REGULAR SESSION
JANUARY 10, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JANUARY 10, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie. Others in attendance were: City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Dustin Roberts, IT Coordinator; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Doug Berry with the Chamber of Commerce; Jeremiah Million; Shawn McAmis; Zachary Reagan; Joy Fleming; Jim Davis; Philomena Davis; Tim Rader; Lake Mantooth and Tim Siniard 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 December 13, 2021 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 1.1 acres, more or less, located at 1300 25th St NW (Tax Map 41K Group C Parcel 10.00) from PI Professional Institutional Zoning District to CG General Commercial Zoning District (Planning Commission: Approved 7-0; 2 absent). Mayor Brooks asked if anyone would like to speak in favor of the rezoning request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 56.1 acres, more or less, located in the vicinity of Euclid Ave SE, King Edward Ave SE, 9th St SE, Cincinnati Ave SE, 4th St SE, 6th St SE, 8th St SE, Linden Ave SE and Mill St SE (Tax Map 57C N Parcel 2.00, Map 57D Group N Parcel 1.00, Map 57E Group A Parcels 1.00, 2.00 & 23.00, Map 57E Group B Parcels 12.00, 13.00, 20.00, 27.00, Map 57D Group P Parcels 2.00, 3.00, 3.01, 3.02, 6.00, Map 57D Group M Parcels 1.00, 4.00, 7.00, 7.01, Map 57D Group E Parcel 20.00, Map 57E Group G Parcel 2.00 & Map 57E Group H Parcel 1.00) from IH Heavy Industrial Zoning District to CBD Central Business Zoning District (Planning Commission: Approved 7-0; 2 absent). Mayor Brooks asked if anyone would like to speak in favor of the rezoning request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 13.00 acres, more or less, located on Cherokee Gateway Boulevard (a portion of Tax Map 56 Parcel 45.00) from CH Commercial Highway Zoning District to IL Light Industrial Zoning District (Planning Commission: Approved 7-0; 2 absent). Mayor Brooks asked if anyone would like to speak in favor of the rezoning request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning the zoning of about 100 acres located on Michigan Ave Rd & Wilkinson Rd NE from the unincorporated county to PUD32 Planned Unit Development Zoning District (Planning Commission: Approved 7-0; 2 absent). Mayor Brooks asked if anyone would like to speak in favor of the zoning request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the zoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

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

- **Resolution 2022-01** – Authorizing the Mayor to sign a contract with Volkert, Inc. for an updated traffic analysis in support of an Inman Street Road diet request to TDOT.

RESOLUTION 2022-01

RESOLUTION TO ENTER CONTRACT WITH VOLKERT, INC. TO UPDATE A TRAFFIC ANALYSIS IN SUPPORT OF CITY'S INMAN STREET ROAD DIET REQUEST TO TDOT

WHEREAS, the Tennessee Department of Transportation (TDOT) intends in coming months to re-surface portions of SR 74 including parts of Inman Street where a road diet is planned and the roadway re-striping following the re-surfacing could incorporate an interim design for certain road diet features; and

WHEREAS, whereas TDOT will consider such a road diet request with the submission of a re-striping plan by the City and an update of the traffic analysis originally performed by Volkert, Inc. in conjunction with a previous road diet grant application; and

WHEREAS, time is of the essence in completing the updated traffic analysis,

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

1. Staff are authorized to work with Volkert, Inc in finalizing the scope for an updated traffic analysis in support of a proposed Inman Street road diet.

2. The Mayor is authorized to sign a contract with Volkert, Inc. for an updated traffic analysis for the proposed Inman Street road diet in an amount not to exceed fifteen thousand dollars ($15,000).

Approved this 10th day of January, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-02** – Authorizing the Mayor to sign a contract amendment #2 with Ragan Smith for services related to the Gaut Street sidewalk improvement project.

RESOLUTION 2022-02

WHEREAS, in connection with the Gaut Street Area Sidewalks and Related Improvements project, (PIN 123116.01) the City desires to enter into the attached addendum #2 to the existing agreement with Ragan Smith Associates for this project; and

WHEREAS, the City Council has reviewed the proposed addendum #2 to the existing agreement, and now desires to accept the proposed addendum #2 to the existing 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 addendum #2 to the existing 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 10th day of January, 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Motion** – To modify the City's Promotion Pay Rate.

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **January 10, 2022**
RE: **Modification to Promotion Pay Rate**

SUMMARY:
For the past decade the City has had a policy to raise employee's compensation from a minimum 8.2% when they are promoted up one position. During the Compensation Study this promotion policy was recommended to be modified, by our consultants, to a pay increase of 5.0% for a one position promotion. Since this was adopted, we've had several discussions with Department Manager's about this policy, and they have recommended to reconsider this policy.

I am recommending to modify the Compensation Study completed this summer to move the promotion percentage back to the previous 'Promotion Policy' that is outlined in our current Personnel Manual on page 19. In looking at the totality of the situation, and balancing fairness and promotion equity issues, I believe this would be the best to make sure our pay standards don't suffer and that we remain competitive in the marketplace, and within our own organization.

Furthermore, I've been asked to address the status of our annual pay increases that are recommended by the City Manager and approved by the City Council. For the past, eight years the City has been able to give employee's an 3.5% step increase. My intent, as City Manager, is to continue this policy of a 3.5% increase recommendation, unless budgetary issues or cost of living dictate a higher or lower recommendation. 3.5% is our annual goal and we will do what we can to accomplish this goal on an annual basis.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
Limited financial impact to the City.

RECOMMENDATION:
City staff recommends changing the 5.0% promotion policy as approved in the compensation study for a pay increase to use the same 'Promotion' policy that is currently stated in our Personnel Manual.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilwoman McKenzie stated in reference to the tire dumping we are experiencing in Bradley County, in specifically District 1, she would like something to be done further on the State level. Mayor Brooks stated we have had multiple tire dumping sites in Cleveland and Bradley County. Discussions have taken place about the inability of law enforcement to act with strength based on the Tennessee Code Annotated and the lack of enforcement capability the Code gives local law enforcement both penalties as well as prosecution by the District Attorney. Councilwoman McKenzie has expressed she would like a resolution on the next agenda to send to Nashville requesting Representative Hall, Representative Howell, Senator Bell and Senator Gardenhire to look at and consider increasing the penalties for illegal tire dumping. Mayor Brooks has been told there is no difference between throwing out a hamburger wrapper and dumping a tire.

Councilman Estes asked that the Gaut Street sidewalk project include from College Hill to 3rd Street. He is excited to get the project started this summer. City Manager Joe Fivas agreed.

Councilman Cassada stated he would like to offer full support of Councilman May's request that Michigan Avenue Road be widened and made safer for our residents.

Councilman Hughes stated before the holidays several city departments gathered together and Councilman Webb, Councilwoman McKenzie and himself joined the festivities. It was a good chance to visit with employees. Secondly, he would like to see something happen with the tire dumping issue. Mr. Larry Armour probably has been hit harder than anyone with approximately 8,000-10,000 tires dumped on his property. The penalty is nothing for dumping tires.

Mayor Brooks thanked Councilman Estes for serving on the 100-year Anniversary Committee for the Cleveland Bradley County Public Library.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-01 –** Rezoning 1.1 acres, more or less, located at 1300 25th St NW (Tax Map 41K Group C Parcel 10.00) from PI Professional Institutional Zoning District to CG General Commercial Zoning District (Planning Commission: Approved 7-0; 2 absent).

ZONING ORDINANCE 2022-01

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 CG General Commercial District Zoning District.

Approximately 1.1 acres, more or less, located at 1300 25th St NW as shown on the attached map.

For reference, also being shown on Tax Map 41K Group C Parcel 10.00 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.

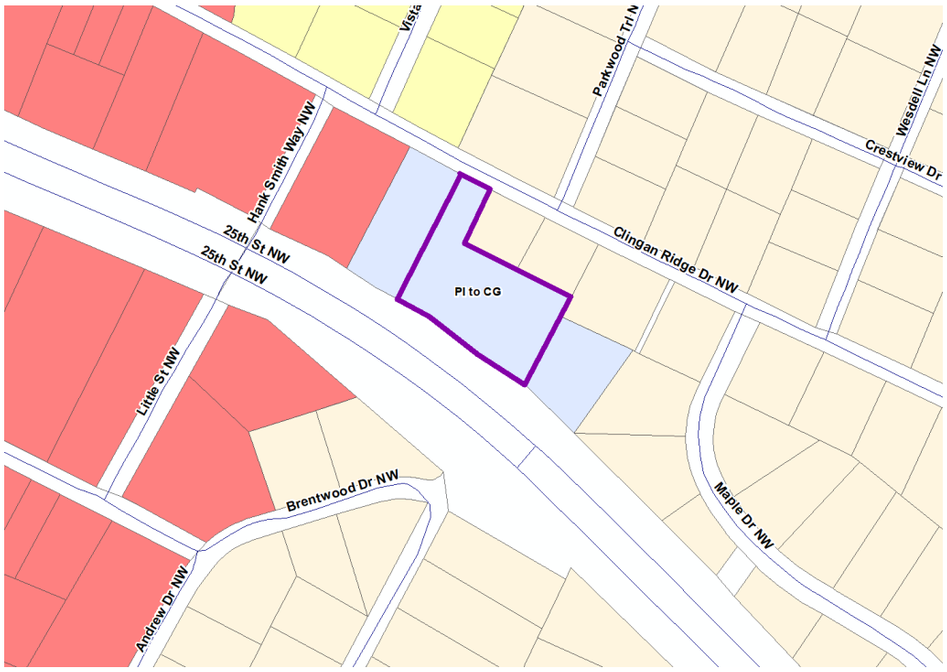
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit



Councilman May moved that Zoning Ordinance 2022-01 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-02 –** Rezoning 56.1 acres, more or less, located in the vicinity of Euclid Ave SE, King Edward Ave SE, 9th St SE, Cincinnati Ave SE, 4th St SE, 6th St SE, 8th St SE, Linden Ave SE and Mill St SE (Tax Map 57C N Parcel 2.00, Map 57D Group N Parcel 1.00, Map 57E Group A Parcels 1.00, 2.00 & 23.00, Map 57E Group B Parcels 12.00, 13.00, 20.00, 27.00, Map 57D Group P Parcels 2.00, 3.00, 3.01, 3.02, 6.00, Map 57D Group M Parcels 1.00, 4.00, 7.00, 7.01, Map 57D Group E Parcel 20.00, Map 57E Group G Parcel 2.00 & Map 57E Group H Parcel 1.00) from IH Heavy Industrial Zoning District to CBD Central Business Zoning District (Planning Commission: Approved 7-0; 2 absent).

ZONING ORDINANCE 2022-02

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 IH Heavy Industrial Zoning District to CBD Central Business District Zoning District.

> Approximately 62.4 acres, more or less, located in the vicinity of Euclid Ave SE, King Edward Ave SE, 9th St SE, Cincinnati Ave SE, 4th St SE, 6th St SE, 8th St SE, Linden Ave SE and Mill St SE
>
> For reference, more specifically being shown as Tax Map 57C N Parcel 2.00, Map 57D Group N Parcel 1.00, Map 57E Group A Parcels 1.00, 2.00 & 23.00, Map 57E Group B Parcels 12.00, 13.00, 20.00, 27.00, Map 57E Group C Parcel 13.00, Map 57D Group S Parcel 1.00, Map 57D Group P Parcels 2.00, 3.00, 3.01, 3.02, 6.00, Map 57D Group M Parcels 1.00, 4.00, 7.00, 7.01, Map 57D Group E Parcel 20.00, Map 57E Group G Parcel 2.00 & Map 57E Group H Parcel 1.00)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.

