The motion was seconded by Councilman McKenzie; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-48

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO AMEND THE PUD 6 ZONING DISTRICT ESTABLISHED BY ORDINANCE 2016-43 BY AMENDING VARIOUS PROVISIONS SO AS TO ALTER THE SIGNAGE REQUIREMENTS AND RETAINING ALL OTHER FEATURES OF ORDINANCE 2016-43 IN FULL FORCE AND EFFECT.

WHEREAS the City of Cleveland, Tennessee, hereinafter "City", desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter "PUD", process as an alternative development standard whereby to accomplish such development; and

WHEREAS the City zoned certain property as PUD6 by Ordinance 2006-43 which Ordinance is attached hereto and incorporated herein as Exhibit 1, which ordinance contains the PUD 6 zoning district and standards and conditions for the development, operation, and maintenance of the property; and

WHEREAS, at its meeting on August 15, 2017 the Cleveland Municipal Planning Commission recommended additional changes to Ordinance 2016-43 to address changes in PUDS sought by the current owner(s), and the City Council desires to approve those changes.

NOW THEREFORE BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, IN REGULAR SESSION ASSEMBLED.

Section 1: Section 6c of Ordinance Number 2006-43, which established the PUD 6 Zoning District, is hereby replaced with the following language:

Section 6: CONSTRUCTION, OPERATION AND MAINTENANCE PERMITTED USES.

C. SIGNAGE. The shopping center (excluding outlots) will have three common signs: one located adjacent to the interstate ROW of a billboard design not to exceed 120' in height and 1200 square feet in sign area. The other common signs include one located at the drive entrance at Paul Huff Parkway and one along a drive entrance at the Frontage Road (both consistent with exhibit B in ordinance 2006-43). Each outlot shall have one double-sided pylon sign not to exceed a height of 40 (forty) feet and a size of 150 (one hundred fifty) square feet per side. (See attached exhibit). Each tenant in the shopping center and outlots shall have the right to attach building signs to the front, sides, or rear of the building. Tenant signs attached to the buildings shall not exceed 80% of the wall length or be larger than 40% of the wall area. No sign shall be mounted on the roof. Portable signs, inflatable advertising devices, strobe lights, and other advertising devices characterized by motion, flashing light, or high-intensity light are prohibited. Except when located within 20 feet of a permanent building, no banner, flag, pennant, temporary sign, or merchandise display shall be located within 100 feet of any public right-of-way. Driveway entrance and exit signs not exceeding 2 sf each shall be permitted on outlots.

Section 2: This Ordinance shall take effect on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-48 be voted for passage on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

RESOLUTION NO. 2017-62

WHEREAS, the City has received the attached agreement from LeConte Development LLC (hereafter "Developer"); and

WHEREAS, the agreement relates to the development of a parcel of land currently owned by First Cumberland Presbyterian Church; and

WHEREAS, the parcel of land is generally identified as 4355 Mouse Creek Road NW, Tax I.D. Number 034I-B-014.00; and

WHEREAS, the Church has agreed to sell the parcel to the Developer and the Church and the Developer have entered into a contract whereby the Developer will purchase the property from the Church; and

WHEREAS, the City Council has reviewed the proposed agreement with LeConte Development LLC and now desires to accept the proposed agreement and to enter into the attached agreement with LeConte Development LLC and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with LeConte Development LLC, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland. [on file in the City Clerk's Office.]

This 11th day of September, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Resolution No: 2017-62 be accepted as presented. The motion was seconded by Councilman McKenzie. Councilman May stated we've done this before and it's a win-win for all parties involved. It should help quite a bit with the traffic. The neighborhood was certainly concerned. Councilman Banks stated this allows us to add two lanes on the west side of Mouse Creek and eventually there will be an intersecting street between Mouse Creek and Peerless Road. Opening that up will allow development, which will generate taxes that will exceed the cost of the project. Upon roll call the motion unanimously passed.

There being no future business the meeting was adjourned at 3:33 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, SEPTEMBER 25, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Karen Stovall, Executive Secretary of Parks and Recreation; Fire Chief Ron Harrison; Jeff Davis, Personnel Director, Executive Secretary Beverley Lindsey; Kris Miller, IT Director; Sue Zius, Assistant to the Mayor/Legislative Liaison; Brian Moran, Social Media Coordinator; Teresa Torbett, CDBG Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; Dawn Robinson, Gary Farlow and Doug Berry with the Chamber of Commerce; Verrill Norwood, Airport Authority Member; Mikey Torbett; David Constance; David Benton; Doug Caywood; Ben Chandler; Matt Ryerson; Jim Williams; John Richardson; Sharon Marr with Mainstreet Cleveland; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on September 11, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request to rezone .46 acres from PI Professional Institutional to R2 Low Density Single and Multi-Family for a property located at 3010 Henderson Ave NW. Mayor Rowland asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Rowland then asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the Consolidated Annual Performance Evaluation (CAPER) for the 2016-2017 Community Development Block Grant Program and for the 2018 Action Plan. Mayor Rowland asked if anyone would like to speak in favor of the CAPER. No one spoke. Mayor Rowland then asked if anyone would like to speak in opposition of the CAPER. No one spoke. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the following items on the consent agenda.

- **Final Passage - Ordinance No: 2017-45** – heretofore passed on first reading September 11, 2017 and found in Minute Book 28, page 607; abandoning a portion of excess right-of-way located on Linden Ave SE at 2nd St SE (Planning Commission: Approved 7-0; 2 members absent).

- **Final Passage - Ordinance No: 2017-46** – heretofore passed on first reading September 11, 2017 and found in Minute Book 28, Page 609; amending Section 2.10.1 and Table 1 of the Zoning Regulations to create provisions which allow mini-warehouses which are internally accessed as a principally permitted use within the CG General Highway Zoning District (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Zoning Ordinance No: 2017-47** - heretofore passed on first reading September 11, 2017 and found in Minute Book 28, Page 610; rezoning 5.0 acres described as Unity Subdivision located on Unity Dr NE from IL Light Industrial Zoning District and R2 Low Density Single and Multi-Family Residential Zoning District to R1 Single Family Residential (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Ordinance No: 2017-48** - heretofore passed on first reading September 11, 2017 and found in Minute Book 28, Page 611; amending the sign regulations of PUD6 located at Cleveland Towne Center on Paul Huff Parkway, Frontage Rd and Interstate 75 (Planning Commission: Approved 7-0; 2 members absent).
- **Resolution No: 2017-64** – Amending the Personnel Rules and Regulations related to the Employee Assistance Program and Drug & Alcohol Testing/Abuse Policy.

RESOLUTION NO: 2017 - 64

**A RESOLUTION AMENDING THE PERSONNEL POLICIES
OF THE CITY OF CLEVELAND, TENNESSEE**

THAT WHEREAS, the City Council of the City of Cleveland has previously established and adopted by Resolution on February 22, 2016 a revised Personnel Rules and Regulations document entitled “The City of Cleveland Personnel Rules and Regulations”; and

WHEREAS, this document contains the personnel policies of the City of Cleveland; and

WHEREAS, the Human Resources Committee, Department Heads and the City Manager will review the personnel manual and submit any recommended amendments to the City Council for their consideration by the end of February each year; and

WHEREAS, the City Manager, Department Heads, and the City’s Human Resources Committee are recommending the following amendment to the City’s Personnel Rules and Regulations.

NOW, THEREFORE, BE IS RESOLVED by the City Council of the City of Cleveland, Tennessee in Regular Session assembled this 25th day of September, 2017 that the document entitled “The City of Cleveland Personnel Rules and Regulations” is hereby amended as follows:

Section 1: Amend the City’s Personnel Rules and Regulations as follows:

Section VI. – BENEFITS, as follows:

- Subsection X. EMPLOYEE ASSISTANCE PROGRAM, to be deleted and replaced as follows:

Full-time employees are eligible for the Employee Assistance Program. Under this program, employees and dependents are entitled to counseling services completely free of charge. Typical situations brought to the EAP include:

- Marital Problems
- Personal Psychological Problems
- Problems with kids
- Issues with loss or grief
- Problems with anxiety, stress or depression
- Family problems with drugs or alcohol
- Personal problems with drugs or alcohol
- Help selecting programs for formal mental health or rehab treatment

Employees may voluntarily disclose personal problems with drugs or alcohol to supervisor or department head. Upon receiving written confirmation from the EAP professional that employee has completed treatment and/or counseling and may return to work, terms for return to work will be determined by department head, HR Director and City Manager.

Employees are entitled up to 30 consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must use all sick time available, all compensatory time available, then all vacation time available.
2. In the event accumulated sick, compensatory, and vacation time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided unpaid leave the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period.

Any and all information regarding treatment through EAP shall be kept in strict confidentiality.

Section VIII. – MISCELLANEOUS POLICIES, as follows:

- Subsection D. DRUG & ALCOHOL TESTING/ABUSE POLICY, to be deleted and replaced as follows:

The City of Cleveland is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any City of Cleveland employee illegally uses drugs on or off the job, comes to work under the influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Therefore, the City of Cleveland has established the following policy, pursuant to T.C.A. Section 50-9-100 et. seq:

- 1) It is a violation of policy for any employee to use, possess, sell, trade, offer to sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job.
- 2) It is a violation of policy for any employee to report to work under the influence of or while possessing in her or her body, blood or urine, illegal drugs in any detectable amount.
- 3) It is a violation of policy for any employee to report to work under the influence or impaired by alcohol.

- 4) It is a violation of policy for any employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications.
- 5) Violations of this policy are subject to disciplinary action up to and including termination.

It is the responsibility of the supervisor and/or department head to counsel an employee whenever they see changes in performance or behavior that suggest an employee has a drug problem. Although it is not the supervisor nor department heads' job to diagnose personal problems, the supervisor and/or department head should encourage employees to seek help and advise them about viable resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at the City of Cleveland.

As a condition of employment, employees must abide by the terms of this policy and must notify the City of Cleveland in writing of any conviction of a violation of a criminal drug statute occurring in the workplace, no later than five calendar days after such conviction.

Employee Assistance Program (EAP)

The City of Cleveland offers an Employee Assistance Program (EAP) benefit for employees and their dependents. The EAP provides confidential assessment, referral and short-term counseling for employees who need or request it. If an EAP referral to a treatment provider outside the EAP is necessary, or an employee chooses a treatment provider outside the EAP, costs may be covered by the employee's medical insurance; but the cost of such outside services are the employees' responsibility.

Confidentiality is assured. NO information regarding the nature of the personal problem will be made available to the City of Cleveland, nor will it be included in the permanent personnel file.

Participation in the EAP will not affect an employee's career advancement or employment nor will it protect an employee from disciplinary action if substandard job performance continues. The EAP is a process used in conjunction with discipline, not a substitute for discipline.

The EAP can be accessed by an employee through self-referral or through referral by a supervisor and/or department head. We will distribute information about the EAP to employees for their confidential use.

Confidentiality

The confidentiality of any information received by the employer through a substance abuse testing program shall be maintained, except as otherwise provided by law.

Job Applicant Drug Testing

All job applicants at the City of Cleveland will undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed positive test result will be denied employment.

Applicants will be required to submit voluntarily to a urinalysis test at a laboratory chosen by the City of Cleveland, and by signing a consent agreement that will release the City of Cleveland from liability.

If the physician, official or lab personnel has reasonable suspicion to believe that the job applicant has tampered with the specimen, the applicant will not be considered for employment.

The City of Cleveland will not discriminate against applicants for employment because of a past-history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that the City of Cleveland will not tolerate.

Employee Drug & Alcohol Testing

The City of Cleveland has adopted testing practices to identify employees who illegally use drugs on or off the job or who abuse alcohol on the job. In all instances, both a quick test and laboratory testing will be conducted. All positive results of the quick test will be reported to the Risk Manager or his/her designee as well as the designated laboratory. Upon receiving notification of a positive drug screen or breath alcohol level above the cutoff, the Risk Manager will immediately notify the City Manager, Department Head and Human Resources Director. The Department Head shall immediately acknowledge receipt of the notification. The Risk Manager, City Manager, HR Director and Department Head will then schedule a meeting as soon as possible to discuss the drug and/or alcohol test results. The laboratory shall report drug test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Cleveland. A positive quick test will result in the employee being removed from the job until a confirmed positive or negative is received by the facility and Medical Review Officer. It shall be a condition of employment for all employees to submit to drug and alcohol testing under the following circumstances:

1. When there is reasonable suspicion to believe that an employee is illegally using drugs or abusing alcohol. "Reasonable Suspicion" is based on a belief that an employee is using or has used drugs or alcohol in violation of this policy drawn from specific objective and articulable facts, behavior and reasonable inferences drawn from those facts considering experience and training. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of any legally prescribed medication and/or over-the-counter medication that may adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. All supervisors will be provided annual training on reasonable suspicion testing. It is the responsibility of the supervisor to apply their required training for reasonable suspicion to observe employees, and to the best of their training and ability, assure employees are not impaired before they go on duty or perform any work. Among other things, such facts and inferences may be based upon, but not limited to, the following:
 - a) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to drug or alcohol abuse;
 - b) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
 - c) A report of drug or alcohol abuse provided by a reliable and credible source;
 - d) Evidence that an individual has tampered with any drug or alcohol test during his or her employment;
 - e) Information that an employee has caused or contributed to an accident while at work; or

- f) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs or alcohol while working or while on the employers' premises or while operating the employer's vehicle, machinery or equipment.

Any employee reporting to work visibly impaired will be deemed unable to perform required duties and will not be allowed to work. The employee's supervisor will properly document their specific reasons and observations in writing to the Risk Manager immediately upon the decision to test, for review and scheduling.

If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by some means of safe transportation alternative – depending on the determination of the observed impairment - and accompanied by the supervisor or another employee if necessary. A drug or alcohol test may be in order. An impaired employee will not be allowed to drive.

2. When employees have caused or contributed to an on-the-job accident/incident that resulted in damage to city-owned or private property or involved a third-party; or an injury that resulted in a loss of work-time, which means any period during which an employee stops performing the normal duties of employment and leaves the place of employment to seek care from a licensed medical provider. It is the responsibility of the supervisor to contact the Risk Manager and arrange testing within a two-hour period, following an accident or incident. Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 2 hours must be fully documented by the attending medical personnel.
3. As part of a follow-up program to treatment for drug and/or alcohol abuse. Any employee of the City of Cleveland who has violated the prohibited drug or alcohol conduct standards, or has voluntarily entered a drug and/or alcohol rehabilitation program, must submit to a return-to-duty test. Follow up tests will be unannounced and at least 2 tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. All return-to-duty and follow up testing costs will be paid by employee.
4. Random testing is unannounced. Only employee of the City of Cleveland holding a safety-sensitive positions are subject to random drug and alcohol testing. "Safety-sensitive positions" include any employee considered a first responder, such as fire and police personnel; who acts as a dispatcher for first responders; who is required to have a CDL; who is required by their position to drive a city-owned vehicle as part of their regular work day; any motor equipment operator who operates equipment within the rights of way and any employee responsible for the care and safety of children. It is the policy of the City of Cleveland to perform annual drug testing for at least 50 percent of the total number of safety sensitive employees. It is the policy of the City of Cleveland to perform annual alcohol testing for at least 10 percent of the total number of safety sensitive employees.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug and/or alcohol testing and the actual presentation for specimen collection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Cleveland may omit that employee from random testing or await the employee's return to work.

Prohibited Drugs

Substance abuse testing for job applicants and employees will include a urinalysis screen for the following drugs:

Drug	Cutoff Level	Screen (ng/ml)	Cutoff Level
Opiates	300		300
Phencyclidine	25		25
Benzodiazepines	300		200
Methadone	300		300
Propoxyphene	300		300
Marijuana	20		15
Cocaine	150		100
Amphetamines	1000		500
Barbiturates	300		200
Oxycodones	100		100

(Evidential Breath Testing conducted for alcohol tests)

Alcohol	0.02% BAL	0.04% BAL
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The local government may test for additional substances listed under the Tennessee Drug Control Act of 1989 (as amended).

Drug Testing Procedures

All collected urine samples will be sent to an authorized laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel will take the employee(s) to the testing site within 2 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the Risk Manager.

Employee Alcohol Testing Procedures

All breath alcohol testing conducted for the City of Cleveland will be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel will take the employee(s) to the testing site within 2 hours where proper testing procedures will be administered.

For the employee's protection, the results of the analysis will be confidential except for the testing personnel. After the personnel has evaluated a positive test result, the employee will be notified, and the testing personnel will notify the Risk Manager.

Opportunity to Contest or Explain Test Results

Employees who have a positive confirmed drug or alcohol test may explain or contest the result to the Medical Review Officer with five (5) working days after receiving notification of the test result from the Medical Review Officer; if an employee's explanation or challenge is unsatisfactory to the Medical Review Officer, the Medical Review Officer shall report a positive test result back to the City of Cleveland; a person may contest the drug test result pursuant to rules adopted by the Tennessee Department of Labor.

Refusal to Submit

Failure to submit to a required drug and/or alcohol test is a violation of this policy and shall be subject to discipline up to and including termination.

Important Information for Job Applicants and Employees

When an employee or job applicant submits to a drug and/or alcohol test, they will be given a form by the testing facility that contains a list of common medications and substances which may alter or affect the outcome of a drug or alcohol test. This form will also have a space for the donor to provide any information that he/she considers relevant to the test, including the identification of currently or recently used prescription or non-prescription medication or other relevant information. The information form will be kept at the testing facility. If the job applicant or employee has a positive confirmed test result a medical review officer will attempt to contact the individual in order to privately discuss the findings with that person. The medical review officer will take this information into account when interpreting any positive confirmed test results. The information provided shall be treated as confidential and will not be given to the employer. Employees and job applicants have the right to consult with a medical review officer for technical information regarding prescription and non-prescription medication.

Section 2. That this Resolution shall become effective from and after its approval by the Cleveland City Council.

Adopted this 25th day of September, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-65** – Authorizing the Mayor to sign a Memorandum of Understanding with the United States Marine Corp to conduct required training within the City of Cleveland.

RESOLUTION NO: 2017-65

WHEREAS, the Cleveland Police Department has received the attached Memorandum of Understanding from the United States Marine Corps, Special Operations Command, for the Marine Corps to conduct training in the City of Cleveland; and

WHEREAS, the Memorandum of Understanding is attached to this Resolution; and

WHEREAS, the City Council of the City of Cleveland desires to approve said Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, that the City Council hereby approves of the attached Memorandum of Understanding with the United States Marine Corps. [on file in the City Clerk’s Office.]

This 25th day of September, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved to approve the Consent Agenda. The motion was seconded by Councilman Banks; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Hughes commented he had been through several wars, missed several meetings and now feels like he is physically back and climbing the mountain. He apologized for his absence and is looking forward to the City’s 175-year celebration. The sky is the limit for our great City.

Councilman Banks announced Cleveland 100 is Thursday, September 28 at the Cleveland Country Club at 6:00 p.m. Mayor Rowland stated we do have a table and to please see Sue Zius.

Councilman Estes asked Bryan Turner to give an update on the Joe V. Williams properties. Bryan Turner reported city court was held on September 21 for three properties. First, 50 1st Street: it was continued until September 28. Mr. Williams was asked to bring proof of a contractor because the previous contractor no longer worked on the site. No fines have been assessed at this point. Councilman Estes stated there are bricks in the alleyway and it seems to be falling within itself. Mr. Turner stated the floor system was being removed and that is the debris the contractor left in the alleyway, which will be discussed in court. Councilman Estes asked how soon we could get these out of city court. Mr. Turner responded 50 1st Street is the only one left in city court. Secondly, 633 N. Ocoee Street, which is the property near the monument facing Broad Street; a contractor was hired and fines have been assessed for not completing the work on time. Work is now complete and fines were finalized at \$2,391, which is currently due. Lastly, 80 Church Street; this property is moving out of city court since the status was changed to

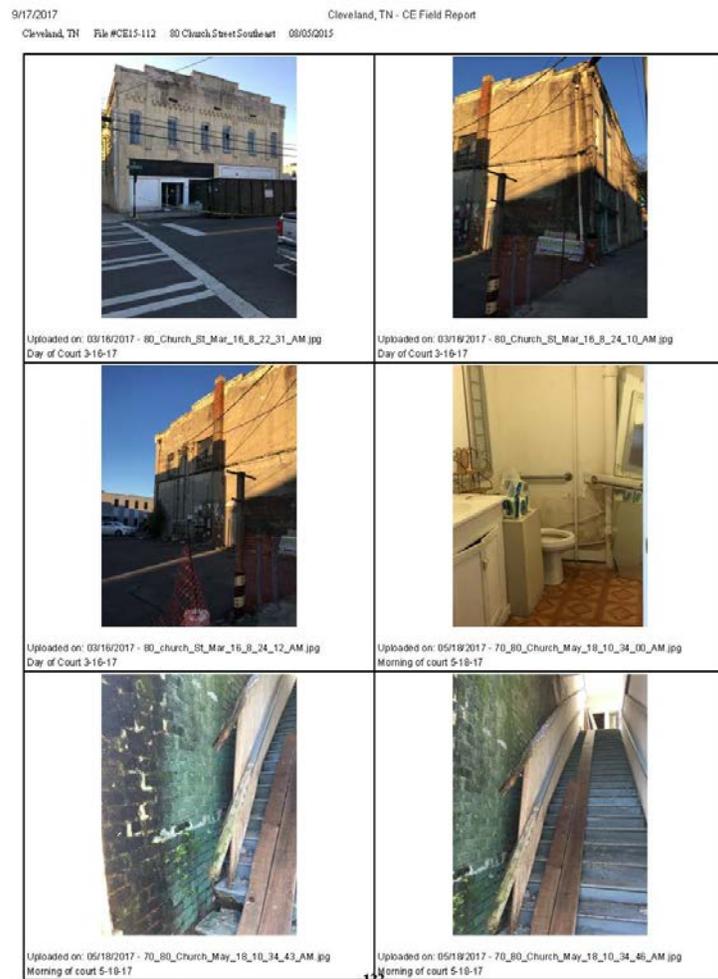
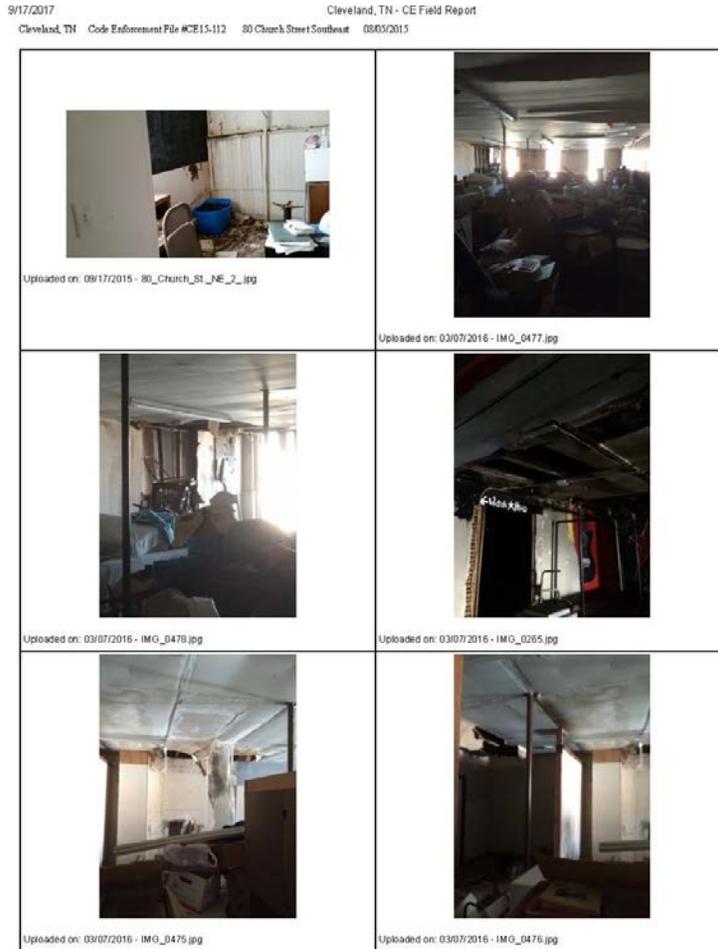
condemned for demolition, which is a different administrative process. He has been fined \$4,991. Mr. Williams has appealed the demolition decision. The hearing for the appeal will be October 3 at 5:15 p.m. with the Building Board of Adjustments and Appeals. Depending on the outcome, either give him an extension or uphold the City's decision for demolition. Mr. Kimball commented if Mr. Williams is dissatisfied with the Boards decision, he has 60 days to file a petition to have the Boards decision reviewed to determine if it was supported by evidence. If he does nothing decision is final. Either he demolishes the building or the City would, and lien the property. Councilman Estes asked if there was a nuisance law, rather than taking these case by case. Mr. Kimball stated you either want rid of the building or it fixed. The directive you have given Mr. Turner is to try to save these historic downtown buildings, so he's been trying to go through the process. He can only do his part and the Judge can only do what he can. Mr. Turner stated everyone should have received a copy of the letter that was sent to Mr. Williams asking him to secure the building because the door had fallen out onto the street, window glass was falling out and several others appeared close to falling. That is what changed the status to being condemned. Councilman Banks asked if anyone has sat down with Mr. Williams, since he has put \$90,000 into a building, not sure if he's paid the contractor, and now we're going to demolish. Has anyone sat with him and tried to reason with him, like sell it or take alternative action. Mr. Turner replied we have been working with him on this building since 2015. We've had a lot of conversations and received calls from people who are interested in buying it and have passed along the information to Mr. Williams. That is a private issue so we just let him know about the inquiries. Mr. Turner continued the roofing is only 90% complete, so water is still getting into the structure. There have been other changes, like the windows, the façade and it has been allowed to deteriorate further. That again is what prompted the change in status. Councilman May inquired about the floor system. Mr. Turner stated on the first floor you can see where it has caved in and the holes. The structural engineer, who looked at it, noticed additional problems but we were trying to get past the first step of stopping water from entering the building. Councilman May then asked about the masonry walls. Mr. Turned stated the floor system is connected to the masonry walls, which are load baring walls. Councilman Estes asked Mr. Turner if we took all your chains off, do you have other tools you are holding back. Mr. Turner replied no, the property is condemned for demolition. We don't want to tear all the buildings down. We would like to see him fix it or sell to someone who will. Mr. Kimball stated Mr. Williams has said in court he is in the process of securing loans so he can fix up some of the buildings and has obtained a loan for \$250,000 for other properties. Councilman Banks stated he has read that Mr. Williams has threatened to sue the City because we let him put \$100,000 roof on and now we're trying to tear it down. Mr. Turner stated correct. Councilman Banks then moved that the following information from the August Monthly Departmental Reports concerning Joe V. Williams' property at 80 Church Street SE, which includes photos of the condition of the building be included in the minutes. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

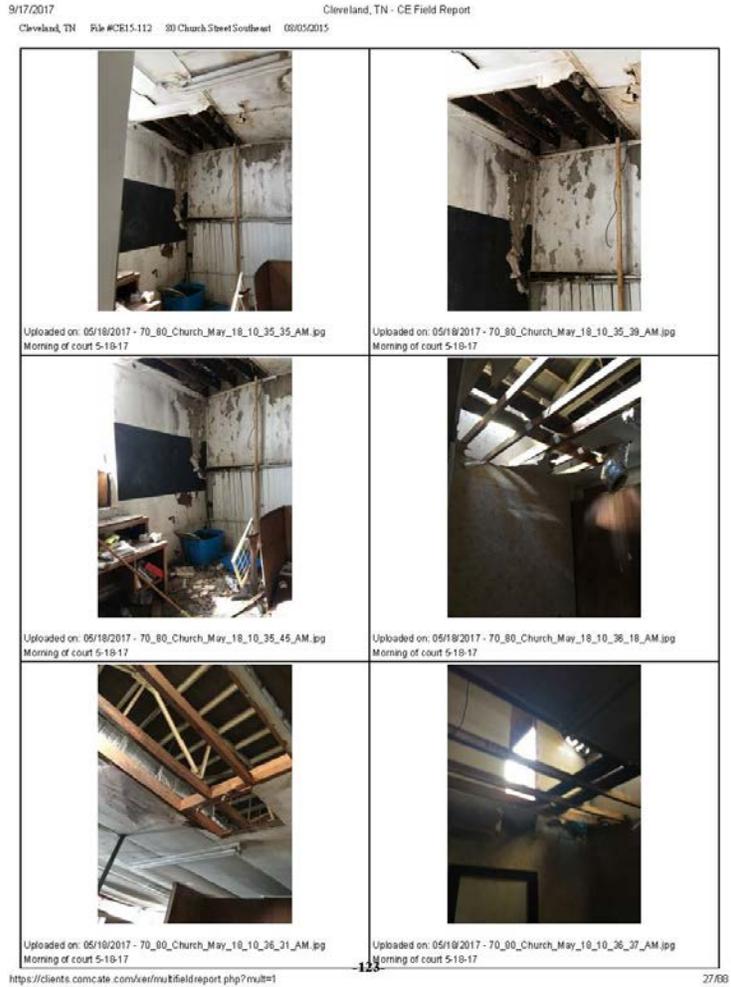
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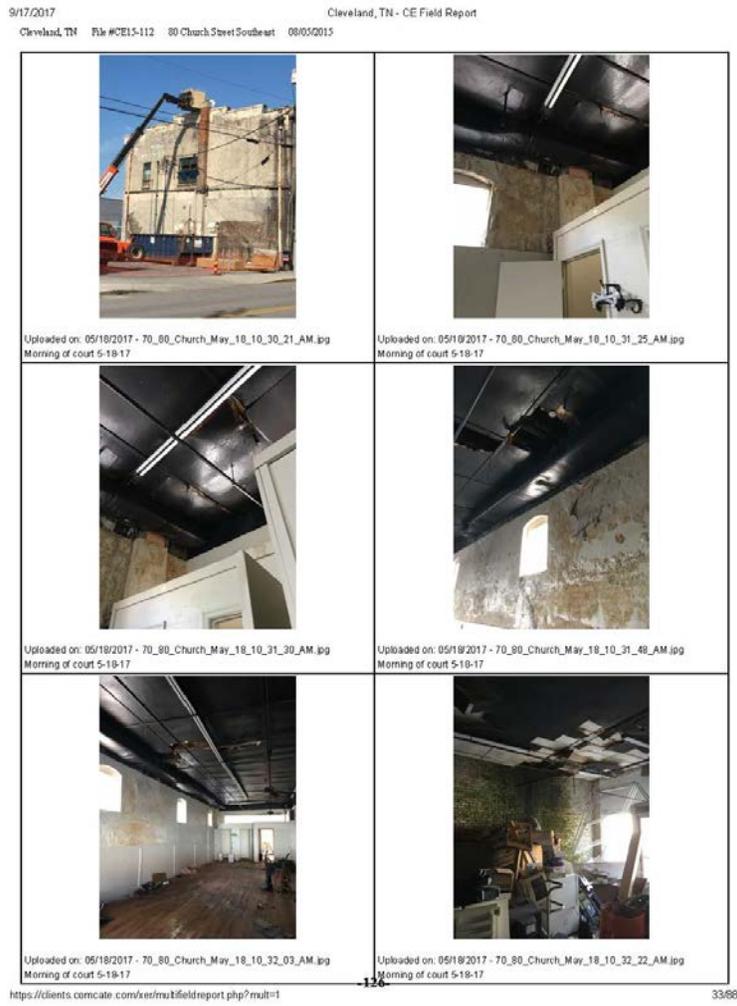
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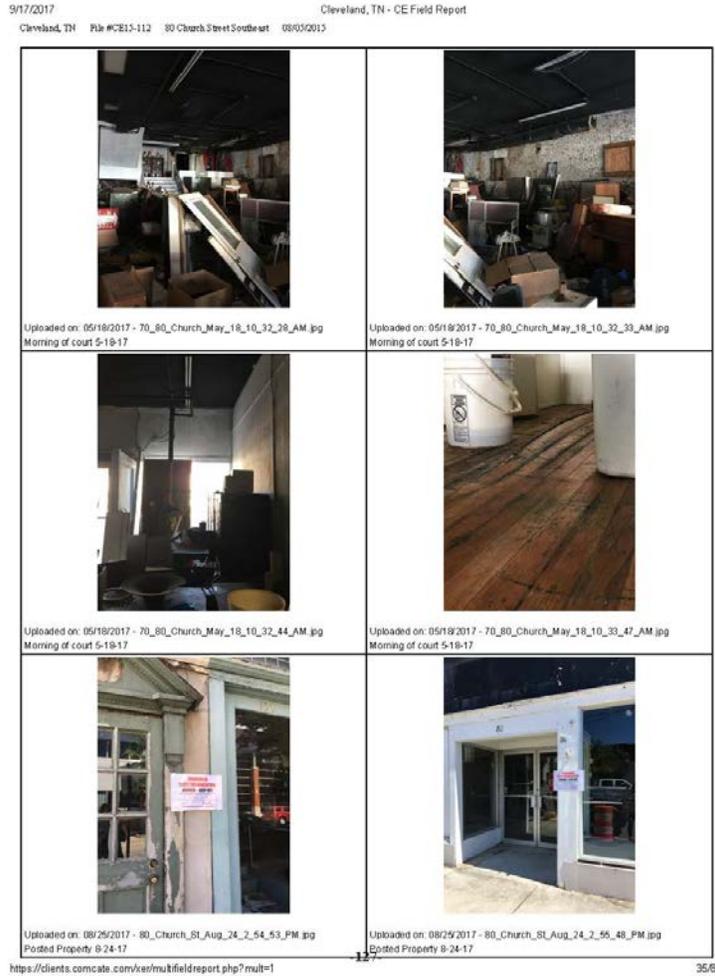
Cleveland, TN - CE Field Report