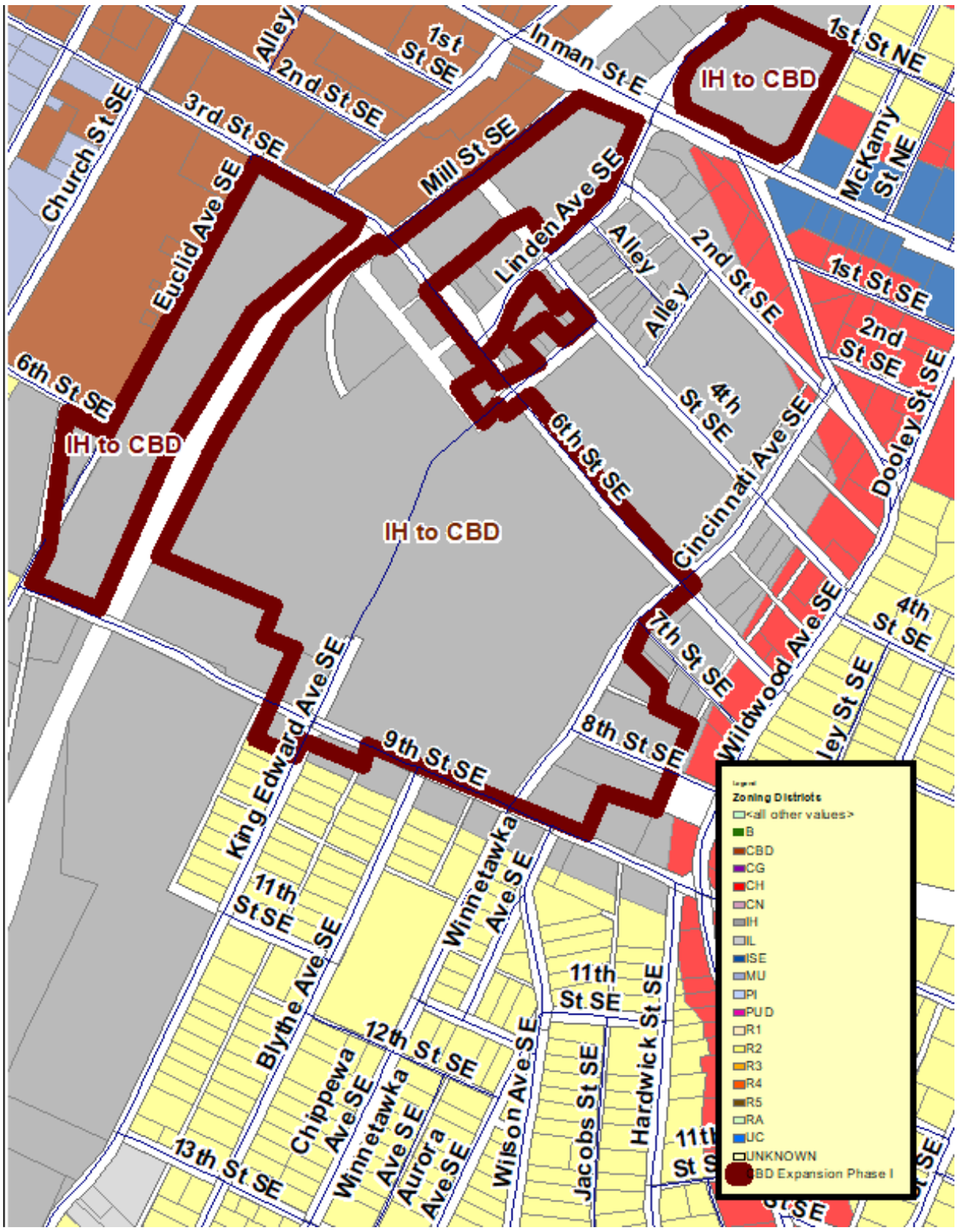
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

Exhibit



Councilwoman McKenzie moved that Zoning Ordinance 2022-02 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-03 –** Rezoning 13.00 acres, more or less, located on Cherokee Gateway Boulevard (a portion of Tax Map 56 Parcel 45.00) from CH Commercial Highway Zoning District to IL Light Industrial Zoning District (Planning Commission: Approved 7-0; 2 absent).

ZONING ORDINANCE 2022-03

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 PI Professional Institutional Zoning District to CG General Commercial District Zoning District.

Approximately 13.00acres, more or less, located on Cherokee Gateway Boulevard as shown on the attached exhibits.

For reference, also being shown as a portion of Tax Map 56 Parcel 45.00 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A

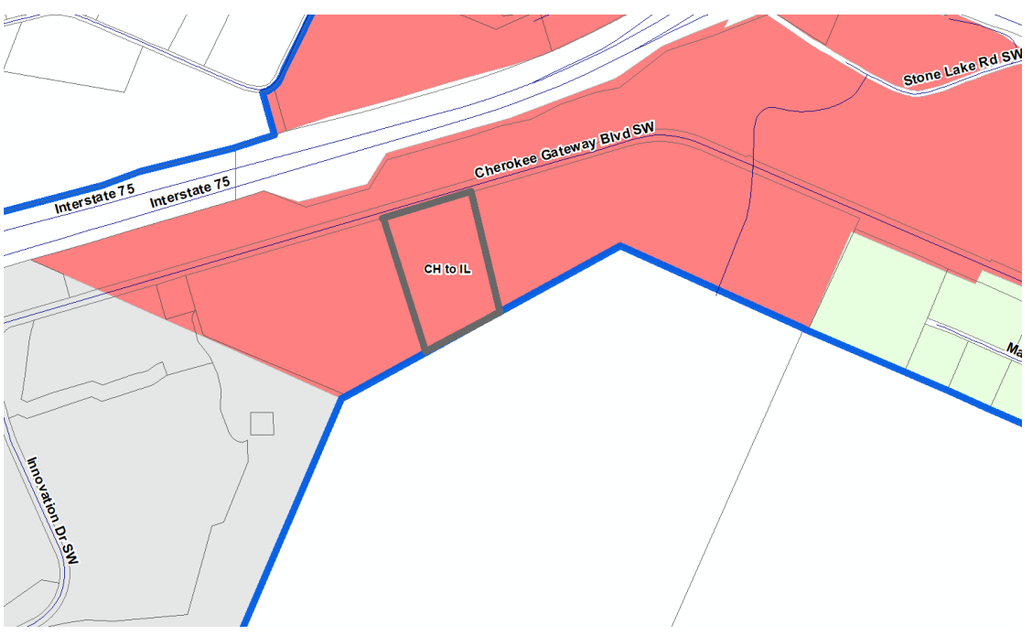


Exhibit B

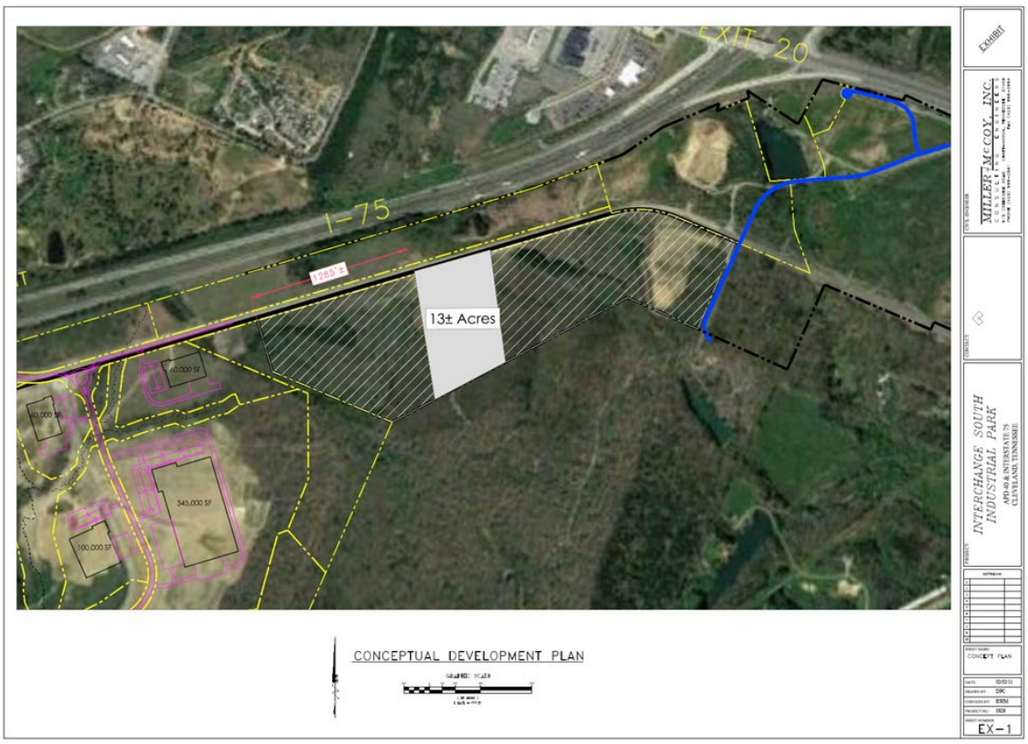


Exhibit C



Councilman Webb moved that Zoning Ordinance 2022-03 be approved on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-04 -** Zoning of about 100 acres located on Michigan Ave Rd and Wilkinson Rd NE from the unincorporated county to PUD32 Planned Unit Development Zoning District (Planning Commission: Approved 7-0; 2 absent).

ZONING ORDINANCE 2022-04

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 MICHIGAN AVE RD AND WILKINSON RD PROPERTY DEVELOPMENT "PUD 32" ON PROPERTY DESCRIBED AS A PORTION OF TAX MAP 43 PARCEL 12.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 32; 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 32" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 32 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 32 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 32, Michigan Ave Rd and Wilkinson Rd Property Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 43 a portion of Parcel 12.00. Exhibit C includes a survey of the PUD 32 boundary.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of the Michigan Ave Rd and Wilkinson Rd Property Development. The project is residential in nature and would allow a mixture of detached single-family homes on small lots and smaller number of attached single-family dwellings in multi-unit townhome structures. Lots for attached multi-unit townhome units may constitute no more than 25 percent of the overall subdivision lots within the greater development. Exhibit B shows the general location of developable areas however the exact infrastructure and common areas shall be determined through the preliminary plat process. In terms of total allowable density, the project shall not exceed one unit per 4000 square feet for lots containing single-family detached homes; two units per 7500 square feet; three units per 10,000 square feet, and four units per 12,500 square feet. The developer shall include common open space designed within the development, including any permanent retention or detention pond areas or landscaped common area equal to 10 percent of subdivision.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 32 Subdivision allows for the construction of up to 400 dwelling units in detached single family houses and multi-unit townhome structures with up to four 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 conceptual plan through the Cleveland Municipal Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 32 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. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 32 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 B) for PUD 32, Michigan Ave Rd and Wilkinson Rd Property Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on December 14, 2021. The conceptual plan consists of a site plan for the overall development however additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. The Conceptual Plan shows the general developable areas within the PUD 32 boundaries however the final development shall have fewer connections to existing public streets, more connectivity between development areas and the general layout shall be shown on a preliminary plat for the entire area to be reviewed and approved by Cleveland Municipal Planning Commission through the platting process. Plats for any multi-family residential units must be reviewed by the Planning Commission, however, any modification may not increase the total number of dwelling units beyond 400 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 site plans for The Michigan Ave Rd and Wilkinson Rd Property Development will 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 will include the width or alignment of streets, or the precise placement of buildings and proposed common areas and features. Connections from the subdivision to the existing public street network shall be limited to Wilkinson Rd and no driveway shall be connected to Michigan Ave Rd.

All streets within the PUD 32 Michigan Ave Rd and Wilkinson Rd Property Development shall be constructed with adequate ROW and curb to accommodate the installation of sidewalks on one side of the street, and the ROW shall be 40 feet wide. The developer will have three options to provide walking areas for the recreational benefit of the residents of the subdivision. The builders shall choose one of these three options. The first option is for the builder to construct sidewalks on one-side of the street for any stretch of continuous roadway that is over 500 linear feet. The second option is for the HOA to construct a paved walking path with the minimum linear length of 3500 feet in the recreational open space areas and a minimum width of five feet. This length also includes the paved pathway that connects the neighborhood to the actual open space areas. This paved pathway needs to be constructed when the neighborhood reaches 90% of the buildout of the platted lots, or have a bond in place with the City to secure the construction of these pathways. The builders will substantially fund this pathway when it creates the HOA. The third option is for the builder to make a payment to the City Sidewalk Fund of $3500.00 per every 100 linear feet of required sidewalk by City staff in option one at 75% of the build-out of the platted lots.