CASE FIELD REPORT					Assigned To:	CE15-112
Cleveland, TN/ Code Enforcement					Turner, Bryan	
Location of Violation:		80 Church Street Southeast Cleveland, TN 37311		APN#		
CDBG NO	Custom Location Field Property Type: Commercial		Custom Field Structure Type: commercial building Parcel ID#: 049MD D 019.00			
Open Violation(s) Building - Condemnation: No Repair Possible					Code Section 13-305 (2)	
Entry Date	Note Action Date	Type	Officer	Note/Activity		
09/17/2017	2017-09-17	Note	Turner, Bryan	I received a text at 5:59 on Wednesday, 9/13/17 from Corey Dival, City Planner, alerting me that the side door to this building was laying in the sidewalk and the building was wide open. I went back to the building at about 6:30, and with the assistance of Public Works, the door was picked up off the sidewalk, put back into place, and screwed to the door frame so it can't fall again. While I was there I found signs of continued deterioration, including additional panes of glass that appear to be about to fall out of the building. I documented this with photographs, and then I closed the sidewalk along the side of the building, in addition to the already closed portion along the front of the building. There are now windows on the second story on both of the street facing facades that appear they are going to fall. In addition, I observed water intrusion into the wall of the building, leaking out of the header above the door that had fallen. It is my opinion that the facades of this building are unstable, and keeping the sidewalk closed before something more permanent can be done is necessary. BT		
09/05/2017	2017-09-05	Note	Turner, Bryan	Constable Runyon served the notice on Mr. Williams today.		
08/30/2017	2017-08-30	Note	Turner, Bryan	After appeal deadline is up (Wednesday 9/20/2017) need to file a new NoC as no repair possible with the RoD		
08/30/2017	-	Violation	Turner, Bryan	Added: Building - Condemnation: No Repair Possible		
08/29/2017	2017-08-29	Note	Turner, Bryan	No work has been completed as requested in the letter from 8/17/17, delivered to Joe V. Williams by direct service from Constable Runyon. The status of the building is changed to Condemnation No Repair Possible. Send new notice via certified and regular mail. He will have 20 days (to Wednesday 9/20/17) to appeal and 60 days to purchase demo permit (until Tuesday 10/31/17) and complete demo. This notice to be served by Constable Brent Runyon.		
08/29/2017	2017-08-28	Note	Turner, Bryan	Adam and I walked up to the building to see if any work had been completed. Nothing apparent has been done.		
08/25/2017	2017-08-24	Note	Turner, Bryan	Posted property today. The signs had been removed when work was being performed.		
08/17/2017	2017-08-17	Note	Turner, Bryan	Wrote a letter today giving Joe V. Williams 10 days upon receipt to begin major work to stabilize the structure or it will be condemned for demolition. The letter is to be hand delivered by Constable Brent Runyon. He will pick up tomorrow afternoon.		
08/17/2017	-	Case	Turner, Bryan	Case Status changed to Building: 1st Notice of Violation Issued		
08/16/2017	2017-08-16	Note	Turner, Bryan	Bryan was notified today that an upper story window had fallen out of the building, crashing to the sidewalk. The section of sidewalk affected has been closed and roped off. Bryan is reassessing the case.		
07/24/2017	2017-07-24	Note	Turner, Bryan	The contractor (Raines Bros) had a representative there for court today. He tried to explain to the judge they were pulling off the project due (all of Joe V's projects) due to non-payment. Judge Painter explained he didn't care who finished the work, but the \$50 a day fine was ongoing until this is completed. He continued the case until 9/21/17.		
07/13/2017	2017-07-13	Note	Turner, Bryan	Bryan received an email from Raines Bros on June 10th that they were going to finish the roof at this location but they were not going to complete anymore work for Joe V. Williams as he owes them over \$150,000 at this time. They do plan to come to court next week.		
06/15/2017	2017-06-15	Note	Turner, Bryan	Judge imposed \$50 per day fine beginning tomorrow and will be added daily until we have inspected and released the building.		
05/18/2017	2017-05-18	Note	Turner, Bryan	Court today. Judge Painter continued the case until 6/15/17. He advised Mr. Williams he must be complete with the structural stability of the building by the 6/15/17 court date. If not, the judge will impose the remedial fine of \$50 a day to the case.		
03/16/2017	2017-03-16	Note	Turner, Bryan	Joe V. did appear for court. Judge Painter has extended this case for 60 days. He wants us back in court on 5/18/17 with current photos to document the progress. I need to provide those to Kim Bivens on Tuesday, 5/16/17, for her to get them to Judge Painter.		
03/15/2017	2017-03-15	Note	Turner, Bryan	Raines Brothers purchased the permit today.		
03/14/2017	2017-03-13	Note	Turner, Bryan	There was a dumpster placed in front of the building yesterday. While talking to the gentlemen who work for Raines Brothers Construction doing the work at Joe V's 633 N Occree St property, they indicated they were doing the work at 80 Church ST as well. I informed them there were not valid permits on either location. They stated someone from Raines Brothers would come to the office tomorrow to obtain the required permits.		
03/08/2017	2017-03-02	Note	Turner, Bryan	Bryan spoke with a gentleman from Raines Brothers Construction. No one from their office had called our office to approve the issuance of a building permit. Joe V. Williams (owner) had brought a check to our office for the permit amount sometime back. He was going to pay for the permit for the contractor. We had the check on file. When we have contractor information on file, we frequently issue permits over the phone. Someone called representing they were from Raines Brothers Construction and stated they needed to get the permit for this particular job. The check was applied and the permit was issued. We have email confirmation from Raines Brothers stating they did not make that call and had not entered into contract with Mr. Williams as of 3-2-17 to do the work. The permit was voided. We are now back to violation of non-compliance, no permits for work issued, and nothing done on property.		
03/03/2017	2017-03-03	Note	Turner, Bryan	Filed the Notice of Condemnation with the Register of Deeds 3-3-17. They will have the certified copy ready to pick up by Monday 3-6-17. I will mail a copy to the owner (reg and certified mail per John Kimball).		
03/02/2017	2017-03-02	Note	Turner, Bryan	Mailing citation to Joe V. Williams via certified and regular mail. Court date of 3-16-17 at 2:30pm.		
02/16/2017	2017-02-16	Note	Turner, Bryan	Permit obtained 2-16-17		
02/06/2017	2017-02-06	Note	Turner, Bryan	Just spoke with Joe V. Williams on the phone and asked why permit has not been purchased. He has now missed two deadlines for when he said he would have the permit purchased. The project was approved for permit on 1/6/17. He said that he is no longer located only in Cleveland, and was traveling back and forth. I explained that his contractor is the one who needs to purchase the permit so it wasn't necessary that he be in town for it to be issued. He then explained that he was trying to meet with Andy Smith, who is performing the historic survey on the property and that work couldn't begin before that survey. I explained again that we needed to see the permit issued to show that this project was progressing. Joe said that he would have to have work started on this project in February. I explained that the 1 year condemnation mark would be approaching in May and that the project would need to have enough completed to remove the condemnation status by then. I am following up with a letter to that effect. BT		
01/06/2017	2017-01-06	Note	Turner, Bryan	Talked to architect on phone. Drawings still current. Will approve permit to be issued today. BT		
01/06/2017	2017-01-06	Note	Turner, Bryan	We received the requested architectural drawings for permitting. One outstanding questions about the date on the drawings. Once resolved, can issue permit. BT		
11/28/2016	2016-11-28	Note	Turner, Bryan	Letter mailed to Joe V. Williams per council request		
11/15/2016	2016-11-15	Note	Turner, Bryan	Joe V. Williams came to the City Council meeting yesterday. It was agreed that he would have a plan of action, complete with a permit application submitted for my review, prior to the City Council meeting on December 12. Council made a request that we follow up with a letter that includes the minutes from the meeting so there is a clear understanding of what needs to be accomplished.		
06/06/2016	2016-06-06	Note	Turner, Bryan	Joe V. Williams came in today to discuss the requirements for the properties once again. Bryan informed him once again he needed the following for both buildings: 1. Licensed Contractor 2. Letter from structural engineer on how to make the necessary repairs 3. Architectural shell plans to apply for building permit (each building is over 5,000sq ft. 4. Obtain building permit Once he has a specific tenant for the properties he can submit an upfit plan for that use. He had a contractor lined up but they have since decided to forgo this project. He is meeting with someone from Raines Brothers today. He is aware that we have posted the buildings as condemned to deter the public from entering. He has the buildings vacant and secure and realizes they are required to remain so until construction begins.		
06/02/2016	2016-06-02	Note	Turner, Bryan	Property still vacant and secured. There is some debris in the front. There is evidence that some of the building exterior has come away from the wall and fallen. Also there are windows on the upper floors that show signs of deterioration and the window sills have rotted and are giving way causing a potential hazard for passersby. I don't have a form letter for this but will send something to Joe V. Williams alerting him of this hazard.		
05/11/2016	2016-05-11	Note	Turner, Bryan	The structure is now vacant and secure. We will monitor to insure it remains that way. If any repairs are proposed to be made to the structure to make it habitable, we will require the engineer's report and the required permits.		
03/15/2016	2016-03-14	Note	Turner, Bryan	Had meeting with Joe V. Williams. We have the engineer report for the property (uploaded). I am emailing him to confirm what we discussed. I will attach email.		
03/07/2016	-	Case	Turner, Bryan	Case Status changed to Building: Verbal Warning Issued		
03/07/2016	2016-03-07	Note	Turner, Bryan	I received a complaint from the fire inspector for this property in February. He was performing his annual inspection and had concerns for the structural integrity of the building. He stated that he does not feel comfortable sending the firemen in to the building in an emergency event due to its current condition. I spoke with Joe V. Williams, the owner, this morning. He has had a structural engineer evaluate the building and will provide me with his report no later than Wednesday, 3/9/16. He said he either intends to repair the building or move out. I do not know what the structural engineer said at this time, but will read the report this week.		
11/17/2015	-	Case	Johnson, Allen Officer	Case Status changed to On Hold: Not a priority		
11/17/2015	-	Violation	Johnson, Allen Officer	Change violation status from: Open to: Closed		
11/17/2015	2015-12-17	Note	Johnson, Allen Officer	spoke with Bryan Turner about this and will be giving Mr. Williams 30 days to turn in a submittal for Bldg. repairs and get what permits he needs. if not done Turner will inspect the Building. I called Mr. Williams and advised him of this.		
10/08/2015	2015-10-08	Note	Johnson, Allen Officer	Spoke with the owner, Mr. Williams about the situation. he has an architect coming in to make plans for renovations. Also has a contractor and roofing company lined up with. Mr. Williams said he will be getting permits for this work, he is just waiting for a crew to come in and replace the air systems before the work can start. We will continue to work with Mr. Williams and extend this for another 30 days to see that work is being done.		
09/17/2015	-	Violation	Duncan, Laura	Added: Building - Condemnation: Repair Possible		
09/17/2015	-	Case	Duncan, Laura	Initial Case Status 1st Notice of Violation Given		
08/05/2015	-	Case	Duncan, Laura	Case Opened (Created)		
Follow-up		10/31/2017	Voluntary demo complete?			
INVESTIGATION:						









Councilman Banks continued by suggesting, since this property is in litigation, maybe we should suggest to Mr. Williams we should mediate this, get the parties together and see if there is a middle ground, bring in an investor or if he'd like to sell the building.

Councilman Cassada stated he would like to add a motion for the Opioid Summit at the Museum at 12:00 on November 8 to hear Mr. Crump speak about some resources that might be able to help the fight.

Councilman May asked about the drainage project on Oak Street next to Deer Park. Mr. Myers stated they hope to finish by the end of October, depending on the weather. He continued they are getting the water out from under two houses that were built on top of an old culvert system, which is falling in.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution No: 2017-66** – Council consideration of the purchase of the former Cherokee Hotel.

RESOLUTION NO. 2017-66

WHEREAS, as a part of the re-development of the downtown area, the City of Cleveland has been considering the possible acquisition of the real property where the former Cherokee Hotel was located, which is the same property where the Cleveland Summit Apartments are currently located; and

WHEREAS, the property is currently owned by the Cleveland Senior Housing Corporation and is generally identified as 44 Inman Street, Tax I.D. Number 049M-V-003.00; and

WHEREAS, the City has received the attached proposed purchase and sale agreement from the current owner of the property; and

WHEREAS, the City Council has reviewed the proposed purchase and sale agreement, and now desires to accept the proposed purchase and sale agreement, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached purchase and sale agreement with the Cleveland Senior Housing Corporation for the purchase of the property described herein, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland. [on file in the City Clerk’s Office.]

This 25th day of September, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Resolution No: 2017-66 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, Councilmen May, Estes, Hughes, Banks, Cassada and Vice Mayor Johnson voted aye. Councilman McKenzie voted no. The motion passed 6:1.

The following Resolution was then presented in full:

- **Resolution No: 2017-67** – Authorizing the Mayor to sign a new lease agreement with the Cleveland Amateur Radio Club.

RESOLUTION NO. 2017-67

WHEREAS, by Resolution 2012-112 passed on November 13, 2012, the City of Cleveland and the Cleveland Amateur Radio Club entered into a 20-year Lease Agreement for a tract of land on Johnson Boulevard; and

WHEREAS, the Cleveland Amateur Radio Club has approached the City about the possibility of the City conveying the leased property to the Cleveland Amateur Radio Club; and

WHEREAS, after looking at various options, the City of Cleveland and the Cleveland Amateur Radio Club now desire to enter into a new lease agreement for a 40-year lease term which will replace the existing 20-year lease between the parties; and

WHEREAS, the City Council desires to approve of this new lease and to authorize the Mayor to execute the new lease agreement on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the new lease agreement with the Cleveland Amateur Radio Club.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the lease agreement on behalf of the City of Cleveland.

This 25th day of September, 2017

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Banks moved that Resolution No: 2017-67 be accepted as presented. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance No: 2017-50** – Rezoning .46 acres from PI Professional Institutional to R2 Low Density Single and Multi-Family for a property located at 3010 Henderson Ave NW (Planning Commission: Approved 8-0; 1 member absent).

ZONING ORDINANCE NO: 2017-50

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from PI Professional Institutional Zoning District to R2 Low Density Single and Multi-Family Residential Zoning District.

Approximately .46 acres, more or less, located on Henderson Ave as shown on the attached map.

For reference, see lots 1a through 2c of Henderson Place Townhomes plat prepared b Brown Surveying and being shown in Exhibit B.

And as being described more accurately in Exhibit C.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A



NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled:

Section 1. That Title 15, Chapter 1, Section 15-134 (7) of the Cleveland Municipal Code is hereby amended to read as follows:

15-134(7).

A violation of this section shall be punishable by a fine of thirty dollars (\$30.00) for a first offense. A second or subsequent violation of this section shall be punishable by a fine of Fifty Dollars (\$50.00).

Section 2. This Ordinance shall become effective upon final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Cassada moved that Ordinance No: 2017-51 be voted for passage on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Councilman Estes moved to name the park at the old Blythe Ave School as Blythe Oldfield Park. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

Councilman Banks moved to reappoint Verrill Norwood to the Airport Authority for an additional five-year term to expire September 25, 2022 and that Ben Chandler fill any vacancies on the Board if anything becomes available. Also, that Mr. Kimball draft an ordinance for consideration expanding the Airport Authority to 7 members so Mr. Chandler can be appointed and get to work. The motion was seconded by Councilman Cassada. Councilman Cassada then stated he felt a Councilperson or Mayor should sit on the Airport Authority. Councilman Banks agreed and if the board is expanded to 7 members then one of the appointments should be the Mayor or Councilmember. Mayor Rowland expressed interest on being on the Board. Upon roll call the motion unanimously passed.

Councilman Cassada moved that the Opioid Summit be held on November 8 at 12:00 at the Museum Center, which will include the 10th Judicial Drug Task Force. He asked the Mayor to extend an invitation to local law enforcement agencies, Bradley County, Larry Wallace and anyone else he feels would benefit listening to Mr. Crump. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

Mayor Rowland reminded everyone the City's 175th Celebration will be held on November 5 at the Greenway Park from 2-5 p.m.

City Offices will be closed on Monday, October 9 in observation of Columbus Day. The next City Council meeting will be held on Monday, October 23.

There being no future business the meeting was adjourned at 3:33 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MEET IN A REGULAR SESSION THIS MONDAY, OCTOBER 9, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

The Mayor and City Council were absent due to Columbus Day Holiday.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, OCTOBER 23, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Pettit, Director of Parks and Recreation; Fire Chief Ron Harrison; Jeff Davis, Personnel Director, Executive Secretary Beverley Lindsey; Kris Miller, IT Director; Sue Zius, Assistant to the Mayor/Legislative Liaison; Brian Moran, Social Media Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; Gary Farlow and Doug Berry with the Chamber of Commerce; Verrill Norwood, Airport Authority Member; Sharon Marr with Mainstreet Cleveland; Charlotte Peak; Paul Rice; Mark Anderson; Phillip McManus; Kelvin Page; Lake Mantooth; Jeff McWhitter; Chad Dean; Max Phillips; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Pastor Kelvin Page with Westmore Church of God, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on September 25, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a resolution to annex about 5.1 acres located at Michigan Avenue Rd and Foxfire Dr NE and a resolution to adopt a Plan of Service for the annexation area. Mayor Rowland asked if anyone would like to speak in favor of the annexation and plan of service. Attorney Travis Henry stated he represents the property owner Phillip McManus and this is a unique property where the front two acres are in the city and the back five acres are in the county. Originally, the developer asked for an R2 zoning but concerns from the Foxfire Subdivision residents. After meeting with the residents, hearing their concerns and trying to accommodate them, his client changed his request that the property be brought into the city zoned as R1. Mayor Rowland then asked if anyone would like to speak in opposition of the annexation and plan of service. No one spoke. Mayor Rowland declared the public hearing to be closed.

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning the zoning of about 5.1 acres located at Michigan Ave Rd and Foxfire Rd NE from the unincorporated county to R1 Single Family Residential Zoning District. Mayor Rowland asked if anyone would like to speak in favor of the zoning. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition to the zoning. No one spoke. Mayor Rowland declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the following items on the consent agenda.

- **Final Passage - Zoning Ordinance No: 2017-50** – heretofore approved on first reading September 25, 2017 and found in Minute Book 28, Page 629; rezoning .46 acres from PI Professional Institutional to R2 Low Density Single and Multi-Family for a property located at 3010 Henderson Ave NW (Planning Commission: Approved 8-0; 1 member absent).
- **Final Passage - Ordinance No: 2017-51** – heretofore approved on first reading September 25, 2017 and found in Minute Book 28, Page 629; amending Title 15, Chapter 1, Section 15-134(7) of the Municipal Code relative to wearing of seat belts and to provide an increased fine from \$25 to \$30 for a first offense as mandated by State Law.
- **Resolution No: 2017-68** – Authorizing the Mayor to sign a supplemental agreement with Passpointe Engineering for Ocoee Greenway Connector design work.

RESOLUTION NO. 2017-68

WHEREAS, the City of Cleveland and Passpointe Engineering, PLLC previously entered into a professional services agreement dated May 27, 2014 for Professional Engineering Services for the Ocoee Greenway Connector (Tinsley Park to Ocoee Street @ Ocoee Crossing); and

WHEREAS, the City Council approved Supplement #1 to this agreement by Resolution 2015-18 on March 9, 2015; and

WHEREAS, the City has recently received the attached Supplemental Agreement #2 to the agreement with Passpointe Engineering, PLLC, which would raise the total contract amount by \$1,827.21 to \$71,716.21; and

WHEREAS, based upon the recommendation of City staff, the City Council desires to approve of this Supplemental Agreement #2 and to further authorize the Mayor to execute the supplemental agreement #2 order on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached Supplemental Agreement #2 to the referenced agreement with Passpointe Engineering, PLLC, and it further authorizes the Mayor to execute the supplemental agreement on behalf of the City of Cleveland.

This 23rd day of October, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-69** - Authorizing a loan agreement in the principal amount of not to exceed \$430,000 for Water Facilities Project.

AUTHORIZING RESOLUTION NO: 2017-69

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the City of Cleveland is a public and governmental body in Cleveland, Tennessee (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a water facilities project, Department of Environment and Conservation Number DWF 2018-205 (the "Project"), in and for the Local Government; and

WHEREAS, Drinking Water Revolving Loan Fund Act of 1997, Tennessee Code Annotated, Sections 68-221-1201 et seq., provide for the lending of moneys in the water facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

Section 1. Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of FOUR HUNDRED THIRTY THOUSAND Dollars (\$430,000) by the obtaining of a Project Loan.

Section 2. The execution and delivery of the Application for a Project Loan in the principal amount of FOUR HUNDRED THIRTY THOUSAND Dollars (\$430,000) for the purpose of funding all or a portion of the total estimated cost of the Project ONE MILLION SIX HUNDRED TWENTY FIVE THOUSAND Dollars (\$1,625,000), by Tim Henderson, President and CEO of Cleveland UB of the Local Government, is hereby ratified and approved in all respects.

Section 3. The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved.

Section 4. The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

Section 5. The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

Section 6. The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the water system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

Section 7. The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

Section 8. The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

Section 9. The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

Section 10. The President and CEO of Cleveland UB of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments of supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

Section 11. All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this _____ day of _____, 2017.

Tom Rowland, Mayor

WITNESS:

(Affix Seal As Appropriate)

(Signature and Title)

- **Resolution No: 2017-70** –Authorizing the Mayor to sign a grant application for the 2018 TML Safety Partners Matching Driver Safety Grant (50/50; city match \$5,000).

RESOLUTION NO: 2017-70

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PARTICIPATE IN THE TML RISK MANAGEMENT POOL “DRIVER SAFETY” MATCHING GRANT PROGRAM

WHEREAS, the safety and well being of the employees and citizens of the City of Cleveland, Tennessee are of the greatest importance; and

WHEREAS, all efforts shall be made to provide a safe and hazard-free workplace and to increase safe driving practices for the City of Cleveland employees; and

WHEREAS, the TML Risk Management Pool seeks to encourage a safe workplace and safe operation of motor vehicles by offering the “Driver Safety” Matching Grant Program; and,

WHEREAS, the City of Cleveland previously participated in the program in prior years and now seeks to participate again in this important program.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, THAT:

The City of Cleveland is hereby authorized to submit an application for the above referenced program through the Loss Control Department of the Risk Management Pool for an award of \$5,000. The City agrees that if the award is obtained, matching funds in an amount not to exceed \$5,000 will be provided.

Adopted this 23rd day of October, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-71** – Authorizing the application for the Pool’s Property Conservation matching grant program (50/50; city match \$2,500).

RESOLUTION NO: 2017-71

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PARTICIPATE IN THE POOL’S “PROPERTY CONSERVATION” MATCHING GRANT PROGRAM

WHEREAS, the citizens of the City of Cleveland have entrusted this administration with the care and custody of city-owned property; and

WHEREAS, all efforts shall be made to protect city-owned property from various perils that may arise for the City of Cleveland; and

WHEREAS, The Pool seeks to encourage members with property coverage to develop and implement a property conservation program by offering the Property Conservation Matching Grant Program; and

WHEREAS, the City of Cleveland desires to participate in this important program.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, THAT:

The City of Cleveland is hereby authorized to submit an application for Property Conservation Matching Grant Program through the Loss Control Department of The Pool for an award of \$5,000. The City agrees that if the award is obtained, matching funds in an amount not to exceed \$5,000 will be provided.

Adopted this 23rd day of October, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Street Light Recommendation** – Larry Csehil at 1572 Redwood Drive NE (Cleveland Utilities recommends the addition of one 51-watt LED cobra fixture and tree trimming in the area, which will be conducted by City staff).
- **Street Light Recommendation** – Deborah Laughlin at the intersection of Blackburn Road and Midfield Circle SE (Cleveland Utilities recommends the addition of a 51-watt LED cobra fixtures at the intersection of Blackburn Road and Midfield Circle and also one at Midfield Circle and Scenic Drive SE).

- **Surplus Property** – Declaring a vehicle surplus property and to be sold on Govdeals.com for the Animal Control Department.

MEMO:

TO: MAYOR & CITY COUNCIL
FROM: Melinda Carroll
DATE: October 17, 2017
SUBJECT: SURPLUS VEHICLE

I respectfully request the City Council declare the following vehicle for Animal Control department surplus:

- 2001 – 1500 Chevrolet Silverado 4 x 4
VIN# 1GCEK14V92Z158024

This vehicle will be placed on Govdeals.com with a minimum bid of \$2,000.

Councilman Banks moved to approve the Consent Agenda. The motion was seconded by Councilman Hughes; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Banks stated leaf collection is upon us and Public Works would start. Mr. Myers replied currently, there is a truck running the route. We officially begin November 1. Councilman May inquired about the new equipment. Mr. Myers stated they received three new leaf machines and anticipate them doing well this season. Councilman Hughes asked about the guidelines for leaves. Mr. Myers stated if you put them on the street don't let them block traffic, don't put them near catch basins, which could stop the flow of water and put them as close to the street curb as possible.

Councilman Banks also asked for the link to Country Living magazine to be included in the minutes, which featured Cleveland as number 4 in its 15 Best Small Towns in Tennessee article. <http://www.countryliving.com/life/travel/g4881/best-small-towns-in-tennessee/?src=socialflowFB>

Councilman Estes thanked Mr. Myers for the work on Centenary Avenue for October 31 and again request to close Harle up to Willow to 14th Street. It makes the area safer for the Block Party. Also, the new flag pole being installed at Arnold School by the Historic Neighborhood Association looks great and encourages everyone to take a look. Councilman Banks stated Lee University has made a big contribution to the flag pole as well. Councilman Estes then reminded everyone that Saturday at 4:00 p.m. is the Blythe Oldfield dedication. They are expecting at least 1,000 people.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

RESOLUTION NO: 2017-72

**A RESOLUTION APPROVING A PLAN OF SERVICES FOR A PROPOSED
ANNEXATION OF TERRITORY INTO THE CITY OF CLEVELAND BY OWNER
CONSENT**

MICHIGAN AVE-FOXFIRE RD NE ANNEXATION AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries by owner consent; and

WHEREAS, a Plan of Services for the territory proposed for annexation by owner consent has been reviewed by the Cleveland Municipal Planning Commission; and

WHEREAS, the governing body desires to conduct a public hearing on the proposed annexation and plan of services;

NOW THEREFORE BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That a public hearing is hereby held at 3:00 pm on October 23, 2017 at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning in the eastern line of Michigan Avenue Road at the northwest corner of the lands of Phillip McManus, as recorded in BCROD deed book 1083 page 939; thence with the northern line of the lands of McManus in an easterly direction, 200 feet, to a point where the northern line of the lands of McManus intersects the existing City Limits, said point begin the true point of beginning; thence continuing with the northern line of the lands of McManus in an easterly direction, 490 feet, more or less, to the northwest corner of lot 4 of Foxfire Subdivision Section 1; thence following the westernmost lines of Lot 4, 3, 2, and 1 in the Foxfire Subdivision in a southwesterly direction, 552.51 feet, more or less, to the north line of Foxfire Road; thence with said line of Foxfire Road approximately North 64 degrees 3 minutes west, 374.52 feet to a point where the northern line of Foxfire Road intersects the existing City Limits; thence with the existing City Limits in a northerly direction 525 feet, more or less, to the true point of beginning.

B. That a copy of this Resolution shall also be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland.

C. That notice of the time and purpose of a public hearing on the proposed annexation by owner consent and the Plan of Services shall be published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing.

WHEREUPON, the Mayor declared the Resolution adopted, affixed a signature and the date thereto, and directed that the same be recorded.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk



SEPTEMBER 17, 2017
MICHIGAN AVE RD- FOXFIRE RD NE ANNEXATION ANALYSIS
PLAN OF SERVICE CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 5.0 acres located at the intersection of Michigan Ave Rd and Foxfire Rd NE as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2017.

This report begins with a brief overview of the annexation process and the report then turns to a proposed Plan of Services (POS) for the annexation area. The services described are those that would be necessary for the City to provide under Tennessee law. This area is proposed to receive city services in accordance with the POS.

Introduction

Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty nine square mile UGB that was based on a study of urbanization and service requirements in a fifty square mile urban fringe area. The UGB was amended in January 2010, expanding it near I-75 Exit 20 and in the vicinity of the new airport site near Dry Valley Road. Cleveland can annex property within its UGB by resolution.

PC 1101 Section 19 requires a "Plan of Services" (POS) prior to annexation and these services must include: police and fire protection; water, electrical and sanitary sewer services; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning services. Public Chapter 225 adopted by the Tennessee General Assembly and signed by Governor Bredesen on June 2, 2003, amended TCA 6-51-102 to include impact on school attendance zones.

This annexation would annex the remaining 5.0 acres of the parcel described as tax map 51 parcel 24.01. Approximately 2.4 acres is currently within the city and this annexation would result in the entire +/- 7.4 acres being within the corporate limits. The Plan of Services contemplates the impact of the area annexed as well as the impacts of the entire parcel being developed into a single family residential development.

Michigan Ave Rd and Foxfire Dr NE

Legal Description

Beginning in the eastern line of Michigan Avenue Road at the northwest corner of the lands of Phillip McManus, as recorded in BCROD deed book 1083 page 939; thence with the northern line of the lands of McManus in an easterly direction, 200 feet, to a point where the northern line of the lands of McManus intersects the existing City Limits, said point begin the true point of beginning; thence continuing with the northern line of the lands of McManus in an easterly direction, 490 feet, more or less, to the northwest corner of lot 4 of Foxfire Subdivision Section 1; thence following the westernmost lines of Lot 4, 3, 2, and 1 in the Foxfire Subdivision in a southwesterly direction, 552.51 feet, more or less, to the north line of Foxfire Road; thence with said line of Foxfire Road approximately North 64 degrees 3 minutes west, 374.52 feet to a point where the northern line of Foxfire Road intersects the existing City Limits; thence with the existing City Limits in a northerly direction 525 feet, more or less, to the true point of beginning.