The developer shall dedicate 10 feet of right away along Wilkinson Road from Michigan Avenue to Brock Road. The subdivision is allowed three entrances onto Wilkinson Road, but the Planning Commission may provide a fourth entrance if there are demonstrated geographical hardships.

6.B. PLATS.

One or more plats will be prepared for the PUD 32 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. A preliminary plat shall be prepared for the entire development and not for individual phases. Final plat approval may be granted for the various phases within the PUD 32 development.

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 32 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 32 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.

Section 7.A. DEVELOPMENT STANDARDS

The development standards for PUD32 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. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions. 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. In 80% of the homes, all foundations and front facades must be 15% brick on stone on any street facing sides of residences. Not including any dormer or gables, the front façade of all structures shall be of brick, stone, premium vinyl, or cement fiber board materials. No blank walls along street elevations are allowed. One two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area.

All streets shall be serviced by sidewalks ROW within the subdivision, unless the linear length is reduced pertaining to the construction of walking trails. For school bus purposes, sidewalks shall be provided, where possible in compliance with Americans with Disability Act requirements, on one side of the street from the main entrances of the subdivision for 100 linear feet. All sidewalks must be 5 feet in width and separated from the street by a 3-foot grass strip. Any proposed sidewalks should be illustrated on all plats and site plans for review by city staff and any required for review by the Cleveland Municipal Planning Commission.

A monument style ground sign shall be installed at all entrances to the site. Open space shall be maintained at proportion no less than 15% of the total buildable area. Community facilities, such as a swimming pool with clubhouse, playground, walking trails, or other community area determined acceptable to the Planning Commission shall be provided by the HOA once 90% the buildable lots in the development are established or under construction. The plan shall show how all residents can ADA walking access to the walking trail area at a minimum of three locations. The area around any community clubhouse and pool must include a double buffer with a minimum 6' tall privacy fence. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners or an established homeowner's association.

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.B. Building Setbacks

The lot width requirements for single-family detached home sites is 75 feet (townhome sites shall comply with existing city townhome regulations for lot width) 85% of the lots and 50 feet for 15% of the lots, front setback requirements are 25 feet, side setback requirements are 7.5 feet, and rear setbacks shall be no less than 15' from the property line. 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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address.

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 PUD32

Michigan Ave Rd and Wilkinson Rd Property Development. 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 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 PUD32, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit B then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD32 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 4 Star LLC of 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 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A

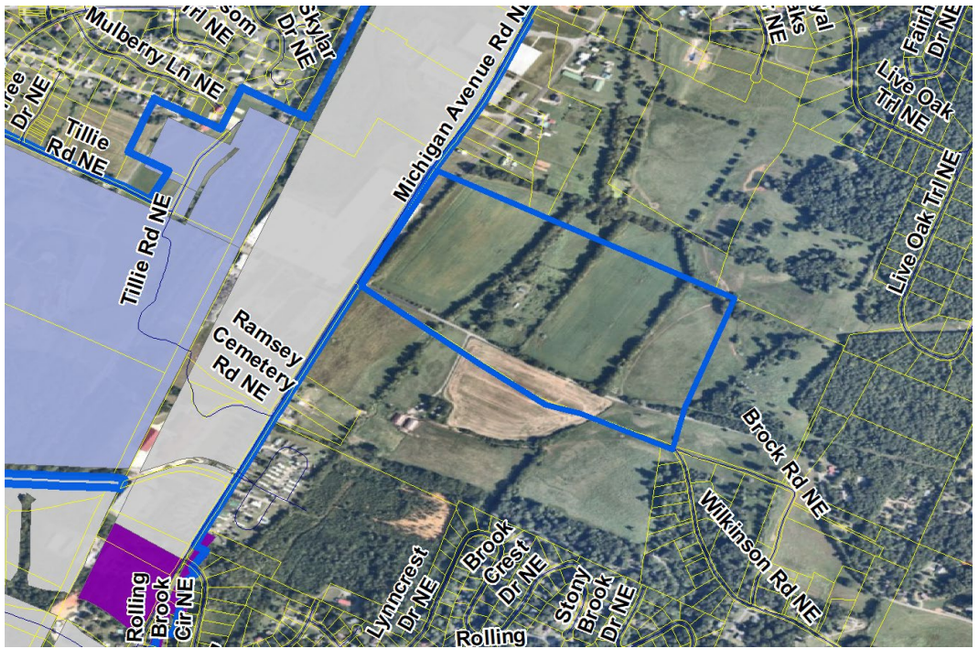


Exhibit B
Conceptual Plan

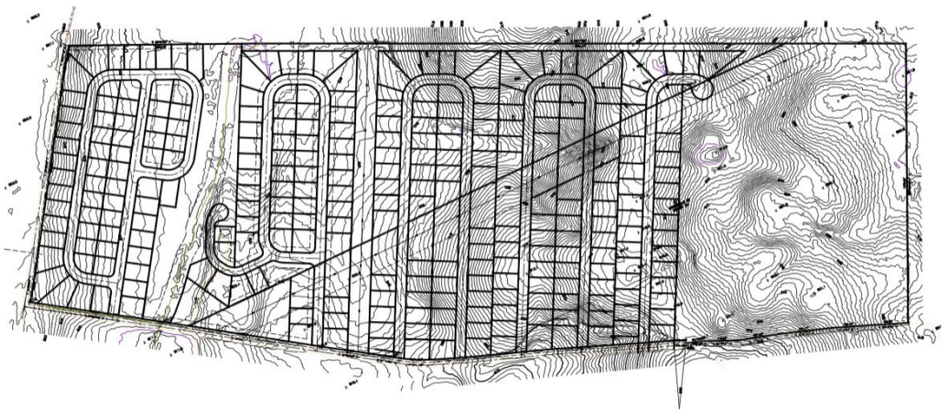
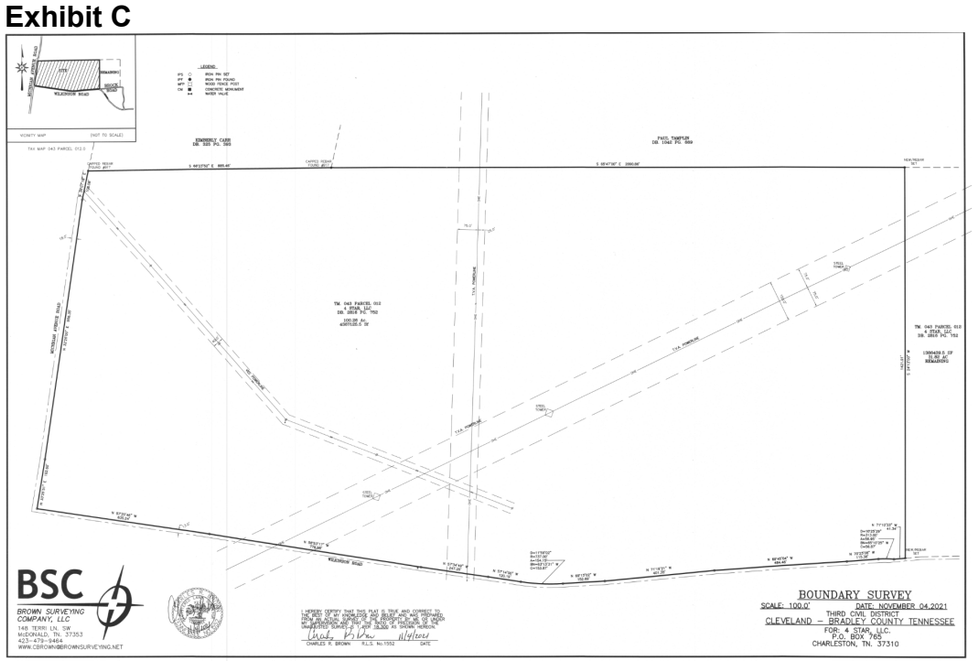


Exhibit C



Vice Mayor Johnson moved that Zoning Ordinance 2022-04 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following memorandum item was then presented:

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **January 10, 2022**
RE: **Street Sweeper Purchase**

SUMMARY:
The City's Street Sweeper was destroyed with a fire in December. Public Works has determined to purchase a new and updated Street Sweeper. The City will purchase off this item off a government contract from CMI Equipment Sales for $303,150. This equipment should hopefully last for approximately 20 years.

The City insurance will pay approximately 2/3 of the cost of replacement, and the remainder will be paid from Stormwater Funds, or other federal funds. The City has federal mandate to use a Street Sweeper to keep dirt and other materials from reaching streams to maintain higher quality run-off.



COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
Limited financial impact to the City.

RECOMMENDATION:
City staff recommends purchasing the Schwarze HyperVac for $303,150.00

Councilman Cassada moved to purchase the Schwarze HyperVac Street Sweeper for Public Works Department as outlined in the memorandum from Mr. Fivas. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed.

The following memorandum item was then presented:

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **January 10, 2022**
RE: **Ladder Truck Purchase**

SUMMARY:
City staff is requesting the purchase of a new 100' Ladder Truck to replace a 23-year old 75' Ladder Truck. The current Ladder Truck is in decent shape, but with the 16-month delivery time for this new Ladder Truck we want to be proactive in our replacement.

The cost of this Enforcer Custom 100' Ladder Truck is $1,600,513.00. These payments will be spread out over three Fiscal Years as outlined in the attached agreement. The City will primarily pay for this item through our City Apparatus Fund, potential sale of current Ladder Truck, and potentially other federal grants. The City will save approximately $125,000 in purchasing this vehicle if you take into account for known price increases in 2022.

The next Fire Truck purchase will be in Fiscal Year 2026 to replace an engine.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
Limited financial impact to the City.

RECOMMENDATION:
City staff recommends purchasing the Pierce Enforcer Custom 100' Platform Truck for $1,600,513.00. This is contingent upon the City Attorney's review and approval of the purchase agreement. The Mayor may sign once approval given from City Attorney and CFO.

Councilman May moved to purchase the Pierce Enforcer Custom 100' Platform Truck for the Cleveland Fire Department as outlined in the memorandum from Mr. Fivas. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- City offices will be closed on Monday, January 17 in observance of Martin Luther King Jr. Day.
- The next City Council meeting will be held on Monday, January 24, 2022.

There being no future business the meeting was adjourned at 3:24 p.m.

_____ Mayor

_____ City Clerk

REGULAR SESSION
JANUARY 24, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JANUARY 24, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie. Others in attendance were: City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Doug Berry with the Chamber of Commerce; Joy Fleming; Amanda Peels; Lake Mantooth; Sharon Marr with Mainstreet Cleveland; Hal Taylor; Peggy Pesterfield; Dr. Russell Dyer; Charlie Cogdill; Nate Tucker; Dawn Robinson; Chris Townsend; Mary Baier and Tim Siniard 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 January 10, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

No hearings petitions and communications.

CONSENT AGENDA

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

- **Final Passage – To Deny Zoning Ordinance 2021-32 –** heretofore denied on first reading December 13, 2021 and found in Minute Book 30, Page 504; rezoning .36 acres, more or less, located at 1120 Valley Head Rd NW (Tax Map 34I Group B Parcel 1.00) from PUD25 Planned Unit Development Zoning District to CH Commercial Highway Zoning District (Planning Commission: Denied 9-0).
- **Final Passage - Zoning Ordinance 2022-01 –** heretofore passed on first reading January 10, 2022 and found in Minute Book 30, Page 530; rezoning 1.1 acres, more or less, located at 1300 25th St NW (Tax Map 41K Group C Parcel 10.00) from PI Professional Institutional Zoning District to CG General Commercial Zoning District (Planning Commission: Approved 7-0; 2 absent).
- **Final Passage - Zoning Ordinance 2022-02 –** heretofore passed on first reading January 10, 2022 and found in Minute Book 30, Page 531; rezoning 56.1 acres, more or less, located in the vicinity of Euclid Ave SE, King Edward Ave SE, 9th St SE, Cincinnati Ave SE, 4th St SE, 6th St SE, 8th St SE, Linden Ave SE and Mill St SE (Tax Map 57C N Parcel 2.00, Map 57D Group N Parcel 1.00, Map 57E Group A Parcels 1.00, 2.00 & 23.00, Map 57E Group B Parcels 12.00, 13.00, 20.00, 27.00, Map 57D Group P Parcels 2.00, 3.00, 3.01, 3.02, 6.00, Map 57D Group M Parcels 1.00, 4.00, 7.00, 7.01, Map 57D Group E Parcel 20.00, Map 57E Group G Parcel 2.00 & Map 57E Group H Parcel 1.00) from IH Heavy Industrial

Zoning District to CBD Central Business Zoning District (Planning Commission: Approved 7-0; 2 absent).