Plan of Services

1. Police Protection

Patrolling, radio response to calls and other routine police services using the City’s personnel and equipment will be provided on the effective date of the annexation.

There is no additional cost expected from this annexation.

2. Fire Protection

This area would be serviced by Cleveland Fire Department Station 2 immediately upon annexation without increased cost to the Fire Department.

3. Domestic Water, Sanitary Sewer Service, and Fire Hydrants

This parcel is currently served by sanitary sewer, along Michigan Avenue, and water, along Michigan Avenue and Foxfire Rd. Therefore, Cleveland Utilities has met its obligation to serve the proposed annexation area.

A developer would have the option of constructing the gravity sanitary sewer or serving the development by the use of individual grinder pumps. In the use of individual grinder pumps, Cleveland Utilities would accept the operation and maintenance of the force main constructed in public right-of-way by the developer. The installation, operation, and maintenance of the individual grinder pumps would be the responsibility of the property owners.

4. Electric Service

The proposed annexation area is currently within the Cleveland Utilities electric service area. No improvements or costs are expected as a result of this annexation.

5. Public Works

A. Refuse Collection

- a. Current city policies regarding residential, commercial and industrial refuse will apply in all proposed areas per the terms of the City’s contract with Waste Connections of Tennessee, Inc.
- b. The City no longer provides curbside recycling and this service will not be provided in the proposed areas, unless the City Council initiates a program in the future.

B. Route Collection Services

- a. Current city policies regarding residential debris, brush, and white good collections will apply in all proposed areas and will begin at the time of annexation. Each residence will be included in the City's ten route collection system. No additional equipment or manpower will be needed at this time.
- b. The current city policies regarding residential leaf collection will be provided annually for a period of approximately three months and will apply in all proposed areas.

C. Street Repair and Maintenance

- a. Emergency maintenance of city streets (i.e. repairing hazardous potholes) within the proposed areas will begin at time of annexation.
- b. Routine maintenance of local streets in the proposed areas will be scheduled on the same basis as such maintenance in the rest of the City.
- c. Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such substantial improvements in the proposed areas (where identified as needed by the governing body) will be accomplished in accordance with the priorities and policies established for the entire city.
- d. It appears that no street name signs or street striping/painting is needed at this time for the proposed areas.

D. Stormwater and Drainage Services

No major drainage problems were identified in these areas. Emergency drainage maintenance (i.e. cleaning catch basins, unblocking tile, installing drainage tile and/or catch basins) within these areas will begin at time of annexation.

E. General Rights-of-Way Maintenance (i.e. street sweeping, snow removal)

- a. Current city policies for routine street sweeping will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.
- b. Current city policies for snow removal and salting will be scheduled on the same basis as in the rest of the City and will apply in all proposed areas.

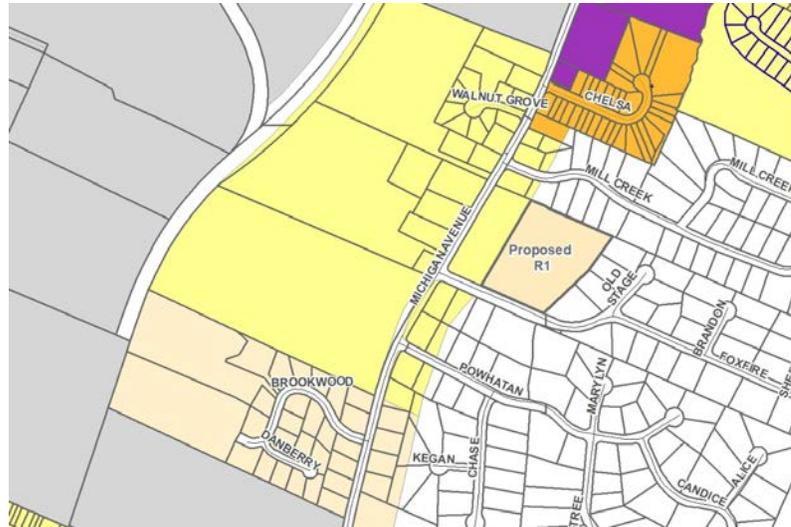
6. Schools

The annexation of this area would have marginal impacts on the City School system. If the entire site were to be developed to its maximum capacity and with the present rate of \$976.59 per pupil the total impact would be approximately \$4,394.66.

7. Planning and Zoning

A. The planning and zoning jurisdiction of the City will extend to the annexation areas upon the effective date of annexations and all municipal planning activities will encompass the needs of the annexed areas.

B. This property is currently zoned FAR Forestry/Agricultural/Residential in the unincorporated County. It is recommended the post-annexation zoning on this property be R1 Single Family Residential as is the property which is contiguous to this site.



- C. In the case of lots of record that are recorded prior to the effective date of annexation, if there are prevailing deed or subdivision restrictions on record, these deed or subdivision restrictions shall apply if in conflict with City zoning or subdivision regulations.

8. Animal Shelter

The City operates a full-time animal control program including an animal shelter. The Animal Shelter is located on Hill Street SE. Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

9. Voting Rights and City Elections

- A. If an eligible voter's permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.
- B. If an eligible voter is in the category of a property rights voter then that voter must register at the Election Commission Office prior to voting in a City election.
- C. This annexation will add approximately 0 residents to the 4th City Council District as it is currently used. If the additional 5 acres are developed to its R1 capacity, it would accommodate approximately 75 residents.

Revenue

The approximate property for the portion of this property currently located in the unincorporated County is 51,400. This would result in a total assessed value is **\$12,850**. The property tax generated from this area in its current condition would be about **\$226.87** a year.

The area is currently vacant and would not add any additional residents. In addition, there would be no stormwater fee associated with this property.

The approximate revenue generated because of this annexation at the time of annexation would be about **\$226.87**.

This amount is expected to increase significantly if it developed as expected as it could accommodate approximately 30 residential units. If 30 single family homes were developed, with an average value of \$150,000 per unit, on this site it would result in a total land and improvement value of \$4,500,000. The assessed value would be \$1,125,000 which would result in approximately **\$23,175** in annual property tax revenue.

Councilman Cassada moved that Resolution No: 2017-72 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed. Councilman May thanked the developer for working with the residents to find a good fit for the neighborhood.

The following Resolution was then presented in full:

RESOLUTION NO: 2017-73

**A RESOLUTION TO ANNEX CERTAIN TERRITORY UPON WRITTEN CONSENT
OF THE OWNERS AND TO INCORPORATE THE SAME WITHIN THE
BOUNDARIES OF THE CITY OF CLEVELAND, TENNESSEE**

MICHIGAN AVE RD-FOXFIRE DR NE AREA

WHEREAS, the City of Cleveland, having been petitioned by interested persons, proposes the extension of its corporate limits by the annexation of certain territory adjoining its existing boundaries and within its urban growth boundaries; and

WHEREAS, the owners of all property within the territory proposed for annexation have given their written consent by notarized petition so that a referendum is not required; and

WHEREAS, this Resolution was also published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the City of Cleveland, and by publishing notice of the Resolution at or about the same time in the Cleveland Daily Banner, a newspaper of general circulation in such territory and the City of Cleveland; and

WHEREAS, a Plan of Services for the area proposed for annexation is attached as *Exhibit A* hereto, which Plan of Services addresses the same services and timing of services as required in Tennessee Code Annotated § 6-51-102; and

WHEREAS, the proposed annexation and Plan of Services were submitted to the Cleveland Municipal Planning Commission for study, and it has recommended the same; and

WHEREAS, notice of the time and purpose of a public hearing on the proposed annexation and the Plan of Services was published in a newspaper of general circulation in the City of Cleveland not less than fifteen (15) days before the hearing, which notice included the locations of a minimum of three (3) copies of the Plan of Services for public inspection during all business hours from the date of notice until the public hearing; and

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on October 23, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City of Cleveland, Tennessee as follows:

A. That the following territory is hereby annexed and incorporated into boundaries of the City of Cleveland, to wit:

Beginning in the eastern line of Michigan Avenue Road at the northwest corner of the lands of Phillip McManus, as recorded in BCROD deed book 1083 page 939; thence with the northern line of the lands of McManus in an easterly direction, 200 feet, to a point where the northern line of the lands of McManus intersects the existing City Limits, said point begin the true point of beginning; thence continuing with the northern line of the lands of McManus in an easterly direction, 490 feet, more or less, to the northwest corner of lot 4 of Foxfire Subdivision Section 1; thence following the westernmost lines of Lot 4, 3, 2, and 1 in the Foxfire Subdivision in a southwesterly direction, 552.51 feet, more or less, to the north line of Foxfire Road; thence with said line of Foxfire Road approximately North 64 degrees 3 minutes west, 374.52 feet to a point where the northern line of Foxfire Road intersects the existing City Limits; thence with the existing City Limits in a northerly direction 525 feet, more or less, to the true point of beginning.

B. That the Plan of Services for this territory which is attached as *Exhibit A* hereto is approved and the same is hereby adopted. [on file in the City Clerk’s Office.]

C. That the City Clerk’s office will cause a copy of this Resolution to be forwarded to the Mayor of Bradley County including the Plan of Services.

D. That a copy of this Resolution shall be sent to the Tennessee Comptroller of the Treasury and the Bradley County Assessor of Property.

E. That a copy of this Resolution, as well as the portion of the Plan of Services related to emergency services and a detailed map of the annexed area, shall be sent to any affected emergency communication district.

WHEREUPON, the Mayor affixed a signature and date thereto and directed that the same be recorded.

EFFECTIVE DATE: Be it further resolved that this Resolution shall only become effective at the time of the final passage of the ordinance zoning the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Resolution No: 2017-73 be accepted as presented. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

RESOLUTION NO: 2017-74

WHEREAS, by Resolution 2008-37 passed on May 12, 2008, the City Council re-named a portion of 15th Street between North Ocoee Street and Parker Street NE as "Billy Graham Avenue" to honor the Reverend Doctor Billy Graham; and

WHEREAS, the City Council now desires to extend Billy Graham Avenue from Parker Street NE to Magnolia Avenue NE, and to re-name the section of 15th Street NE between Parker Street NE and Magnolia Avenue NE as Billy Graham Avenue; and

WHEREAS, Lee University is the owner of all of the parcels of land that adjoin the section of 15th Street between Parker Street NE and Magnolia Avenue NE, and Lee University is in support of this Resolution; and

WHEREAS, from and after the passage of this Resolution, Billy Graham Avenue will extend from North Ocoee Street to Magnolia Avenue NE.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Cleveland, in regular session assembled, that the City Council does hereby approve of the re-naming of 15th Street, NE, beginning at the intersection of Parker Street, NE and traveling in a generally easterly direction on 15th Street, NE to Magnolia Avenue NE.

BE IT FURTHER RESOLVED that from and after the passage of this Resolution, that Billy Graham Avenue shall extend from North Ocoee Street to Magnolia Avenue NE.

ADOPTED this 23rd day of October, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Vice Mayor Johnson moved that Resolution No: 2017-74 be accepted as presented. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed. Mayor Rowland stated the ceremony is set for November 7, which is Mr. Graham’s birthday. He will let everyone know when the time is set.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-52

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING TITLE 11, CHAPTER 2, SECTION 11-202(h) OF THE CLEVELAND MUNICIPAL CODE

WHEREAS, the Ocoee Region Builders Association presented a request to the City Council at its regular meeting that occurred on August 14, 2017; and

WHEREAS, the request was that the City Council consider an amendment to Title 11, Chapter 2, Section 11-202(h) of the Cleveland Municipal Code; and

WHEREAS, the City Council desires to amend this code section as requested by the Ocoee Region Builders Association.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled:

Section 1: Title 11, Chapter 2, Section 11-202 (h) of the Cleveland Municipal Code is hereby deleted in its entirety and replaced with the following language:

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 6:00 A.M. and 10:00 P.M. on week days during daylight savings time, and between the hours of 7:00 A.M. and 9:00 P.M. on week days when daylight savings time is not in effect, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues, not to exceed thirty (30) days.

If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 10:00 P.M. and 6:00 A.M. on week days during daylight savings time, or between the hours of 9:00 P.M. and 7:00 A.M. on week days when daylight savings time is not in effect, and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 10:00 P.M. and 6:00 A.M. on week days during daylight savings time or on week

days between the hours of 9:00 P.M. and 7:00 A.M. when daylight savings time is not in effect, upon application being made at the time the permit for the work is awarded or during the process of the work.

Section 2. This ordinance shall take effect from and after its final passage, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance No: 2017-52 be voted for passage on first reading. The motion was seconded by Councilman Estes. Upon roll call, Councilmen, May, Estes, Banks, McKenzie, Cassada and Hughes voted aye. Vice Mayor Johnson voted no.

Councilman Banks moved to pass Ordinance No: 2017-53; increasing the number of Airport Authority Members from five to seven until November 27, 2017. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed. Councilman May stated he feels the Mayor should be on the Board and we should be better connected. Mayor Rowland stated he would serve once the Ordinance was approved.

The following Zoning Ordinance was then presented in full:

ZONING ORDINANCE NO: 2017-54

AN ORDINANCE TO ZONE THE “MICHIGAN AVENUE-FOXFIRE RD NE ANNEXATION AREA” WITHIN THE CORPORATE BOUNDARIES OF CLEVELAND, TENNESSEE

WHEREAS, a public hearing before this body was held on the 23rd day of October, 2017 and a notice thereof published in the *Cleveland Daily Banner* on October 8, 2017; and

WHEREAS, a Plan of Service, including a zoning plan consistent with this ordinance, for this property was adopted by Resolution 2017-72; and,

WHEREAS, this property was annexed by Resolution 2017-73; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, zoned from FAR Forestry/Agricultural/Residential within the unincorporated County to R1 Single Family Residential Zoning District within the corporate limits of the City of Cleveland.

Section 2. The property shown in Exhibit “A” and shall be zoned in accordance with the legal description described in Exhibit “B”, attached hereto and made a part hereof by reference, upon the effective date of this ordinance.

Section 3. Be it further ordained that this Ordinance shall take effect immediately on final reading the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A

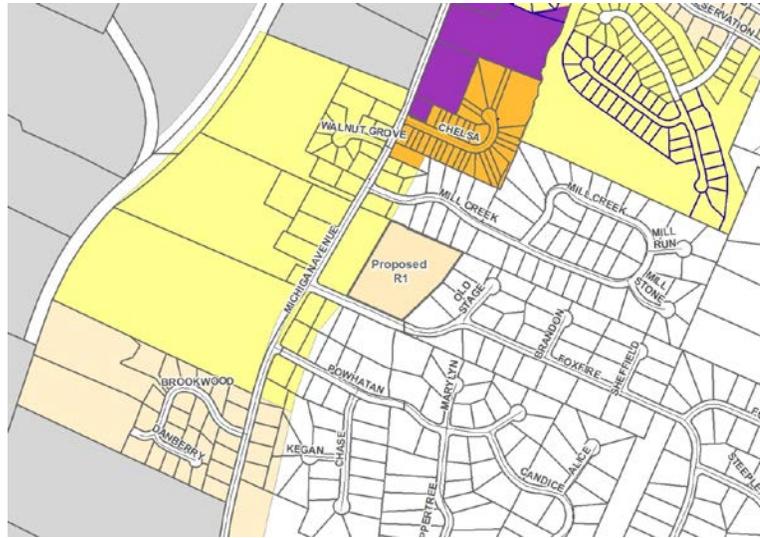


Exhibit B

Legal Description

Beginning in the eastern line of Michigan Avenue Road at the northwest corner of the lands of Phillip McManus, as recorded in BCROD deed book 1083 page 939; thence with the northern line of the lands of McManus in an easterly direction, 200 feet, to a point where the northern line of the lands of McManus intersects the existing City Limits, said point begin the true point of beginning; thence continuing with the northern line of the lands of McManus in an easterly direction, 490 feet, more or less, to the northwest corner of lot 4 of Foxfire Subdivision Section 1; thence following the westernmost lines of Lot 4, 3, 2, and 1 in the Foxfire Subdivision in a southwesterly direction, 552.51 feet, more or less, to the north line of Foxfire Road; thence with said line of Foxfire Road approximately North 64 degrees 3 minutes west, 374.52 feet to a point where the northern line of Foxfire Road intersects the existing City Limits; thence with the existing City Limits in a northerly direction 525 feet, more or less, to the true point of beginning.