- **Final Passage - Zoning Ordinance 2022-04 –** heretofore passed on first reading on January 10, 2022 and found in Minute Book 30, Page 536; zoning of about 100 acres located on Michigan Ave Rd and Wilkinson Rd NE from the unincorporated county to PUD32 Planned Unit Development Zoning District (Planning Commission: Approved 7-0; 2 absent).
- **Resolution 2022-03** – Accepting Fleeman Place Drive as a city street.

RESOLUTION 2022-03

WHEREAS, Fleeman Place-Phase Two is a townhouse development located in the City of Cleveland and is shown on a final plat recorded in the Bradley County Register of Deeds office at Plat Book 33 Page 87; and

WHEREAS, Fleeman Place Drive (approximately 485 feet in length) is a street located within this development and is depicted on this Plat; and

WHEREAS, the developer has requested that the City accept Fleeman Place Drive (approximately 485 feet in length) as a City street; and

WHEREAS, the City's engineering staff has inspected Fleeman Place Drive, is now recommending that the City accept Fleeman Place Drive 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 Fleeman Place Drive as a city street.

This 24th day of January 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Street Light Recommendation** – 1104 Hamilton Circle NW; Request was concerning spillover of lighting from Brad Street NW. Cleveland Utilities does not recommend upgrading or removal of the existing fixture on Brad Street NW.
- **Street Light Recommendation** – 3711 Woodcrest Circle NW; Cleveland Utilities recommends the addition of one 51-watt LED fixture and to upgrade an existing fixture to the north of the address to a 51-watt LED fixture at a cost of $146.70.
- **Street Light Recommendation** – 1009 Willow Street NW; Cleveland Utilities does not recommend any additional lighting or replacement of existing fixtures but if desired by the Council the 2 existing HPS fixtures can be upgraded to their LED equivalent for $146.70 per fixture.
- **Bid Report** – Mosby Park Playground.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **January 24, 2022**
RE: **Bid Summary – Mosby Park Playground Project**

SUMMARY:
Sealed bids were received on January 18, 2022, for the Mosby Park Playground project. Bids are listed below:

- Playcore Wisconsin, Inc. dba GameTime c/o Cunningham Recreation — **$244,713.08**
- Great Southern Recreation, LLC — **$264,209.13**
- Bliss Products and Services, Inc. — **Late Bid (Unopened)**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funds are available.

RECOMMENDATION:
Staff recommends award to Playcore Wisconsin, Inc. dba GameTime c/o Cunningham Recreation.

- **Surplus Property** – Declaring certain items as surplus property and to be sold on GovDeals.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **January 24, 2022**
RE: **Surplus Property**

SUMMARY:
Fleet Management has requested the City Council declare the vehicles listed below as surplus property.

Police Department vehicles to be used for training by the Police and Fire Departments:

- 1997 Ford Crown Victoria VIN 2FALP71W0VX228339
- 2008 Ford Crown Victoria VIN 2FAFP71V58X146325
- 2004 Ford Crown Victoria VIN 2FAHP71W34X166052
- 2006 Ford Crown Victoria VIN 2FAHP71W77X114458

Public Works, Parks & Recreation and Development & Engineering vehicles to be sold on GovDeals:

- 2000 Navastar 4700 1HTSCABN1YH285807
- 1999 Chevrolet K2500 1GTGK24R6XR717313
- 2003 Ford Crown Victoria 2FAFP71W73X140737

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman May asked that staff take a serious look at Michigan Avenue Road improvements and begin making recommendations on how we can make the intersections at 20th Street/Michigan Avenue and Michigan Avenue/Stuart Road safer and to possibly widen Michigan Avenue or some stacking/turn lanes into the subdivisions. Mr. Fivas stated yes, staff will bring back some recommendations.

Vice Mayor Johnson stated he received a streetlight request for additional lighting or upgrade the lighting at 905 17th Street for Daunte Jackson.

Mayor Brooks stated he is reappointing Jamie Creekmore, Alma Dotson and Dr. Tiffany Sherlin to the Planning Commission for additional 3-year terms to expire January 2025.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

RESOLUTION 2022-04

A RESOLUTION TO REQUEST LEGISLATIVE ACTION ON STATE LAWS ON THE REGULATION OF SCRAP TIRES

WHEREAS, the City Council has received complaints on the excessive dumping of scrap tires on public and private property within our community; and

WHEREAS, the City Council believes that the State Legislature should review and develop a new state law to increase the criminal fines for the illegal dumping of scrap tires; and

WHEREAS, the City Council also believes that State Legislature should develop state legislation to have a cradle-to-grave regulatory program to keep track of scrap times so that they can be tracked after they are taken off cars by commercial businesses with developed technologies.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, THAT THE CITY COUNCIL IS REQUESTING

That Bradley County's state legislative delegation develop and implement legislation that will increase the fines and restitution for those who are found to illegally dump scrap tires, and to include a cradle-to-grave regulatory program to track scrap tires that are taken off cars at commercial businesses which would likely decrease the illegal scrap tire dumping due to accountability to making sure the tires get to the state required County drop off locations.

That the State of Tennessee require a business license for all tire haulers to operate in the State of Tennessee which would allow Counties and Municipalities to enforce if tire haulers are in operation without a license.

That the State of Tennessee should equalize the specifications and requirements between new tire dealers and used tire dealers in the State of Tennessee. Currently, new tire dealers are regulated and registered by the State of Tennessee as to the collection and disposal of tires but used tire dealers are not.

The City Council is also requesting that the Bradley County Commission adopt a similar resolution and request immediate action by our state legislative delegation.

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

Adopted this 24th day of January 24, 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilwoman McKenzie moved that Resolution 2022-04 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

RESOLUTION 2022-05

A RESOLUTION CONCERNING THE PROPOSED DONATION OF REAL PROPERTY FROM CLEVELAND DEVELOPMENT ENTERPRISES II, LLC TO THE CITY OF CLEVELAND [775 RAIDER DRIVE]

WHEREAS, Cleveland Development Enterprises II, LLC is the current owner of a parcel of land located on Raider Drive which is more specifically described in Deed Book 2615 Page 642 in the Register of Deeds office of Bradley County, and is also identified as Lot 1 of the Final Plat of the Cleveland Development Enterprises II, LLC property as shown in the Final Plat recorded on August 12, 2014 in Plat Book 30, Page 110 in the Bradley County Register of Deeds' office, and is further generally described as Tax Map 041L-C-003.00 (hereafter "the Property"), and

WHEREAS, the Property is the location of the former First Tennessee Bank Building located on Raider Drive; and

WHEREAS, Mayor Kevin Brooks had discussions in January of 2020 with Forrest Preston, the President of Cleveland Development Enterprises II, LLC, and Cleveland Development Enterprises II, LLC offered to donate this real property as a gift to the City of Cleveland with no conditions on the gift and with no stipulations as to the future use of the property; and

WHEREAS, a letter from Cleveland Development Enterprises II, LLC to Mayor Brooks dated January 28,2020 with a proposed deed from Cleveland Development Enterprises II, LLC for the property is attached hereto and incorporated herein by reference; and

WHEREAS, Mayor Brooks has had recent discussions in 2021 with Forrest Preston, and Cleveland Development Enterprises II, LLC is still willing to donate this real property as a gift to the City of Cleveland with no conditions on the gift and with no stipulations as to the future use of the property; and

WHEREAS, the City Council of the City of Cleveland appreciates the donor's proposed gift to the City, and has performed a feasibility study on the condition of the building located on the property and the building's future use; and

WHEREAS, the City Council of the City of Cleveland appreciates the donor's proposed gift to the City, and desires to accept the gift, and the City Council does not have a pre-determined expectation that this building will be used as a City Hall.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cleveland, Tennessee does hereby accept the donation of the Property described in the letter and the proposed deed dated January 28, 2020, with the understanding that there are no conditions on the gift and no stipulations as to the future use of the property by the City.

BE IT FURTHER RESOLVED that the Mayor and City Attorney will work with the owners to complete this transaction and as determined by the City Council.

BE IT FURTHER RESOLVED that the City Council hereby extends its sincere appreciation to Mr. Forrest Preston and Cleveland Development Enterprises II, LLC for this gift of the Property to the City of Cleveland.

BE IT FURTHER RESOLVED that once the property is under the ownership of the City, only the City Council can make current and future decisions on who is allowed to occupy this property.

BE IT FURTHER RESOLVED the City Manager shall present three or more options on how the building can be occupied within the next 30 to 75 days, and the stated goal of the City Council is to have the building being used, or under construction, for the best interest in the public within one year from this date, and after the closing of this property the City will work with Mr. Preston to obtain the parcel of property next to its boundaries.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Cassada moved that Resolution 2022-05 be accepted as presented. The motion was seconded by Councilman Estes. Councilman May stated he is not opposed to accepting the building but is against moving office from downtown. He feels this resolution has some control and that won't happen. Upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, February 14, 2022.

There being no future business the meeting was adjourned at 3:12 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
FEBRUARY 14, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, FEBRUARY 14, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes and Councilwoman Marsha McKenzie. Councilman Webb was absent from the meeting. Others in attendance were: City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Doug Berry with the Chamber of Commerce; Sharon Marr with Mainstreet Cleveland; Brandon Gibson; Theresa Evans and Anand Patel with Elxr; Charlie Boothe; Dennis Duggins; Steve Morgan; Jennifer Samples; Mike Price; Alex Staup and Tim Siniard 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 January 24, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Mayor Brooks stated today we are hearing any public comments concerning a change in the ownership interest of members for Elxr Wine & Spirits, LLC located at 640 Inman St W. Mayor Brooks asked if anyone would like to make any comments. No one spoke. Mayor Brooks closed the hearing.

Mayor Brooks welcomed members of the Cleveland Fire Department and those involved in the 303 Project. Today began the 303 Project walk to Nashville to raise awareness for PTSD among Firefighting families. He also thanked the Cleveland Police Department and Bradley County Sherriff's Office for providing protection and support along the route.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request to rezone 69.1 acres located on Old Powerline Rd NE and Durkee Rd NE (Tax Map 58 Parcels 34.00, 34.01, 4.00 & 5.00) from IL Light Industrial Zoning District to PUD33 Planned Unit Development Zoning District (Planning Commission: Approved 6-0; 3 absent). Mayor Brooks asked if anyone would like to speak in favor of the amendment to the rezoning request. Mike Price with MAP Engineers who represents the developer for the proposed development off Durkee Road. They are planning for a single-family and townhouse development which has gone through staff review, as well as the Planning Commission. They feel it will be a great addition to the area and providing housing needs. They have set aside a community lot, which is 35% of the property. They will provide protection related to the stream that runs through the property and utilizing the space as an open area. The downstream neighbors should not have any impact due to stormwater runoff. They feel is it a good use of the land. Mayor Brooks asked if anyone would like to speak in opposition to the rezoning request. No one spoke. Mayor Brooks then declared the public hearing to be closed.

CONSENT AGENDA

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

- **Resolution 2022-06** – Authorizing the Mayor to sign a contract with TDOT related to the I75 Northbound ramp traffic signal equipment (PIN 130011.00).