Councilman Cassada moved that Zoning Ordinance No: 2017-54 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE NO: 2017-55

AN ORDINANCE OF THE CITY OF CLEVELAND AMENDING TITLE 12 OF THE CLEVELAND MUNICIPAL CODE TO ADD A NEW CHAPTER AND TO ADOPT THE INTERNATIONAL EXISTING BUILDING CODE, 2012 EDITION

WHEREAS it is necessary for the City of Cleveland to regulate and govern the repair, alteration, change of occupancy, additions to and relocation of existing buildings, including historic buildings, and

WHEREAS, the City Council desires to encourage the use and reuse of existing buildings that adequately protect public health, safety, welfare; provisions that do not necessarily increase construction costs; provisions that do not restrict the use of new materials, products or methods of construction; provisions that do not give preferential treatment of particular types or classes of materials, products, or methods of construction.

WHEREAS, the City Council desires to adopt an existing building code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled:

TITLE 12, CHAPTER 14: INTERNATIONAL EXISTING BUILDING CODE

Section 1.

12-1401: Adopted.

Pursuant to the authority granted by Tennessee Code Annotated 6-54-502, a certain document, a copy of which is on file in the office of the City Clerk, being marked and designated as the International Existing Building Code, 2012 edition, as published by the International Code Council, be and is hereby adopted as the Existing Building Code of the City of Cleveland, Tennessee for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as provided in said code; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Existing Building Code on file in the office of the City Clerk are hereby referred to, adopted, and made a part hereof, as is fully set out in this legislation, with the additions, insertions, deletions and changes prescribed below.

The following sections are hereby revised:

1. Section 101.1 Insert "City of Cleveland Tennessee" in (Name of Jurisdiction)
2. Section 1401.2 Insert "November 13, 2017" in (Date in One Location)

12-1402: Available in Clerk's Office:

Pursuant to the requirements of Tennessee Code Annotated 6-54-502, one (1) copy of the International Existing Building Code, 2012 edition, has been placed on file in the City Clerk's office and shall be kept there for the use and inspection of the public.

Section 2. This Ordinance shall become effective upon final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Banks moved that Ordinance No: 2017-55 be voted for passage on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

RESOLUTION NO. 2017-75

WHEREAS, the Bradley County Commission has recently approved a Series VII-P-1 Loan agreement dated 10/1/2017 for the purposes of, among other things, constructing, improving, renovating and equipping of County schools and school facilities; and

WHEREAS, in connection with this loan and the corresponding issuance of bonds, the County will cause 35.38% of each disbursement of bond proceeds, for a total of \$5,477,098.92, plus interest earned thereon, to be paid to the City in satisfaction of the legal requirements of Tennessee Code Annotated 12-10-115(c) and Tennessee Code Annotated 49-3-1103; and

WHEREAS, in connection with this loan agreement and the corresponding issuance of bonds, the County has provided the attached certificate to the City to be approved and executed by the City; and

WHEREAS, the City Council of the City of Cleveland desires to approve of the Certificate, and to authorize the Mayor to execute the same on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the certificate and authorize the Mayor to execute the same on behalf of the City.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Banks stated the funds, which the School Board has agreed will be used for the new Candy’s Cherokee Elementary School. Mayor Rowland stated correct. Councilman Estes moved that Resolution No: 2017-75 be approved as presented. The motion was seconded by Councilman May; and upon call, unanimously passed.

Councilman Cassada stated he would like to change his vote to a no for Ordinance No: 2017-52. Mayor Rowland stated you can change your vote on final reading at the next meeting.

Mr. Fivas stated a selection committee has been appointed to select a consultant for downtown design work and at the next meeting on November 13 we will have some of the narrowed down presentations for the Council to consider. Councilman Banks stated he received a call from Joe Stamper, who was on the committee, and he wanted to know if this was going to be the same, get a study and not follow through. Mr. Fivas stated you have a downtown masterplan and this will actually give you specific pictures of the corridor and much more focused so, as a Council, this is what you will use to move forward to implement changes.

Charlotte Jones stated she would like to thank Shawn McKay’s office for the great job on the city taxes and also, the monthly bank draft, which is incredibly helpful. She encouraged others to participate in the program.

City Offices will be closed on Friday, November 10 in observation of Veteran’s Day.

There being no future business the meeting was adjourned at 3:19 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, NOVEMBER 13, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Richard Banks. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Pettitt, Director of Parks and Recreation; Fire Chief Ron Harrison; Jeff Davis, Personnel Director, Executive Secretary Beverley Lindsey; Kris Miller, IT Director; Sue Zius, Assistant to the Mayor/Legislative Liaison; Brian Moran, Social Media Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; Gary Farlow and Doug Berry with the Chamber of Commerce; Verrill Norwood, Airport Authority Member; Sharon Marr with Mainstreet Cleveland; Dr. Russell Dyer; Hal Taylor; Johnny Cartwright; Sarah Coleman; Joe Taylor; Larry Presswood; Jeremy Quinc; Cathy Barrett; Alex Crawford; Martha Ledford; School Board Member Charlie Cogdill; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Avery Johnson, the following business was then entered into:

Mayor Rowland announced that the City Council would recess for 10 minutes.

Mayor Rowland then called the City Council meeting back into session at 3:10.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on October 23, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland stated today's meeting is being held as a public hearing to hear public comments concerning a request to abandon a portion of unopened right-of-way located between East St NE and Lang St NE. Mayor Rowland asked if anyone would like to speak in favor of the approval of the abandonment. No one spoke. Mayor Rowland asked if anyone would like to speak in opposition of the approval of the abandonment. No one spoke. Mayor Rowland declared the public hearing to be closed.

Dr. Russell Dyer updated the Council on the School's energy program with Energy Systems Group. The School Board approved a 5-year Capital Improvement Plan which outlines their marching orders to make sure the buildings and facilities are kept up and doing what they need to be to ensure the students have the best environment. The facilities group, led by Hal Taylor makes sure the facilities have what they need. Through the Department of Education, we are 19th of 141 school districts regarding energy consumption, so we do a good job maintaining our facilities. Their goals are to cut cost and focus resources in the classroom. Currently, there is a lot of old equipment in the schools that needs to be replaced like the HVAC and control systems and lighting system. The desire to go with a company like ESG, they can take care of the big ticket items for us that will allow Hal and his team to take care of these items. They are looking to identify a financial structure to allow improve in a budget neutral process based on real savings. Three options were presented to the School Board and after a review process, option B was approved. They are trying to enhance the building environment using their existing budget dollars and by doing that they will identify energy and operational savings. They want to

implement new technology and best practices with guaranteed sustainable results. Making sure they are where they need to be, maintenance wise, and do that in a way that will not break the bank and not have to ask the Council for additional funds. Hal Taylor then reviewed photos of equipment that have past it's useful life expectancy and detailed the scope of work for several of the schools, like HVAC units, boiler systems and cooling towers that are beyond repair and need replaced. Dr. Dyer stated they have met with Mr. Fivas and Mr. McKay regarding available options and have not finalized options at this point with ESG. Councilman Banks inquired about the financing. Dr. Dyer stated ESG does not finance. We look at banks options, which have several competitive fixed interest rates. Councilman Hughes asked about the age of Blythe Bower. Mr. Taylor stated it varies, late 1970's and early 1990's. The equipment is in pretty good shape but the controls don't handle humidity like we need. Councilman Hughes then asked it was their desire they do not have all the schools needing repair on a given year. Mr. Taylor replied yes. Mayor Rowland asked if we are purchasing or is it a lease agreement. Dr. Dyer stated it is considered to be a product we are purchasing through ESG. We are not leasing equipment. Councilman Estes stated he has received concerns about sales tax money paying for this and the savings coming out of operations, rather than this being paid by operations. He feels it is the right way to go, but paying for it out of sales tax revenue, there is a lot committed already and if an emergency arises you will be back before the City Council. He then asked to see where the sales tax revenue is committed over the next five years. Dr. Dyer stated he can provide the information. Their capital plan outlines the sales tax dollars and where they are going forward. Mr. McKay stated they have met and went through how the payments would be made and will be paid back by the Schools. They are not asking for any additional funding from us. They are comfortable with the savings and what was coming out of the sales tax fund. Dr. Dyer stated yes, they wanted to make sure funds were there in case of emergencies. Councilman Cassada asked how long was the term. Dr. Dyer stated 20 years, at a fixed rate of 2.958%. We want to save as much money as possible.

CONSENT AGENDA

Mayor Rowland reviewed the following items on the consent agenda.

- **Final Passage - Zoning Ordinance No: 2017-54** – heretofore approved on first reading on October 23, 2017 and found in Minute Book 28, Page 547; zoning of about 5.1 acres located at Michigan Ave Rd and Foxfire Rd NE from the unincorporated county to R1 Single Family Residential Zoning District (Planning Commission: Approved 8:0; 1 member absent).
- **Final Passage - Ordinance No: 2017-55** – heretofore approved on first reading on October 23, 2017 and found in Minute Book 28, Page 548; amending Title 12 of the Municipal Code to add a new Chapter and to adopt the International Existing Building Code, 2012 Edition.
- **Resolution No: 2017-76** – Authorizing the Mayor to sign a contract for mobile mapping and feature extraction services to provide survey data for design of specified transportation projects.

RESOLUTION NO: 2017-76

RESOLUTION TO AUTHORIZE A CONTRACT FOR MOBILE MAPPING AND FEATURE EXTRACTION SERVICES TO PROVIDE SURVEY DATA FOR DESIGN OF SPECIFIED TRANSPORTATION PROJECTS

WHEREAS, the City of Cleveland desires to obtain survey data for the design of several transportation projects and to obtain such data in a cost effective manner:

Adkisson Drive (Norman Chapel Road to Paul Huff Parkway)
Georgetown Road (Harrison Pike to 25th Street)
Peerless Road (Georgetown Road to Clingan Ridge Drive)
Dooley Street/Gaut Street NE (Wildwood Avenue to 6th Street NE)
Inman Street (Highland Avenue to East Street)
Peerless Road (south approach at Paul Huff Parkway)
20th Street NE (Shady Lane to 700' east of Old Tasso Road)
Michigan Avenue Road (Stuart Road to Benton Pike) ; and

WHEREAS, mobile mapping and feature extraction allows for a more economical process of obtaining a significant portion of the survey data needed for project design; and

WHEREAS, after review by the MPO and consultation with the Tennessee Department of Transportation (TDOT) concerning the expenditure of certain Federal Transit Administration funds available for use until December 31, 2017 to cover a portion of the costs for the contemplated mobile mapping and feature extraction services; and

WHEREAS, City staff followed a TDOT approved process in issuing and reviewing a Request for Proposals for the subject work, a process which included consideration of both technical qualifications and costs from four firms which submitted proposals, and staff has made a recommendation for the selection of the firm with the best score under this process; and

WHEREAS, a combination of Federal and local funds is available for the completion of the project but time is of the essence in completing the project due to the expiring of the Federal funds availability on December 31, 2017,

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

1. Pending final TDOT approval of the procurement, City staff is authorized to negotiate and the Mayor is authorized to sign a contract with GRW, Inc. Of Lexington, KY, and related documents for mobile mapping and data extraction services needed for transportation project design on the above described projects in an amount not to exceed seventy thousand dollars and no cents (\$70,000.00), with the Federal Transit Administration funding anticipated to cover approximately \$33,500.00, more or less, of the costs.

Approved this 23rd day of October, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-77** – Authorizing the Mayor to sign contract amendment #1 with Cannon & Cannon for engineering services for the project at Central Avenue and Sidewalk Improvements.

RESOLUTION NO. 2017-77

WHEREAS, the City of Cleveland and Cannon & Cannon, Inc. previously entered into a professional services agreement dated October 13, 2014 for Professional Engineering Services for the project generally described as the Central Avenue Roadway and Sidewalk Improvements; and

WHEREAS, the City has recently received the attached proposed amendment #1 to the agreement with Cannon & Cannon, Inc., which would raise the total contract amount by \$29,000 to \$110,750.00; and

WHEREAS, based upon the recommendation of City staff, the City Council desires to approve of this amendment and to further authorize the Mayor to execute the amendment on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached amendment #1 to the referenced agreement with Cannon & Cannon, Inc., and it further authorizes the Mayor to execute the amendment on behalf of the City of Cleveland.

This 13th day of November, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-78** - Authorizing the Mayor to sign an agreement with Collier Engineering Company, Inc. for engineering services for the design and construction of a substandard bridge crossing on 20th Street NE.

RESOLUTION NO. 2017-78

WHEREAS, the City engineering department has determined that it is necessary to replace a bridge crossing on 20th Street NE over Little Chatata Creek (hereafter "the Project") to be funded under the High Priority Bridge Replacement Program (HPBRP) per the TDOT Bridge Grant Program Guidelines; and

WHEREAS, in connection with said project, the City desires to enter into the attached professional engineering services agreement with Collier Engineering Company, Inc.; and

WHEREAS, the City Council has reviewed the proposed agreement, and now desires to accept the proposed agreement with Collier Engineering Company, Inc. for the referenced project, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with Collier Engineering Company, Inc. for the referenced project described herein, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 13th day of November, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-79** – Approving a Memorandum of Understanding with Cleveland City School pertaining to the School Resource Officer Program.

RESOLUTION NO: 2017-79

WHEREAS, Cleveland City Schools and the Cleveland Police Department have jointly prepared a Memorandum of Understanding for the School Resource Officer Program; and

WHEREAS, the Memorandum of Understanding is attached to this Resolution; and

WHEREAS, the City Council of the City of Cleveland desires to approve said Memorandum of Understanding in order to continue this important program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, that the City Council hereby approves of the attached Memorandum of Understanding for the School Resource Officer Program.

This 13th day of November, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-80** – Authorizing the Mayor to sign an agreement with Ragan Smith Associates in connection with the Gaut Street Multi-modal project.

RESOLUTION NO. 2017-80

WHEREAS, in connection with the Gaut Street Multi-modal project, the City desires to enter into the attached agreement with Ragan Smith Associates; and

WHEREAS, the City Council has reviewed the proposed agreement, and now desires to accept the proposed agreement with Ragan Smith Associates for the referenced project, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with Ragan Smith Associates for the referenced project described herein, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 13th day of November, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Hughes moved to approve the Consent Agenda. The motion was seconded by Councilman Cassada; and upon roll call, the motion to approve the consent agenda unanimously passed. Councilman Estes asked for the timeframe on the Gaut Street sidewalk extension. Greg Thomas stated currently it is about a 3-year timeframe.

UNFINISHED BUSINESS

Councilman May moved that Ordinance No: 2017-52 be voted on final reading; heretofore passed on first reading October 23, 2017 and found in Minute Book 28, Page 546; amending Title 11, Chapter 2, Section 11-202(h) of the Municipal Code pertaining to hours for building operations. The motion was seconded by Councilman McKenzie. Councilman Cassada stated he has had numerous discussions concerning this amendment and feels the work needs to be done and should extend hours when in a crisis but not all the time. Once we start the process it could roll into other things. Councilman Banks stated he has spoken with many people and agrees it could be a problem. He asked if we could implement this be in effect for one-year and see how it works. Mr. Kimball stated we could add a provision but would require two readings. If you see problems develop you can amend the ordinance anytime. Councilman Estes stated he doesn't like the specific morning hour and the evening hour is okay. He then offered a substitute motion that the Ordinance be amended that the morning hours be changed to sunrise. The substitute motion was seconded by Councilman May; upon roll call, Councilmen Estes, May, Hughes, Banks and Vice Mayor Johnson voted aye. Councilman McKenzie and Councilman Cassada voted no. The motion passed 5:2.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Vice Mayor Johnson stated he feels that if we are to really improve Inman Street area, we need to address the low underpass. Mayor Rowland stated it has been raised a few inches and has been dug down as low as it can be due to underground springs and not sure what else could be done. Vice Mayor Johnson continued he appreciates the City Schools efforts in energy savings and was curious to know if any other school system changed their school schedules to conserve energy. Dr. Dyer stated he wasn't sure but could check on obtaining a list.