RESOLUTION 2022-06

WHEREAS, the City has received the attached general maintenance agreement from the Tennessee Department of Transportation (hereafter "TDOT") for the project described below; and

Description of Project: Signal Maintenance of Signal Installed on the I-75 Northbound Ramp at Paul Huff Parkway, LM 10.92
Agreement Number: 220018
Project Identification Number: 130011.00
Federal Project Number: HSIP-I-75-1 (151)
State Project Number: 06001-3184-44

WHEREAS, the City Council desires to enter into the attached general maintenance agreement with TDOT and to further authorize the Mayor to execute the attached general maintenance 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 general maintenance agreement with TDOT for the project described herein, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 14th day of February 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-07** – Authorizing the purchase of Personal Protective Equipment (PPE) for the Cleveland Fire Department through a Master Intergovernmental Cooperative Purchasing Agreement.

RESOLUTION 2022-07

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE FIRE FIGHTER PERSONAL PROTECTIVE EQUIPMENT (PPE) THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT #PS20065, AS AMENDED, WHICH IS ADMINISTERED BY NATIONAL PURCHASING PARTNERS, LLC dba PUBLIC SAFETY GPO, dba FIRST RESPONDER GPO, dba LAW ENFORCEMENT GPO and dba NPPGOV, A NATIONAL COOPERATIVE PROCUREMENT ORGANIZATION FOR THE LEAGUE OF OREGON CITIES.

WHEREAS *Tennessee Code Annotated* § 12-3-1205 provides that any municipality may participate in, sponsor, conduct, or administer a "cooperative purchasing agreement" for the procurement of any supplies, services, or construction with one (1) or more other local

governments in accordance with an agreement entered into between the participants, including governmental entities outside this state; and

WHEREAS, the Master Intergovernmental Cooperative Purchasing Agreement ("MICPA") to provide fire fighter personal protective equipment between LION ("Company") and League of Oregon Cities ("Lead Public Agency") in cooperation with National Public Partners, LLC dba Public Safety GPO, dba First Responder GPO, dba Law Enforcement GPO and dba NPPGov, a National Cooperative Procurement Organization on behalf of the Lead Public Agency and any Participating Public Agency, which may include the City of Cleveland, Tennessee, meets the authorized public bidding requirements for the State of Tennessee and allows governmental purchases of fire fighter personal protective equipment (PPE) pursuant to this MICPA at discounted contract prices, as permitted by *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City of Cleveland is authorized to participate in this Master Intergovernmental Cooperative Purchasing Agreement provided that it adopts a resolution accepting the terms of the Master Agreement and the City of Cleveland as a participant acquires and maintains documentation that the purchasing entity that procured the bid complied with the purchasing requirements for the City of Cleveland pursuant to *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City Manager has determined that the Master Agreement shall be construed in accordance with and governed by the laws of the State in which the City of Cleveland exists as a participating agency and that the City of Cleveland has registered on-line with NPPGov which allows the City of Cleveland to enter into this MICPA and which is intended to allow the City of Cleveland to meet applicable legal requirements and facilitate access to the Master Agreement and the Company under Contract #PS20065, as amended, held by the League of Oregon Cities as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE that the City of Cleveland be and is hereby authorized to purchase fire fighter personal protective equipment (PPE) as a participating public agency under MICPA Contract #PS20065, as amended, held by League of Oregon Cities as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through NPPGov, to be used by the Fire Department for the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-08** – Endorsing the Freewill Road SR306 Corridor Study.

RESOLUTION 2022-08

RESOLUTION TO ENDORSE THE FREEWILL ROAD SR 306 CORRIDOR STUDY

WHEREAS, Ragan Smith Associates (RSA) have completed the Freewill Road SR 306 Corridor Study pursuant to an Urban Transportation Planning Grant from the Tennessee Department of Transportation (TDOT) to the City of Cleveland, Tennessee; and

WHEREAS, the TDOT Urban Transportation Planning Grant application required that the Freewill Road SR 306 Corridor Study document be endorsed by the City when complete; and

WHEREAS, whereas the Freewill Road SR 306 Corridor Study was developed with input from the public, stakeholders, and officials from TDOT, the City of Cleveland, and Bradley County; and

WHEREAS, the Freewill Road SR 306 Corridor Study sets forth findings, recommendations, and other information concerning transportation, land use, economic development, the environment, and quality of life; and

WHEREAS, the Freewill Road SR 306 Corridor Study documents the importance of the I-75 Exit 20 and Tom Rowland Interchange area as a major community gateway and economic development area, while supporting the need for improved connectivity of this area to other parts of the community for which general route concepts are addressed; and

WHEREAS, the Freewill Road SR 306 Corridor Study documents the importance of improved connectivity and traffic flow for Freewill Road and Harrison Pike SR 312 near Prospect Elementary School and the I-75 bridge, while providing information relevant to further discussion of potential bridge and interchange improvements; and

WHEREAS, the Freewill Road SR 306 Corridor Study documents the importance of improvements to the existing Freewill Road conducive to its long-term use as a major urban corridor with multi-modal, traffic flow, and safety-related enhancements while leaving open the question of its possible future designation as a state route; and

WHEREAS, the Freewill Road SR 306 Corridor Study provides information to be further refined through local planning processes for land use and economic development, and adapted to coordinated transportation project planning and implementation at local, state, and federal levels

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

1. As provided in the Urban Transportation Planning Grant application requirements, it is the intent of the City Council to endorse the Freewill Road SR 306 Corridor Study. The City Council recognizes the Freewill Road SR 306 Corridor Study as a supporting document for future transportation planning and coordination with local planning bodies and others on matters of land use, infrastructure, and economic development;

2. With the support and leadership of the Mayor on behalf of the City Council to coordinate across political boundaries and among varied interests, City staff are to work with local elected officials, local planning bodies, TDOT, land owners, and others to adapt the Freewill Road SR 306 Corridor Study to plans and programs for development that can be implemented to achieve the public benefits described in the Study with such adaptation including, but not being limited to, proposals for refinements to the scope and location of roadway improvements and other facilities and infrastructure within the Freewill Road SR 306 Corridor Study area.

Approved this 14th day of February, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-09 –** Authorizing the Mayor to sign an agreement with Cleveland Utilities for a utility pole relocation at Paul Huff Parkway/Peerless Road Intersection.

RESOLUTION 2022-09

WHEREAS, the City of Cleveland is preparing for improvements at the intersection of Paul Huff Parkway and Peerless Road; and

WHEREAS, in connection with these public improvements, a large utility pole located on the south side of Paul Huff Parkway, approximately 100 feet West of Peerless Road, needs to be relocated; and

WHEREAS, City engineering staff contacted Cleveland Utilities about the pole relocation and the estimated cost for the same; and

WHEREAS, Cleveland Utilities has presented the City with a cost estimate which has been incorporated into the attached agreement between the City and Cleveland Utilities for this pole relocation; and

WHEREAS, the City Council desires to enter into the attached agreement for this pole relocation with Cleveland Utilities, 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 Cleveland Utilities for the utility pole relocation, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 14th day of February 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-10** – Authorizing the Mayor to sign an agreement with Habitat for Humanity regarding the American Rescue Plan Act Funds.

RESOLUTION 2022-10

WHEREAS, on March 11, 2021, the United States Congress passed the American Rescue Plan Act of 2021 ("ARPA"), which provides fiscal relief funds to State and Local Governments, and other program areas aimed at mitigating the continuing efforts of the COVID-19 Pandemic; and

WHEREAS, Habitat for Humanity of Cleveland seeks to develop and construct 16 new homes for low-income families in Morelock Meadows located at 20th Street/Foster Lane across from Blythe-Bower Elementary School impacting approximately 60 residents in our community; and

WHEREAS, the City Council finds that affordable housing is essential to building a more sustainable City of Cleveland and to ensure a competitive workforce to meet the needs of our community and region; and

WHEREAS, the City Council further finds that services in this category will help alleviate the immediate economic impacts of the COVID-19 pandemic on housing insecurity in lower income neighborhoods; and

WHEREAS, the City Council finds that an investment of local fiscal recovery fund dollars to Habitat for Humanity of Cleveland will prioritize helping transform City of

Cleveland's lack of affordable homeownership, and Section 602(c)(3) of the ARPA permits use of funds from local fiscal recovery funds to respond to the negative economic impacts of the COVID-19 public health emergency ; and

WHEREAS, the U.S. Department of the Treasury's Interim Final Rule identified an eligible use as, "Building Stronger Communities through Investments in Housing and Neighborhoods" finding that economic impacts have been most pronounced in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity with services in this category alleviate the immediate economic impacts of the COVID-19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic; and

WHEREAS, the Interim Final Rule specifically states that increasing the supply of affordable and high-quality living units is an eligible service; and

WHEREAS, on December 13, 2021, City of Cleveland appropriated three hundred thousand dollars ($300,000.00) for affordable housing to Habitat for Humanity of Cleveland, Inc. to develop and construct sixteen (16) new homes for low-income families in Morelock Meadows as allowed by the conditions and terms of the American Rescue Plan Act; and

WHEREAS, the City Council desires to approve of the attached agreement with Habitat for this project and the use of American Rescue Plan Act Funds, and the City Council further desires to authorize the Mayor to execute this 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 Habitat regarding American Rescue Plan Act Funds for this project.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with Habitat on behalf of the City for this project.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-11** – Supporting the principles of the 303 Project and the James Dustin Samples Act (Requested by Councilman Webb).

RESOLUTION 2022-11

A RESOLUTION IN SUPPORT OF THE 303 PROJECT, ALSO KNOWN AS THE "JAMES 'DUSTIN' SAMPLES ACT"

WHEREAS, the City Council supports the 303 Project, in breaking the silence and reducing the impact of mental health issue disorders and their results, related to Post-Traumatic Stress Disorder (PTSD), such as suicide and substance abuse among first responders and their families, and

WHEREAS, Dustin Samples devoted 22 years of his life to public service, serving first as a Cleveland Police Officer and then Captain for the Cleveland Fire Department, and

WHEREAS, In 2014 Captain Dustin Samples was diagnosed with PTSD and began a path of treatment and understanding, becoming a huge advocate for those around him to remove the stigma of mental health issues, and

WHEREAS, Suicide has become an epidemic in fire service in the United States, and tragically, on December 11, 2020, Dustin took his own life, and

WHEREAS, The City Council supports legislative efforts, and the principals outlined in the 303 project, named after Dustin's badge number (303), and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland, Tennessee, in regular session assembled this 14th Day of February, 2022 as follows:

The City Council supports the principles of the 303 project and the "James 'Dustin' Samples Act."

Passed and adopted this 14th day of February, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Street Light Recommendation** – 4th Street NW (Cleveland Utilities does not recommend any additional lighting but if desire by the Council the existing fixtures to be upgraded to a LED fixture at a cost of $140.87). [Council requests that the city parking lot be reviewed to add additional lighting.]
- **Motion** – Declaring K9 Aries to be retired from the Cleveland Police Department and permitting adoption by Officer Tyler McGuire.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Cassada asked if the privacy wood fence along the development on Paul Huff, next to Harbor Freight, would be extended. Mr. Jobe stated yes, it will go the entire length of the back property.

Councilman May thanked staff for working on a plan for Michigan Avenue Road. The quicker we get started, the better it will be for everyone due to the number of developments planning over the next year to eighteen months.

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

Councilman Hughes then stated the Caywood Farm on North Lee Highway has sold. Mr. Harry Patel is the purchaser. It could be developed in the future and personally, he will miss seeing the old barn.

Vice Mayor Johnson asked for an update on the streetlight for Octavia Blair at 528 15th Street NE. Mr. Fivas stated it has been submitted and we will follow up with Cleveland Utilities.

Councilwoman McKenzie congratulated Cleveland City School system in recognition as Best for All School District in the State of Tennessee. This recognizes school districts that are investing in initiatives to benefit students and raising student academic outcome and achievements. The Cleveland City Schools will also receive $250,000 in funding for continued programs. Well done to Dr. Dyer and the Cleveland City School System. Secondly, Councilwoman McKenzie stated the streetlight is out at 1306 Golf Dr SW.