Councilman Estes stated he would like to see how much City School has saved by using geothermal over the years. He does feel their plan is a good decision going forward. Dr. Dyer stated it is a substantial savings. Councilman Estes then asked what time is the Blythe Oldfield dedication on Saturday. Mayor Rowland replied 3:00. Lastly, Councilman Estes inquired about an update on 20th Street sidewalk project. Mr. Jobe stated TDOT has approved the right-of-way but not given us a notice to proceed and we have started the title work for the easements. Councilman Estes asked that when the notice to proceed is received a press release be issued to make the community aware of the project. He then suggested Taylor's Springs be tied to the Greenway.

Councilman Cassada thanked Parks & Recreation for their work at Exit 25. He then inquired about the pickleball courts at Deer Park. Mr. Fivas stated currently there is a decent amount of work happening in the area of Deer Park, making improvements. Brian Moran has found a grant that should pay for the courts and some fitness equipment. Councilman Cassada then asked if a traffic count could be conducted on Villa Drive, Freewill Road and Candies Lane. He has concerns when the construction begins on Hwy 60 most of the traffic will be diverted to Candies Lane and Harrison Pike. He would like to see what could be done now instead of waiting. Vice Mayor Johnson stated the morning school traffic is lined up along Georgetown Road. Councilman Cassada continued and asked if the City has a policy for employees using cellphones while driving city-owned vehicles. Mr. Fivas stated no, not at this time but it would be referred to the HR Committee. Lastly, he feels Deer Park, Tinsley Park and Blythe Oldfield Park are great parks but he would like to see a possible park in the Candies Lane and Freewill Road area. It would be good for community events in the area. Vice Mayor Johnson stated he received numerous concerns about parking for the walking path around the mitigation site on Candies Lane. Mr. Fivas stated there has been some conversation of possible land donation for parking and staff will work to contact the owners for an update.

Councilman May reported at the corner of Oak and 21st Street it appears a drainage tile has collapsed.

Councilman Hughes inquired about the status of the Welcome to Cleveland sign at Exit 25. Mr. Fivas stated we issued a notice for bids on the sign but no bids were received for the project. We are in the process of revising the design and will send it out for rebids. Councilman Hughes stated he was proud of the Jetport progress and proud of Mark Fidler for all his work there as well. Also, Lee University had their Homecoming over the weekend and he thoroughly enjoyed the Teacher of the Year award, which Karen Winters was the recipient. He thanked Councilman Estes for his work on a great program.

Councilman Banks suggested everyone to go by the tower at Lee University after dark to enjoy the lighting. Someone did a great job. Also, he thanked Bradley County for their commitment of \$100,000 to the Taylor's Springs project, by using the hotel/motel tax, which will be paid \$20,000 per year. Councilman Banks then moved to ask City Staff to define the scope of work for the downtown consultant and bring something back so we can hit the ground running by March 15. The motion was seconded by Councilman May. Councilman Banks suggested each Councilmember meet with the staff point person on the project to give their ideas and suggestion for the scope of work. He then stated Inman Street is not very attractive and feels from Keith Street to the bypass, with low money and staff, we need to dress up and clean up Inman Street. The project does not need to stop at the railroad tracts. Mr. Fivas stated he was anticipating February 1 to have a scope of work ready. Councilman Banks amended his motion to February 1. Councilman May seconded the amendment and upon roll call, the motion unanimously passed.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

ORDINANCE NO. 2017-56

WHEREAS the owner(s) of all parcels of land fronting on or having their access from the section of City of Cleveland right-of-way described herein, those parcels and owners being identified in the records of Bradley County, Tennessee, have requested that the City of Cleveland abandon its right-of-way in the aforementioned section of right-of-way; and

WHEREAS the need for the subject right-of-way has been reviewed, including the need for any utility easements that were identified by the responsible utilities; and

WHEREAS the proposed right-of-way abandonment has been reviewed and approved by the Cleveland Municipal Planning Commission; and

WHEREAS the proposed right-of-way abandonment has been properly posted and advertised and the procedural requirements of Section 16-123 of the Cleveland Municipal Code for the abandonment of city rights-of-way have otherwise been met; and

WHEREAS the City Council has determined that it is appropriate to approve the requested right-of-way abandonment identified herein, subject to any easements for utilities and/or other conditions as identified herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

1. DESCRIPTION RIGHT-OF-WAY TO BE ABANDONED: Subject to the retention of utility easements and/or any other conditions described in Section 2 below, the City of Cleveland, Tennessee intends to and does hereby abandon its public right-of-way interest in the following section of right-of-way:

Beginning at an iron pin located at the northwest corner of the lands of the Trustees of the Pleasant Grove Missionary Baptist Church, as recorded in BCROD deed book 391 page 995, said point being located in the eastern right of way of East Street; thence south 65 degrees 12 minutes 00 seconds east, 200 feet to an iron pin; thence South 65 degrees 12 minutes 00 seconds east, 70.45 feet to an iron pin; thence north 22 degrees 53 minutes 24 seconds to an iron pin; thence north 65 degrees 12 minutes 00 seconds west, 204.18 feet to an iron pin; thence north 65 degrees 12 minutes 00 seconds west, 65 feet to a point, said point being located at the southwest corner of the lands of the Trustees of the Pleasant Grove Missionary Baptist Church, as recorded in BCROD deed book 364 page 362, said point being located in the eastern right of way of East Street; thence south 25 degrees 32 minutes 25 seconds west, 14 feet to the point of beginning.

2. AREA TO BE ZONED: The area hereby abandoned shall be understood as zoned in the same zoning district as the adjoining zone extending to the centerline of the abandoned right-of-way.

3. CONFLICTS AND SEVERABILITY: All ordinances in conflict herewith are repealed to the extent of said conflict. In the event that any part of this ordinance is ruled to be unlawful by a court of competent jurisdiction, all other parts of the ordinance shall remain in full force and effect.

4. EFFECTIVE DATE: this ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit A

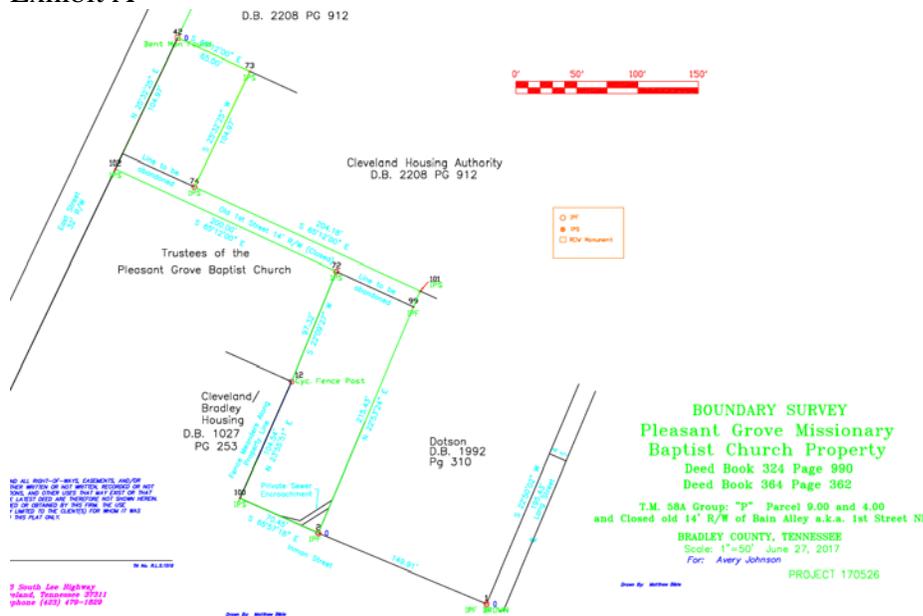


Exhibit B



Councilman Estes moved that Ordinance No: 2017-56 be approved on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

Councilman May moved that the bid report for the Tinsley Park Tennis Complex Renovation, recommending Baseline Sports Construction, LLC with a total bid of \$990,550.00 be accepted as presented. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

Mayor Rowland announced City offices would be closed on Thursday and Friday, November 23-24 for the Thanksgiving Holiday.

There being no future business the meeting was adjourned at 4:19 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, NOVEMBER 27, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., and Richard Banks. Councilman Dale Hughes was absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Fire Chief Ron Harrison; Jeff Davis, Personnel Director, Executive Secretary Beverley Lindsey; Sue Zius, Assistant to the Mayor/Legislative Liaison; Brian Moran, Social Media Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; Gary Farlow with the Chamber of Commerce; Joe Davis; District Attorney Steve Crump; Carl Lansden; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by General Steve Crump, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on November 13, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

CONSENT AGENDA

Mayor Rowland reviewed the following items on the consent agenda.

- **Final Passage - Ordinance No: 2017-56** – heretofore passed on first reading November 13, 2017 and found in Minute Book 28, Page 546; abandoning a portion of unopened right-of-way located between East St NE and Lang St NE.
- **Resolution No: 2017-81** – Authorizing the Mayor to sign an agreement with Terra Running Company for the 2018 Cleveland Recycle 5K.

RESOLUTION NO. 2017-81

WHEREAS, the City has received the attached proposal and agreement from Terra Running Company for event management and timing for the 2018 Cleveland Recycles 5K to be held on June 9, 2018; and

WHEREAS, the City Council has reviewed the proposal and agreement and now desires to accept the proposal and to enter into the attached agreement with Terra Running Company, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby accept the proposal and approve of the attached agreement with Terra Running Company, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 27th day of November, 2017

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Surplus Property** – Declaring a vehicle surplus property and to be sold on Govdeals.com for the Parks & Recreation Department.

MEMO:

TO: MAYOR & CITY COUNCIL
FROM: Melinda Carroll
DATE: November 17, 2017
SUBJECT: SURPLUS VEHICLE

I respectfully request the City Council declare the following vehicle from the Parks & Recreation department surplus:

- 1999 – Chevrolet K-1500
VIN# 2GCEK19V3X1169044

This vehicle will be placed on Govdeals.com with a minimum bid of \$1,000.

- **Street Light Recommendation** – Karen Patterson at 138 Emmyllie Court NE (Emmyllie Court was recently accepted as a city street and Cleveland Utilities will install two (2) 60-watt underground fed string lights).

Councilman May moved to approve the Consent Agenda. The motion was seconded by Councilman Banks; and upon roll call, the motion to approve the consent agenda unanimously passed. Councilman Estes declared he, personally, has a contract with Terra Running Company, which does not affect his vote.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Doug Berry addressed the City Council concerning a recommendation from the Industrial Development Board for a resolution to approve a 5-year, 32.5% discount on personal and real property taxes for an investment to be made by Bayer Healthcare. This is for an additional 32,000 sq. ft. office building in the first of three phases of investment of their existing facility. Phase two of the project will begin in late 2019 and phase three to begin in 2021. This is a potential investment of up to \$38 million once completed. It could lead up to new job creation but more importantly it stabilizes the 376 existing full-time employees, with a combined wage and benefit package of \$39 million a year.

Councilman May inquired about the south industrial park. Mr. Berry stated it is going well. He offered to bring a video to the next meeting to show the progress. The Industrial Development Board approved their first change order, which was a reduction of about \$300,000 on the original contract. The savings were then reinvested to prepare three additional pads to sell. They are still on the original schedule and looks like additional paving will be in the spring. They also intend to have all the pads and service on the roadway by mid-May.

Councilman Cassada asked how the PILOT impacted our tax base and our budget. Mr. Berry stated this is new investment and does not affect existing tax dollars. This is future revenue. Bayer Healthcare is currently paying the City \$331,789 in property taxes this tax cycle. The projected revenue is \$84,000 a year for the first 5-years and after that it would be \$128,000 of new revenue.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Estes thanked the City Staff that attended the Blythe Oldfield dedication. It was a long time coming. He then thanked the Historic Neighborhood Association and Lee University for the new flag pole at Arnold School. The school looks classy. Lastly, the Christmas parade, singing of the carols and so many other good things are happening soon and it is what makes our community great.

Councilman May inquired about the project on 15th Street near Deer Park. Mr. Myers stated depending on the weather, paving should begin next week. Councilman May thanked Mr. Myers for doing the project in-house, which saved money and time. Councilman Estes asked that a press release be issued concerning the upcoming work to Deer Park so the public will stay informed. Mayor Rowland and Councilman May both then thanked Mr. Myers for his revised system with the leaf/debris and sweeper routes.

Councilman Banks stated we only have one meeting in December and would like a report on the City Manager evaluations at that time. Also, someone has questioned the traffic signal at the Tom Rowland Interchange, headed northbound, there are green lights but no road there yet. It could be a safety hazard. Tad Bacon with Cleveland Utilities stated he would take and look to see what could be done.

Vice Mayor Johnson stated a citizen inquired about cameras on private property, pertaining to a recent vehicle break-in on their property. Does that need to be approved or are there any guidelines or restrictions someone would need to do first before installation? Chief Gibson stated camera systems are allowed on private property, if posted on their own property.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

RESOLUTION NO: 2017-82

A RESOLUTION APPROVING A PAYMENT-IN-LIEU-OF TAXES (PILOT) SCHEDULE

WHEREAS, the Industrial Development Board of the County of Bradley and the City of Cleveland, Tennessee (the "Board") recommends a Payment-In-Lieu-Of-Taxes ("PILOT") schedule for Bayer HealthCare LLC (hereinafter referred to as the "Company") to demonstrate the community's commitment to long-term partnerships with existing manufacturers and encourage the Company to make a major three-phase investment in existing manufacturing operations in Cleveland, Tennessee to upgrade the site to new Good Manufacturing Practices ("GMP") standards;

WHEREAS, the proposed investments include the addition of a new administrative and employee services building to separate administrative functions from production areas in Phase 1, the upgrade of existing production rooms in Phase 2, and the acquisition and installation of certain machinery and equipment to close liquids, ointments, and creams processes in Phase 3 with a potential combined investment of \$34,000,000 to \$38,000,000 through the calendar year 2021;

WHEREAS, the Project will further enhance the competitive position of Cleveland operations as it contends worldwide for new product lines in the Consumer Health Division of Bayer thereby protecting existing production, improving the opportunities for new product lines, and improving the working environment of 376 permanent employees receiving a combined annual payroll of approximately \$39.3 million and 126 temporary employees earning approximately \$3.7 million annually in support of seasonal production fluctuations;

WHEREAS, the Company has exhibited a continuing commitment to contribute to the betterment of the general community through the ongoing participation of company personnel and resources in programs such as the Michigan Avenue Elementary and Trousdale School BEST Partnerships, United Way, Habitat for Humanity Women Build Program, The Salvation Army, and First Responder Appreciation Programs, to name a few;

WHEREAS, the Company has requested that all real and personal property acquired in connection with the Phase 1 Project identified as Building 2 (collectively, the "Property") qualify for an arrangement (the "PILOT Arrangement") whereby the Property shall be exempt from all ad valorem property taxes otherwise due thereon (collectively, "property taxes"), and in lieu of the property taxes, the Company shall make annual payments in lieu of taxes equal to sixty-two and one-half percent (62.5%) of the property taxes otherwise due on the Property during the five-year tax assessment periods commencing on January 1, 2019 and ending on December 31, 2023;

WHEREAS, the Board and Company intend to request at future dates and by separate resolution that all real and personal property acquired in connection with the Phase 2 and Phase 3 Project components also qualify for similar PILOT arrangements;

WHEREAS, the Board has determined that, notwithstanding the PILOT Arrangement, the Project will result in the direct payment of taxes to Bradley County, Tennessee in an estimated amount of \$346,685 and the City of Cleveland, Tennessee in an estimated amount of \$418,035 over the same five-year period; and

WHEREAS, the City of Cleveland, Tennessee (the "City") has determined that the proposed PILOT Arrangement is fair, reasonable, and necessary for the continued economic development of the City of Cleveland and Bradley County.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee as follows:

Section 1. The City hereby agrees to the PILOT Arrangement and hereby delegates the power and authority to the Board to negotiate a PILOT agreement to reflect the parties' respective rights and obligations in accordance with the PILOT Arrangement.