Councilman Estes stated he has received a lot of praise from citizens concerning Avery Johnson Park. Also, praising the Public Workers who run the knuckleboom picking up debris, and the care and ease they use. Lastly, the residents of 21st Street would like to see some increase police presence to try to slow traffic.

Mayor Brooks read the following statement from Councilman Webb:

Mayor Brooks and Fellow Cleveland City Council Members:

Re:
Tennessee State House Bill 1356 and Senate Bill 1023 amends TCA, Title 7, Chapter 51, Part 2; Title 50, Chapter 6 and Title 68, Chapter 102, relative to firefighters. As introduced, the bills enacted the "James Dustin Samples Act."

I requested City Manager Joe Fivas place on today's agenda a resolution for your consideration the purpose of which is to show our support for the effort to have under certain conditions Post-Traumatic Street Disorder (PTSD) experienced by firefighters recognized as a compensable injury under the Workers' Compensation Law in the State of Tennessee.

The bills introduced in the State of Tennessee Legislature are in memory of Cleveland Firefighter Dustin Samples. Known as "303 Project" the effort to amend the current law refers to Dustin's badge number 303.

I ask you to join me in supporting the concept of the 303 Project by approving the resolution and asking our local delegation in Nashville to do the same.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-05** – Rezoning 69.1 acres located on Old Powerline Rd NE and Durkee Rd NE (Tax Map 58 Parcels 34.00, 34.01, 4.00 & 5.00) from IL Light Industrial Zoning District to PUD33 Planned Unit Development Zoning District (Planning Commission: Approved 6-0; 3 absent).

ZONING ORDINANCE 2022-05

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 401 DURKEE ROAD SUBDIVISION NW PROPERTY "PUD 33" ON PROPERTY DESCRIBED AS TAX MAP 58 PARCAL 034, 034.01, 004, 055, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 33; 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 33" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 33 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 33 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 33, 401 Durkee Road Subdivision Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 058 Parcel 034,034.01, 004, 005. Exhibit A illustrates the overall 401 Durkee Road Subdivision Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.
This section is intended to provide a general description of the 401 Durkee Road Subdivision Development. The project consists of a mixture of detached single-family homes on small lots and attached single-family dwellings in multi-unit townhome structures. Lots for attached multi-unit townhome units may constitute no more than 55 percent of the overall subdivision lots within the greater development. Exhibit A shows the general location of proposed infrastructure and common areas. In terms of total allowable density, the project shall not exceed one unit per 4000 square feet for lots containing single-family detached homes; two units per 7500 square feet; three units per 10,000 square feet, and four units per 12,500 square feet. The developer shall 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 33 Subdivision allows for the construction of up to 315 dwelling units in detached single family houses and multi-unit townhome structures with up to four dwelling units per building. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities, outlined by developer in site plan, such as community pool, clubhouse, playground, walkways, and greenspace are required and must be approved by Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 33 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 401 Durkee Road Subdivision development 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 and City Council. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 33 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 B) for PUD 33, 401 Durkee Road Subdivision Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on January 18, 2022. The conceptual plan consists of a site plan for the overall development however additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD 33 must be generally consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. Plats for any multi-family residential units must be reviewed by the Planning Commission however any modification may not increase the total number of dwelling units beyond 315 units 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 site plans for the 401 Durkee Road Subdivision development 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 33 401 Durkee Road Subdivision development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer.

6.B. PLATS.
One or more plats will be prepared for the PUD 33 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. These plats shall be consistent in general layout with the conceptual site plan. The City and the developer shall consider exact street designs and locations which facilitate slower traffic speeds which shall be approved during the platting process.

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 33 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 33 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.

Section 7. DEVELOPMENT STANDARDS
The development standards for PUD 33 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 single family residential units of identical elevation types must be separated by at least two different elevations on the same side of the street. This will result in at least three different elevation plans per cluster. No two adjacent single family residential

home structures shall be built with the similar elevations, façade, or similar color schemes. (reverse elevations do not count as different building elevations). Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions. Residential areas must also incorporate a variety of building elements and treatments for single family detached and townhome style housing. Structures must include a minimum of three articulations, change in materials or texture, windows, or other architectural features. All foundations must be made of brick on stone. Not including any dormer or gables, the front façade of all structures shall be of brick, stone or cement fiber board materials. Twenty-five percent of the aggregate square footage of the front facades of all homes and townhomes must be of a brick or stone material, exclusive of all garages, doors and windows. No blank walls along street elevations are allowed. One two-inch caliper hardwood shade tree, which is determined acceptable to the City's Urban Forester, shall be installed within each front yard area, and three for each townhome.

Due to the topography of the property any area with a slope greater than 2 ½ to 1 shall be reforested with trees made up of 75% evergreens and 25% deciduous species. Trees shall be provided every 25'. Plantings shall be a minimum of 3' in height at the time of installation and the developer shall ensure a minimum survivability rate of at least 80% over two years from the original planting. No steep slopes shall be within 15' of any structure.

The developer shall dedicate right-of-way adequate to serve as a 75-foot deceleration lane as well as a center turn lane on Old Powerline Road entrance and Durkee Road entrance. Build out of the center turn lane and deceleration lane shall be required before acceptance of any new street within the subdivision. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements. The deceleration lane shall be curbed to City standards. The street area adjacent to the acceleration lane and deceleration shall be repaved when constructing these lanes and entrances.

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
The minimum setbacks and lot width requirements 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, side setback requirements are 10 feet and 3 feet on the remaining side with no less than 13' between all principal structures. Rear setbacks shall be no less than 25' from the property line adjoining external lot lines and 15' for all other rear setbacks. 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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address.

7.B Sidewalks and Amenities
All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff and any required for review by the Cleveland Municipal Planning Commission.

A monument style ground sign shall be installed at all entrances to the site. The areas adjoining Durkee Road shall either be provided with a tree preservation plan or a type B buffer for any area not adequate for preservation. Open space shall be maintained at proportion no less than 15% of the total buildable area. Community facilities, including a swimming pool with clubhouse, playground or other community area determined acceptable to the Planning Commission shall be provided by the developer once 75% the buildable lots in the development are established or under construction. The area around any community clubhouse and pool must include a double buffer with a minimum 6' tall privacy fence if adjoining any residential areas not within the PUD 33 boundary. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners or an established homeowners association.

A centralized cluster mailbox unit shall be provided for the United States Postal Service. The area around the cluster mailbox unit shall be landscaped and four off street parking spaces shall be provided. A school bus area that includes a small shelter and safety area at the Durkee Road entrance shall constructed for children waiting for school bus.

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 33 401 Durkee Road Subdivision Development. 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 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 PUD 33, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit B then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD 33 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 Trust Homes of 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 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.

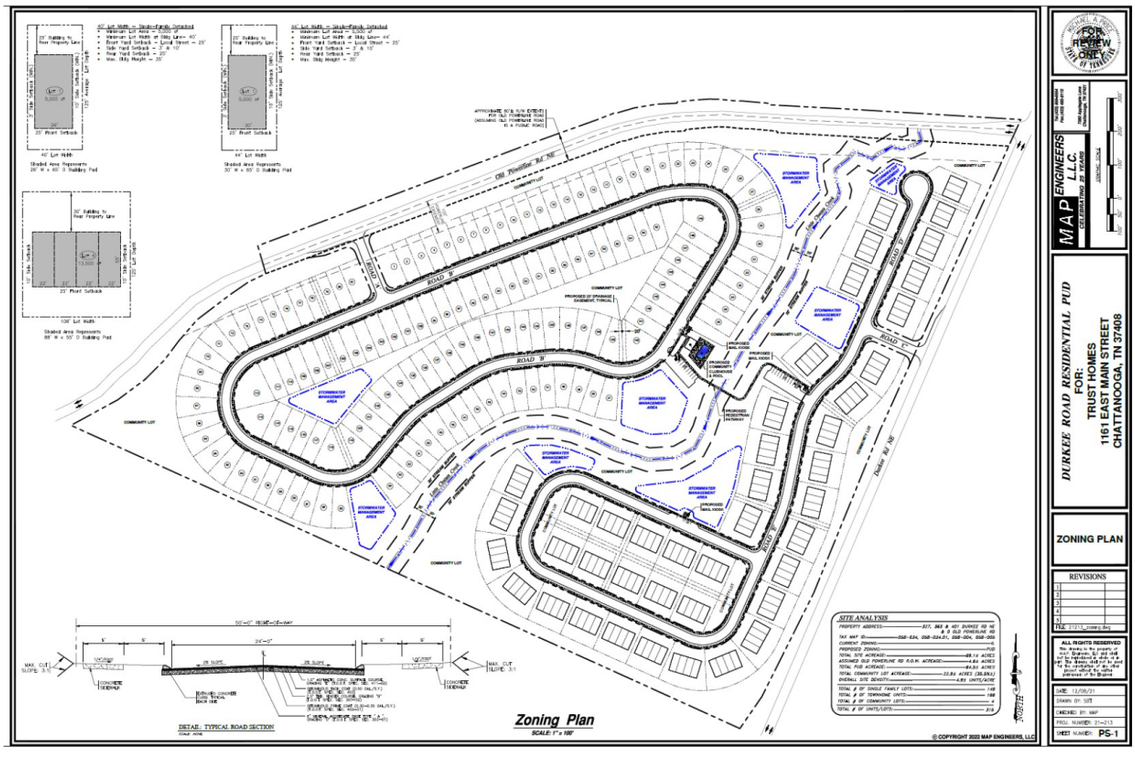
Approved this ___ day of ____, 2021.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman Cassada moved to approve Zoning Ordinance 2022-05 with staff recommendation of 46’ instead of 40’ lot size. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

Mayor Brooks stated Councilman Webb requested the next item to be on the agenda. Discussion of timelines and implementation of the Paul Huff Parkway intersection projects. He has submitted the following statement since he was unable to attend today, which Mayor Brooks read aloud.

Mayor Brooks and Fellow Cleveland City Council Members:

Several months ago, we discussed upwards of 10 projects designed to alleviate safety and congestion concerns on Paul Huff Parkway. All of the projects hold potential to address many of the concerns we all hear about Paul Huff. I remember we discussed having these projects done in two years from that time. Some of them are in various stages of completion. I recall us making that commitment to the public.

Recognizing we have delays with materials and other issues related to Covid, I am asking Manager Fivas and his staff to provide us at the next meeting with a timeline of the design, funding and completion status of each of these projects. I trust we are still anticipating their completion on the previously announced timeline and would like to get an update to that commitment.

Councilman Hughes moved to accept Councilman Webb's request. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

Councilman May moved to issue a new Certificate of Compliance to Elxr Wine & Spirits, LLC due to change in the ownership interest of members. The motion was seconded by Councilman Cassada. Councilman Estes asked if staff would review the city ordinance to compare and know where state law supersedes [concerning moving existing locations]. Upon roll call, Councilman May, Councilman Cassada, Councilman Hughes, Councilwoman McKenzie and Vice Mayor Johnson voted aye. Councilman Estes voted no. The motion carries 5:1.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- City offices will be closed on Monday, February 21 in observance of Presidents' Day.
- The next City Council meeting will be held on Monday, February 28, 2022.

There being no future business the meeting was adjourned at 3:29 p.m.

_____ Mayor

_____ City Clerk

REGULAR SESSION
FEBRUARY 28, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, FEBRUARY 28, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were: City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Dustin Roberts, Network Administrator; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Doug Berry and Mike Griffin with the Chamber of Commerce; Rusty Langford; Alex Staup; Charlie Boothe and Tim Siniard 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 14, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

No hearing petitions and communications.

CONSENT AGENDA

Councilman Hughes moved to approve the following items from the Consent Agenda. The motion was seconded by Councilman Webb. Councilman Estes stated he had an indirect conflict related to the City Fields item, but does not affect his vote. Upon roll call, the consent agenda unanimously passed.

- **Resolution 2022-12** – Authorizing the Mayor to submit an application for the Home Housing Rehabilitation Project.

RESOLUTION 2022-12

WHEREAS, the Tennessee Housing Development Agency (THDA) offers funding through the federally funded HOME grant program to provide housing rehabilitation assistance to low to moderate income families; and

WHEREAS, the City of Cleveland is eligible to apply for up to $500,000 in grant funds to implement a housing rehabilitation program to assist residents without the need for matching funds; and

WHEREAS, the housing stock of the City of Cleveland needs repair and rehabilitation to assure safe and affordable housing is available to city residents.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND that the City of Cleveland is hereby authorized to submit a HOME grant application in the amount up to $500,000 to rehabilitate eligible housing in the City of

Cleveland, and the Mayor is hereby authorized to execute the grant application on behalf of the City.

BE IT FURTHER RESOLVED that f said application is approved, the Mayor is hereby authorized to accept the grant on behalf of the City of Cleveland, and the Mayor is hereby designated as the City's representative to act in connection with the HOME grant, and to execute any other documents or take such actions as may be necessary to accept the grant, and to provide such additional information as may be required in order for the City to accept the grant.

This 28th day of February 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-13** – Authorizing the Mayor to sign Change Order #2 with Wilson Construction related to the 17th and 20th Street Sidewalk Project.

RESOLUTION 2022-13

WHEREAS, the City has received the attached change order #2 from the Wilson Construction Group, LLC for the project described below; and

Project: City of Cleveland Sidewalks Project on 20th and 17th St NW
Contract Number: IMP-1-19
Project Identification Number (PIN): 118870.00
Federal Project Number: STP-M-9203(21)
State Project Number: 06LPLM-F2-035

WHEREAS, the City Council desires to approve the attached change order #2 with Wilson Construction Group, LLC, and to further authorize the Mayor to execute this 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 Number 2 from Wilson Construction Group, LLC for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 28th day of February 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-14** – Authorizing the Mayor to sign a sewer easement with Cleveland Utilities in connection with the Trails at Freewill Subdivision.

RESOLUTION 2022-14

WHEREAS, in connection with the Trails at Freewill Subdivision, Cleveland Utilities needs to obtain the attached sewer easement from the City; and

WHEREAS, the City Council desires to approve of this sewer easement to Cleveland Utilities 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 attached sewer easement to Cleveland Utilities.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the easement on behalf of the City of Cleveland.

This 28th day of February 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-15** - Authorizing the Mayor to sign an agreement with City Fields regarding the American Rescue Plan Act Funds.

RESOLUTION 2022-15

WHEREAS, on March 11, 2021, the United States Congress passed the American Rescue Plan Act of 2021 ("ARPA"), which provides fiscal relief funds to State and Local Governments, and other program areas aimed at mitigating the continuing efforts of the COVID-19 Pandemic; and

WHEREAS, City Fields of Cleveland seeks to develop and construct homes for low-income families Blythe Community; and

WHEREAS, the City Council finds that affordable housing is essential to building a more sustainable City of Cleveland and to ensure a competitive workforce to meet the needs of our community and region; and

WHEREAS, the City Council further finds that services in this category will help alleviate the immediate economic impacts of the COVID-19 pandemic on housing insecurity in lower income neighborhoods; and

WHEREAS, the City Council finds that an investment of local fiscal recovery fund dollars to City Fields of Cleveland will prioritize helping transform City of Cleveland's lack of affordable homeownership, and Section 602(c)(3) of the ARPA permits use of funds from local fiscal recovery funds to respond to the negative economic impacts of the COVID-19 public health emergency ; and

WHEREAS, the U.S. Department of the Treasury's Interim Final Rule identified an eligible use as, "Building Stronger Communities through Investments in Housing and Neighborhoods" finding that economic impacts have been most pronounced in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity with services in this category alleviate the immediate economic impacts of the COVID-19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic; and

WHEREAS, the Interim Final Rule specifically states that increasing the supply of affordable and high-quality living units is an eligible service; and

WHEREAS, on December 13, 2021, City of Cleveland appropriated three hundred thousand dollars ($400,000.00) for affordable housing to City Fields to develop and construct homes for low-to moderate income families as allowed by the conditions and terms of the American Rescue Plan Act; and

WHEREAS, the City Council desires to approve of the attached agreement with City Fields for this project and the use of American Rescue Plan Act Funds, and the City Council further desires to authorize the Mayor to execute this 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 City Fields regarding American Rescue Plan Act Funds for this project.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with City Fields on behalf of the City for this project.

This 28th day of February 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-16** – Authorizing the Mayor to sign supplemental agreement #1 with Volkert, Inc. related to the 17th and 20th Street Sidewalk Project.

RESOLUTION 2022-16

WHEREAS, the City has received the attached supplemental agreement #1 from the Volkert, Inc. for the project described below; and

Project: City of Cleveland Sidewalks Project on 20th and 17th St NW
Project Identification Number (PIN): 118870.00
Federal Project Number: STP-M-9203(21)
State Project Number: 06LPLM-F2-035

WHEREAS, the City Council desires to approve the attached supplemental agreement #1 with Volkert, Inc., and to further authorize the Mayor to execute this supplemental 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 supplemental agreement #1 from Volkert, Inc. for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 28th day of February 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Surplus Property** – Declaring a vehicle as surplus property from Parks & Recreation and to be sold on GovDeals.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Purchasing/Budget Coordinator**
DATE: **February 28, 2022**
RE: **Surplus Property**

SUMMARY:
Parks & Recreation has requested the City Council declare the following asset as surplus property to be sold on GovDeals:

1997 Ford E-350 Van VIN 1FBJS31L2VHB11445

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

- **Street Light Recommendation** – Earl Cameron for the area of 2nd Street SW, Spring Street SW and 3rd Street SW (Cleveland Utilities recommends installing one new 41-watt LED cobra fixture on an existing pole at the intersection of 2nd Street NW and Spring Street SW. Six existing 100-watt HPS fixtures to be upgraded to 41-watt LED fixtures at a cost of $146.70 each).
- **Motion** - To become members in the Tennessee CLEAN Coalition (requested by Mayor Brooks).

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman May thanked Mr. Fivas and staff for the project list. This is just the tip of the iceberg on what is involved on actually moving dirt. We have a good list and we are going to make a lot happen over the next two years. Secondly, the lighting on Bowman Circle Drive NE, could Cleveland Utilities review for upgrading the light fixtures.

Councilman Estes thanked Mr. McKay and Mr. Fivas for working with Davenport, watching the Federal Reserve trying to get this right on borrowing money. This will save future Council's millions of dollars. Attention to this is key for the City and it doesn't get enough attention.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution 2022-17** – Approving eminent domain proceedings, if necessary, in order to acquire the necessary rights-of-way and/or easements relating to the Gaut Street Sidewalk Project.

RESOLUTION 2022-17

WHEREAS, the City of Cleveland is in the process of constructing sidewalks in the area of Gaut Street, Central Avenue, Inman Street and Dooley Street; and

WHEREAS, to date the City of Cleveland has attempted unsuccessfully to acquire necessary right-of-way and/or easements from three different property owners (four parcels) which are necessary in order to move forward with the project; and

WHEREAS, the rights-of-way and/or easements that the City needs to acquire are generally identified as Parcel ID 058A A 014.00 – Tract 17; Parcel ID 057D H 035.00 – Tract 10; Parcel ID 057D G 036.00 – Tract 9; Parcel ID 057D H 015.00 – Tract 35 for the sidewalk project; and

WHEREAS, due to the time sensitive of the project the City Council of the City of Cleveland desires to go ahead and approve of eminent domain proceedings by the City of Cleveland to the necessary rights-of-way and/or easements should the City Staff be unable to obtain the same through continued negotiations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City's legal representatives be, and hereby are, authorized to institute eminent domain proceedings in order to the necessary rights-of-way and/or easements described herein.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Resolution 2022-17 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 2022-18 –** Initial resolution authorizing the issuance of debt, not to exceed, Twenty-Four Million Dollars General Obligation Bonds, Series 2022 (City of Cleveland and Cleveland Utilities).

RESOLUTION 2022-18

INITIAL RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED TWENTY FOUR MILLION AND N0/100 DOLLARS ($24,000,000) GENERAL OBLIGATION BONDS, SERIES 2022 OF THE CITY OF CLEVELAND, TENNESSEE

BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee (the "Municipality") that for the purpose of financing, in whole or in part, (i) acquisition of land for and the construction, improvement and/or equipping of roads, bridges, streets, highways and sidewalks, schools and school facilities, parks and recreation facilities, public buildings, storm water drainage systems, fire department equipment and buildings, law enforcement buildings and equipment, libraries, and the acquisition of related vehicles and equipment including, but not limited to, lighting, computers and other technological equipment, (ii) the improvement and extension of the water and wastewater system of the Municipality, (iii) payment of architectural, engineering, legal, fiscal and administrative costs incident to the foregoing; and (iv) payment of costs incident to the issuance and sale of the bonds authorized herein, there shall be issued bonds, in one or more emissions, of said Municipality in the aggregate principal amount of not to exceed $24,000,000, which shall bear interest at a rate or rates not to exceed five percent per annum (5.00%), and which shall be payable from unlimited ad valorem taxes to be levied on all taxable property within corporate limits of the Municipality, provided that the portion of the bonds that finances

improvements to the water and wastewater system of the Municipality shall also be payable from but not secured by the revenues of such system.

BE IT FURTHER RESOLVED by the City Council of the City of Cleveland, Tennessee that the City Clerk of the Municipality be, and is, hereby directed and instructed to cause the foregoing initial resolution relative to the issuance of not to exceed $24,000,000 general obligation bonds to be published in full in a newspaper having a general circulation in the Municipality, for one issue of said paper followed by the statutory notice:

N O T I C E

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 Municipality shall have been filed with the City Clerk of the Municipality protesting the issuance of the bonds, such bonds will be issued as proposed.

Shawn McKay, City Clerk

This Resolution shall be in immediate effect from and after its adoption, the public welfare requiring it.

Adopted and approved this 28th day of February, 2022.

/s/_____
Mayor

ATTEST:
/s/_____
City Clerk

STATE OF TENNESSEE)
COUNTY OF BRADLEY)

I, Shawn McKay, certify that I am the duly qualified and acting City Clerk of the City of Cleveland, Tennessee, and as such official I further certify that attached hereto is a copy of excerpts from the minutes of a regular meeting of the governing body of the Municipality held on February 28, 2022; that these minutes were promptly and fully recorded and are open to public inspection; that I have compared said copy with the original minute record of said meeting in my official custody; and that said copy is a true, correct and complete transcript from said original minute record insofar as said original record relates to an initial resolution for not to exceed $24,000,000 in indebtedness of the Municipality.

WITNESS my official signature of said Municipality on this the _____ day of _____, 2022.

_____
City Clerk

Councilman Webb moved that Resolution 2022-18 be accepted as presented. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-19 –** Authorizing a loan in the principal amount of not to exceed $24,000,000 and approved the issuance of a bond (City of Cleveland and Cleveland Utilities).