Section 2. The City hereby authorizes the Mayor to execute any and all documents necessary for the successful completion of the Project, including but not limited to, all documents related to the PILOT Arrangement, and the City authorizes the Company to assign all of their respective rights, title and interest in and to the aforementioned documents and arrangements to a parent, subsidiary or affiliate of the Company without the prior written consent of the City, provided such assignee shall assume in writing all of the obligations of the Company under such assigned documents.

Section 3. This Resolution shall become effective upon its adoption.

Adopted this 27th day of November 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Vice Mayor Johnson moved that Resolution No: 2017-82 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

Councilman Estes stated we have reviewed several options concerning tax relief and tax freeze and would like to know other Council members feel about participating in matching what the State offers on tax relief. He feels we should to help elderly property owners who are on the program. Councilman May agreed. Vice Mayor Johnson also agreed. Mr. McKay stated if the existing participants qualified, to match the State will cost the city approximately \$57,000. The State determines who qualifies each year. Councilman Estes stated the state reimburses us and

this would be a hit on our revenue. Mr. McKay stated yes, it could potentially cost us \$57,498. He continued that we have an ordinance prepared if the Council would like to vote today. It follows the State's Tax Relief program and matches up to the State amount. It will not exceed the tax amount due. We have several that have already been approved and refunds will need to be issued. The following Ordinance was then presented in full:

ORDINANCE NO: 2017-57

WHEREAS the State of Tennessee has a Tax Relief Program which is codified at Tennessee Code Annotated 67-5-701 through 67-5-704; and

WHEREAS, Tennessee Code Annotated 67-5-701(j)(1) and (2) provide:

"(j)(1) The legislative bodies of counties, municipalities and metropolitan forms of government may, by act of the local legislative body, provide for the appropriation of funds for tax relief for elderly low-income homeowners as described in § 67-5-702, for disabled homeowners as described in § 67-5-703, and for disabled veterans as described in § 67-5-704; provided, that in no event shall the total relief allowed by the state and counties, municipalities or metropolitan forms of government exceed the total taxes actually paid.

(2) The ordinance authorized by subdivision (j)(1) shall include provisions that only those taxpayers who qualify under §§ 67-5-702 - 67-5-704 are eligible for such additional tax relief, and that the eligible taxpayers shall have previously applied for and obtained the relief authorized by § 67-5-702, § 67-5-703 or § 67-5-704"; and

WHEREAS, the City Council desires to pass this Ordinance to provide for the appropriation of City funds to supplement the amount of the tax relief that these eligible persons would receive from the State of Tennessee.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that:

SECTION 1. Cleveland Municipal Code, Title 5, Chapter 2, is hereby amended by adding the following new section:

Section 5-205. Tax Relief

Pursuant to the authority granted by Tennessee Code Annotated 67-5-701(j)(1), the City of Cleveland hereby appropriates public funds for the purpose of providing additional tax relief for those persons who qualify to receive tax relief from the State of Tennessee under the State of Tennessee's tax relief program.

Elderly low-income homeowners as described in Tennessee Code Annotated 67-5-702, disabled homeowners as described in Tennessee Code Annotated 67-5-703, and disabled veterans as described in Tennessee Code Annotated 67-5-704 will be eligible to receive additional tax relief from the City of Cleveland in an amount equal to the amount of tax relief provided by the State; provided, however, that in no event shall the total amount of tax relief allowed by the State and the City exceed the total taxes actually paid.

Only those taxpayers who qualify under Tennessee Code Annotated 67-5-702 through Tennessee Code Annotated 67-5-704 are eligible for such additional tax relief from the City, these eligible taxpayers must have previously applied for and obtained the relief authorized by Tennessee Code Annotated 67-5-702, or 67-5-703 or 67-5-704 in order to be eligible to receive this additional tax relief from the City.

Section 2. This Ordinance shall take effect immediately upon passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Councilman Estes moved that Ordinance No: 2017-57 be approved on first reading. The motion was seconded by Councilman Cassada; and upon roll call, the motion was unanimously passed. The Council was in agreement it was the right thing to do.

Councilman May moved to authorize the placement of a Bill Norwood, POW-Korea monument or marker in the First Street Square Park. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

Mayor Rowland announced City offices will be closed as follows:

- Monday, December 25 and Tuesday December 26 for the Christmas Holiday.
- Monday, January 1 and Tuesday, January 2 for the New Year's Holiday.

Councilman Cassada moved to excuse Councilman Hughes from today's meeting. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

There being no future business the meeting was adjourned at 3:30 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, DECEMBER 11, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Tom Rowland. Also present were Vice Mayor Avery Johnson, Councilmen Charlie McKenzie, Bill Estes, Tom Cassada, David May, Jr., and Richard Banks. Councilman Dale Hughes was absent from the meeting. Others in attendance according to the sign-in sheet were as follows: City Manager Joe Fivas; Assistant City Manager/CFO Shawn McKay; Assistant City Manager/Operations Melinda Carroll; City Attorney John Kimball; Christy Brandon, Support Services Manager; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Director of Public Works; Police Chief Mark Gibson; Mark Fidler, Jetport Director; Patti Petitt, Director of Parks and Recreation; Fire Chief Ron Harrison; Jeff Davis, Personnel Director, Executive Secretary Beverley Lindsey; Sue Zius, Assistant to the Mayor/Legislative Liaison; Brian Moran, Social Media Coordinator; Bethany McCoy with Lee University; City Reporter Randall Higgins; Tad Bacon with Cleveland Utilities; Gary Farlow with the Chamber of Commerce; Martha Ledford; Robert Gaylor; School Board Members Charlie Cogdill and Dawn Robinson; Doug Moore; Teresa Torbett, CDBG Coordinator; Julian Sullivan; Keith Barrett; Larry Bowers with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Representative Kevin Brooks, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on November 27, 2017 and approve them as written. The motion was seconded by Councilman May; and upon roll call the motion unanimously passed.

Councilman Cassada moved to excuse Councilman Hughes from today's meeting. The motion was seconded by Councilman Banks; and upon roll call, unanimously passed.

PRESENTATIONS, PETITIONS AND COMMUNICATIONS FROM MAIL

Mayor Rowland handed out Service Awards to several employees with twenty plus years of service. Mayor Rowland then thanked each employee for their dedicated service.

- 35 Years:
Tim Winder – Police
- 30 Years:
Gene Smith - Animal Control
Tony Brown - Public Works
Kim Spence – Administration
Steve Tyson – Police
- 25 Years:
Jeremy Noble - Police
Mike Harris - Police
Beverly Lindsey – Administration
Buddy Mitchell - Police
Susan Jerfie – Police
Bobby Gaylor - Fire
Jeff Griggs - Police
Teresa Torbett – DES
Jimmy Tatum - Recreation

- 20 Years:
 - Renada Skelton - Recreation
 - Chris McRoberts - Fire
 - Joe Greenleaf - Fire
 - Eric McAmis - Fire
 - Mark Gibson - Police
 - Mark Darnell - Police
 - Matt Jenkins - Police
 - John Milen - Police
 - Terry Pugh - Recreation

Councilman Banks declared the service weapon of Sergeant Mike Moses as surplus property effective upon the date of his retirement this year and hereby given to him as a token of the City's appreciation for his 29-years of dedicated service to the City of Cleveland's Police Department. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed. Sgt. Moses thanked everyone for their support over the last 29-years.

City Manager Joe Fivas announced the Fire Department Showcase will be held on December 12 from 6-7 p.m. He encouraged everyone to attend.

Mayor and City Council were presented a dedication plaque of the Blythe Oldfield Park. Mr Fivas thanked everyone, especially the Public Works employees, involved in the project. Councilman Estes thanked Public Works again for their work two-years ago on helping with the move of the Head Start Building, which made this park possible.

Mayor Rowland stated today's meeting is being held to hear public comments concerning a request to rezone 2.10 acres from R1 Single Family Residential Zoning District to R3 Multi-Family Residential Zoning District for a property located on Harrison Pike and Georgetown Rd (Tax Map 049K Group C Parcels 20.00, 21.00, 21.01, 22.00, 23.00). Mayor Rowland asked if anyone would like to speak in favor of the approval of the rezoning. No one spoke. Mayor Rowland then asked if anyone would like to speak in opposition to the approval of the rezoning. No one spoke. Mayor Rowland then declared the public hearing to be closed.

CONSENT AGENDA

Mayor Rowland reviewed the following items on the consent agenda.

- **Final Passage – Ordinance No: 2017-57** – heretofore approved on first reading November 27, 2017 and found in Minute Book 28, Page 664; providing additional tax relief for those persons who qualify to receive tax relief from the State of Tennessee under the State of Tennessee's tax relief program.
- **Resolution No: 2017-83** - Authorizing the Mayor to sign a contract with Cleveland Utilities concerning the firing range.

RESOLUTION NO. 2017-83

WHEREAS, by Resolution 2012-24 passed on 2/13/2012 the City Council approved an agreement between the City and CU relative to the City's use of CU Property for a firing range; and

WHEREAS, the agreement had a five-year term and is about to expire; and

WHEREAS, the City and CU desire to enter into a new agreement for another five-year term; and

WHEREAS, the new agreement is attached hereto and incorporated herein by reference; and

WHEREAS, the City Council desires to enter into the attached agreement with CU and to further authorize the Mayor to execute the agreement on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with CU, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 11th day of December, 2017.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-84** – Accepting the donation of property from RAK Properties, LLC located off Inverness Drive NW.

RESOLUTION NO: 2017-84

A RESOLUTION ACCEPTING A DONATION OF PROPERTY FROM RAK PROPERTIES, LLC

WHEREAS, RAK Properties LLC is the owner of a parcel of land located off Inverness Drive NW which is more specifically identified as Tax Map 041 Parcel 005.22, and

WHEREAS, RAK Properties LLC has graciously offered to donate this real property to the City of Cleveland with the exception of a small corner of the parcel which is part of the detention pond for the adjacent development; and

WHEREAS, the land to be donated to the City will be used for public benefit; and

WHEREAS, the proposed deed from RAK Properties LLC is attached hereto and incorporated herein by reference; and

WHEREAS, the City of Cleveland greatly appreciates the donor’s proposed gift to the City, and desires to accept the same; and

WHEREAS, once the property is donated to the City and a more formal plan is developed for the use of the property, City staff will work with the donor to make sure that appropriate signage is erected to recognize the gift.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cleveland, Tennessee does hereby accept the donation of the land described in the attached documents and it hereby extends its sincere appreciation to RAK Properties LLC for its gift to the City.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Resolution No: 2017-85** – Authorizing the submission of the 2017-2020 Special Litter Grant.

RESOLUTION NO: 2017-85

A RESOLUTION AUTHORIZING THE SUBMISSION OF THE 2017-2020 SPECIAL LITTER GRANT

WHEREAS, the State of Tennessee Department of Transportation is sponsoring competition for \$1,500,000 of grant funds for special litter and recycling projects that go beyond routine maintenance; and

WHEREAS, each winning proposal may be awarded a total of \$25,000 to \$200,000 in grant funds, which will be used to reimburse expenses on a quarterly basis for a maximum of three years; and

WHEREAS, the City Council of the City of Cleveland, Tennessee desires to authorize City staff to apply for the grant application, and authorize the Mayor to sign the same, as well as to execute any other documents which may be necessary to implement the grant if the same is awarded by the Tennessee Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland that the Mayor be and hereby is authorized to sign and submit this grant application with the State of Tennessee Department of Transportation on behalf of the City of Cleveland.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign any other documents or take any actions which may be necessary or appropriate to accept and implement the grant if the same is awarded to the City by the Tennessee Department of Transportation

Adopted this 11th day of December, 2017

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

- **Reappointment** – Housing Board of Adjustment and Appeals – Rick Butler for an additional 3-year term to expire October 2020.
- **Reappointment** – Board of Zoning Appeals – Ed Brown for an additional 3-year term to expire November 2020.
- **Reappointment** – Board of Zoning Appeals – Clint Taylor for an additional 3-year term to expire November 2020.
- **Reappointment** – Fletcher Park – Lisa Zius for an additional 3-year term to expire December 2020.
- **Reappointment** – Fletcher Park – Dewayne Bunch for an additional 3-year term to expire December 2020.

Councilman Cassada moved to approve the Consent Agenda. The motion was seconded by Councilman May; and upon roll call, the motion to approve the consent agenda unanimously passed.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Mayor Rowland announced he is reappointing Ken Melton to the Cleveland Board of Public Housing.

Councilman Estes stated Impact Cleveland recently became a Community Development Corporation beginning January 1, 2018 and will now be called City Fields. This will greatly affect the City going forward and as we discuss redevelopment, be on the lookout for their new name. Secondly, Lee University's graduation will Saturday, December 16 so there will be a bit more traffic in town. Lastly, he asked where did the name Deer Park come from. Councilman May replied live deer used to be kept there. Councilman Estes then asked if we could look at only two pickleball courts instead of four there at Deer Park, to add more greenspace. Ms. Carroll stated there have been community request for four. Councilman Estes was unsure about the need and felt two was plenty. Mr. Fivas replied they will take it under advisement.

Councilman Cassada thanked the City School Board for allowing them to visit the new elementary school site and showing them around.

Councilman May stated last week was the Employee Appreciation luncheon and it always feels like a family reunion. We have the best employees and it shows. He thanked all City Staff and wished everyone a Merry Christmas. Mayor Rowland thanked Ms. Carroll and her team for their work on the luncheon.

Councilman Banks thanked Julian Sullivan, Scott Taylor and the Bank of Cleveland Board for hosting the Mainstreet Party. It was well attended and lots of history was discussed. He appreciates Bank of Cleveland's efforts to preserve downtown Cleveland. He then stated he has received several compliments on the leaf collection done by Public Works. Councilman Banks continued by wishing everyone a Merry Christmas and announced he would not be seeking re-election. He has been here for 14 ½ years, which he feels is long enough and has enjoyed working with the Council and the Mayor. Cleveland is really blessed to have Mayor Rowland. We have accomplished a lot over the years and in the future months he would like to revisit a full no-kill animal shelter in Cleveland and also a Recycling Program.

Vice Mayor Johnson complimented the School System on receiving a 100 on their health report. Mayor Rowland stated we are ahead of the curve. Vice Mayor Johnson thanked everyone for their support and help during 2017. He then wished everyone a Merry Christmas.

Mayor Rowland stated Dustin Tommy was the right person at the right time for Impact Cleveland. He is a dedicated public servant.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

Zoning Ordinance No: 2017-58

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R1 Single-family Residential Zoning District to R3 Multi-Family Residential Zoning District.

Approximately 2.10 acres, more or less, located at Harrison Pk and Georgetown Rd as shown on the attached map.

For reference, see Book 2202 Page 684, Book 2252 Page362 and Book 2202 Page678 in the Register’s Office of Bradley County, Tennessee, and being shown on Tax Map 49k Group C Parcels 20.00, 21.00, 21.01, 22.00, 23.00 in the Assessor’s Office for Bradley County, Tennessee.

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk

Exhibit



Councilman May moved to deny passage of Ordinance No: 2017-57 on first reading. The motion was seconded by Councilman Estes; and upon roll call, the motion was unanimously passed.

Mayor Rowland announced City offices will be closed as follows:

- Monday, December 25 and Tuesday December 26 for the Christmas Holiday.
- Monday, January 1 and Tuesday, January 2 for the New Year’s Holiday.
- Next City Council meeting will be held on January 8, 2018.

There being no future business the meeting was adjourned at 3:28 p.m.

Mayor

City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MEET IN A REGULAR SESSION ON MONDAY, DECEMBER 25, 2017 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

The Mayor and City Council were absent due to the Christmas holiday.

Mayor

City Clerk