RESOLUTION 2022-19

A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF CLEVELAND, TENNESSEE IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $24,000,000, IN ONE OR MORE SERIES; MAKING PROVISION FOR THE ISSUANCE, SALE AND PAYMENT OF SAID BONDS, ESTABLISHING THE TERMS THEREOF

AND THE DISPOSITION OF PROCEEDS THEREFROM; AND PROVIDING FOR THE LEVY OF TAXES FOR THE PAYMENT OF PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS

WHEREAS, 9-21-101, et seq., inclusive, Tennessee Code Annotated, as amended, authorizes the City of Cleveland, Tennessee (the "Municipality"), by resolution of the City Council, to issue and sell bonds and to finance public works projects; and

WHEREAS, the City Council hereby determines that it is necessary and advisable to issue general obligation bonds, in one or more series, for the purpose of financing in whole or in part, (i) acquisition of land for and the construction, improvement and/or equipping of roads, bridges, streets, highways and sidewalks, schools and school facilities, parks and recreation facilities, public buildings, storm water drainage systems, fire department equipment and buildings, law enforcement buildings and equipment, libraries, and the acquisition of related vehicles and equipment including, but not limited to, lighting, computers and other technological equipment; (ii) the improvement and extension of the water and wastewater system of the Municipality; (iii) payment of architectural, engineering, legal, fiscal and administrative costs incident to the foregoing; and (iv) payment of costs incident to the issuance and sale of the bonds authorized herein; and

WHEREAS, the City Council of the Municipality on the date hereof, adopted an initial resolution (the "Initial Resolution") authorizing the issuance of not to exceed $24,000,000 for the purposes described above; and

WHEREAS, the Initial Resolution, together with the notice required by Section 9-21-206, Tennessee Code Annotated, as amended, will be published as required by law; and

WHEREAS, it is the intention of the City Council of the Municipality to adopt this resolution for the purpose of authorizing not to exceed $24,000,000 in aggregate principal amount of bonds for the above-described purposes, providing for the issuance, sale and payment of said bonds, establishing the terms thereof, and the disposition of proceeds therefrom, and providing for the levy of a tax for the payment of principal thereof, premium, if any, and interest thereon.

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

Authority. The bonds authorized by this resolution are issued pursuant to 9-21-101, et seq., Tennessee Code Annotated, as amended, and other applicable provisions of law.

Definitions. In addition to the terms defined in the preamble above, the following terms shall have the following meanings in this resolution unless the text expressly or by necessary implication requires otherwise:

"Bonds" means the not to exceed $24,000,000 General Obligation Bonds, Series 2022 of the Municipality, to be dated their date of issuance, and having such series designation or such other dated date as shall be determined by the Mayor pursuant to Section 8 hereof.

"Book-Entry Form" or "Book-Entry System" means a form or system, as applicable, under which physical bond certificates in fully registered form are issued to a Depository, or to its nominee as Registered Owner, with the certificate of bonds being held by and "immobilized" in the custody of such Depository, and under which records maintained by persons, other than the Municipality or the Registration Agent, constitute the written record that identifies, and records the transfer of, the beneficial "book-entry" interests in those bonds.

"Code" means the Internal Revenue Code of 1986, as amended, and all regulations promulgated thereunder.

"Depository" means any securities depository that is a clearing agency under federal laws operating and maintaining, with its participants or otherwise, a Book-Entry System, including, but not limited to, DTC.

"DTC" means the Depository Trust Company, a limited purpose company organized under the laws of the State of New York, and its successors and assigns.

"DTC Participant(s)" means securities brokers and dealers, banks, trust companies and clearing corporations that have access to the DTC System.

"Governing Body" means the City Council.

"Mayor" shall mean the Mayor of the Municipality.

"Municipal Advisor" for the Bonds authorized herein means Davenport & Company LLC, Charlotte, North Carolina.

"Projects" means the (i) acquisition of land for and the construction, improvement and/or equipping of roads, bridges, streets, highways and sidewalks, schools and school facilities, parks and recreation facilities, public buildings, storm water drainage systems, fire department equipment and buildings, law enforcement buildings and equipment, libraries, and the acquisition of related vehicles and equipment including, but not limited to, lighting, computers and other technological equipment; (ii) the improvement and extension of the water and wastewater system of the Municipality; and (ii) payment of architectural, engineering, legal, fiscal and administrative costs incident to the foregoing.

"Registration Agent" means the registration and paying agent appointed by the Mayor pursuant to the terms hereof, or any successor designated by the Governing Body.

Findings of the Governing Body; Compliance with Debt Management Policy.

In conformance with the directive of the State Funding Board of the State of Tennessee, the Municipality has heretofore adopted its Debt Management Policy. The Governing Body hereby finds that the issuance and sale of the Bonds, as proposed herein, is consistent with the Municipality's Debt Management Policy.

The estimated interest expense and costs of issuance of the Bonds have been made available to the Governing Body.

Authorization and Terms of the Bonds.

For the purpose of providing funds to finance, in whole or in part, the Projects, including reimbursement to the Municipality for funds previously expended for any of the foregoing and payment of costs incident to the issuance and sale of the Bonds, there is hereby authorized to be issued bonds, in one or more series, of the Municipality in the aggregate principal amount of not to exceed $24,000,000. The Bonds shall be issued in one or more series, in fully registered, book-entry form (except as otherwise set forth herein), without coupons, and subject to the adjustments permitted hereunder, shall be known as "General Obligation Bonds, Series 2022", shall be dated their date of issuance, and shall have such series designation or such other dated date as shall be determined by the Mayor pursuant to the terms hereof. The Bonds shall bear interest at a rate or rates not to exceed five percent (5.00%) per annum, payable (subject to the adjustments permitted hereunder) semi-annually on June 1 and December 1 in each year, commencing December 1, 2022. The Bonds shall be issued initially in $5,000 denominations or integral multiples thereof, as shall be requested by the original purchaser thereof. Subject to the adjustments permitted pursuant to the terms hereof, the Bonds shall mature serially or be subject to mandatory redemption and shall be payable on June 1 of each year, subject to prior optional redemption as hereinafter provided, in the years 2023 through 2052, inclusive, such that the approximately level debt service is paid annually with respect to the Bonds.

Subject to the adjustments permitted under Section 8 hereof, the Bonds maturing on or after June 1, 2033, shall be subject to redemption prior to maturity at the option of the Municipality on June 1, 2032 and thereafter, as a whole or in part at any time at the redemption price of par plus accrued interest to the redemption date.

If less than all the Bonds shall be called for redemption, the maturities to be redeemed shall be selected by the Governing Body in its discretion. If less than all of the Bonds within a single maturity shall be called for redemption, the interests within the maturity to be redeemed shall be selected as follows:

(i) if the Bonds are being held under a Book-Entry System by DTC, or a successor Depository, the Bonds to be redeemed shall be determined by DTC, or such successor

Depository, by lot or such other manner as DTC, or such successor Depository, shall determine; or

(ii) if the Bonds are not being held under a Book-Entry System by DTC, or a successor Depository, the Bonds within the maturity to be redeemed shall be selected by the Registration Agent by lot or such other random manner as the Registration Agent in its discretion shall determine.

Pursuant to the terms hereof, the Mayor is authorized to sell the Bonds, or any maturities thereof, as term bonds ("Term Bonds") with mandatory redemption requirements corresponding to the maturities set forth herein or as determined by the Mayor. In the event any or all the Bonds are sold as Term Bonds, the Municipality shall redeem Term Bonds on redemption dates corresponding to the maturity dates set forth herein, in aggregate principal amounts equal to the maturity amounts established pursuant to the terms hereof for each redemption date, as such maturity amounts may be adjusted pursuant to the terms hereof, at a price of par plus accrued interest thereon to the date of redemption. The Term Bonds to be redeemed within a single maturity shall be selected as follows:

(i) if the Bonds are being held under a Book-Entry System by DTC, or a successor Depository, the Bonds to be redeemed shall be determined by DTC, or such successor Depository, by lot or such other manner as DTC, or such successor Depository, shall determine; or

(ii) if the Bonds are not being held under a Book-Entry System by DTC, or a successor Depository, the Bonds within the maturity to be redeemed shall be selected by the Registration Agent by lot or such other random manner as the Registration Agent in its discretion shall determine.

At its option, to be exercised on or before the forty-fifth (45^{th}) day next preceding any such mandatory redemption date, the Municipality may (i) deliver to the Registration Agent for cancellation Bonds to be redeemed, in any aggregate principal amount desired, and/or (ii) receive a credit in respect of its redemption obligation under this mandatory redemption provision for any Bonds of the maturity to be redeemed which prior to said date have been purchased or redeemed (otherwise than through the operation of this mandatory sinking fund redemption provision) and cancelled by the Registration Agent and not theretofore applied as a credit against any redemption obligation under this mandatory sinking fund provision. Each Bond so delivered or previously purchased or redeemed shall be credited by the Registration Agent at 100% of the principal amount thereof on the obligation of the Municipality on such payment date and any excess shall be credited on future redemption obligations in chronological order, and the principal amount of Bonds to be redeemed by operation of this mandatory sinking fund provision shall be accordingly reduced. The Municipality shall on or before the forty-fifth (45^{th}) day next preceding each payment date furnish the Registration Agent with its certificate indicating whether or not and to what extent the provisions of clauses (i) and (ii) of this subsection are to be availed of with respect to such payment and confirm that funds for the balance of the next succeeding prescribed payment will be paid on or before the next succeeding payment date.

Notice of any call for redemption shall be given by the Registration Agent on behalf of the Municipality not less than twenty (20) nor more than sixty (60) days prior to the date fixed for redemption by sending an appropriate notice to the registered owners of the Bonds to be redeemed by first-class mail, postage prepaid, at the addresses shown on the Bond registration records of the Registration Agent as of the date of the notice; but neither failure to mail such notice nor any defect in any such notice so mailed shall affect the sufficiency of the proceedings for redemption of any of the Bonds for which proper notice was given. The notice may state that it is conditioned upon the deposit of moneys in an amount equal to the amount necessary to effect the redemption with the Registration Agent no later than the redemption date ("Conditional Redemption"). As long as DTC, or a successor Depository, is the registered owner of the Bonds, all redemption notices shall be mailed by the Registration Agent to DTC, or such successor Depository, as the registered owner of the Bonds, as and when above provided, and neither the Municipality nor the Registration Agent shall be responsible for mailing notices of redemption to DTC Participants or Beneficial Owners. Failure of DTC, or any successor Depository, to provide notice to any DTC Participant or Beneficial Owner will not affect the validity of such redemption. The Registration Agent shall mail said notices as and when directed by the Municipality pursuant to written instructions from an authorized representative of the Municipality (other than for a mandatory sinking fund redemption, notices of which shall be given on the dates provided herein) given at least forty-five (45) days prior to the redemption date (unless a shorter notice period shall be satisfactory to the Registration Agent). From and after the redemption date, all Bonds called for redemption shall cease to bear interest if

funds are available at the office of the Registration Agent for the payment thereof and if notice has been duly provided as set forth herein. In the case of a Conditional Redemption, the failure of the Municipality to make funds available in part or in whole on or before the redemption date shall not constitute an event of default, and the Registration Agent shall give immediate notice to the Depository, if applicable, or the affected Bondholders that the redemption did not occur and that the Bonds called for redemption and not so paid remain outstanding.

The Governing Body hereby authorizes and directs the Mayor to appoint the Registration Agent for the Bonds and hereby authorizes the Registration Agent so appointed or the Registration Agent for the Bonds to maintain Bond registration records with respect to the Bonds, to authenticate and deliver the Bonds as provided herein, either at original issuance or upon transfer, to effect transfers of the Bonds, to give all notices of redemption as required herein, to make all payments of principal and interest with respect to the Bonds as provided herein, to cancel and destroy Bonds which have been paid at maturity or upon earlier redemption or submitted for exchange or transfer, to furnish the Municipality at least annually a certificate of destruction with respect to Bonds cancelled and destroyed, and to furnish the Municipality at least annually an audit confirmation of Bonds paid, Bonds outstanding and payments made with respect to interest on the Bonds. The Mayor is hereby authorized to execute and the City Clerk is hereby authorized to attest such written agreement between the Municipality and the Registration Agent as they shall deem necessary and proper with respect to the obligations, duties and rights of the Registration Agent. The payment of all reasonable fees and expenses of the Registration Agent for the discharge of its duties and obligations hereunder or under any such agreement is hereby authorized and directed.

The Bonds shall be payable, both principal and interest, in lawful money of the United States of America at the main office of the Registration Agent. The Registration Agent shall make all interest payments with respect to the Bonds by check or draft on each interest payment date directly to the registered owners as shown on the Bond registration records maintained by the Registration Agent as of the close of business on the fifteenth day of the month next preceding the interest payment date (the "Regular Record Date") by depositing said payment in the United States mail, postage prepaid, addressed to such owners at their addresses shown on said Bond registration records, without, except for final payment, the presentation or surrender of such registered Bonds, and all such payments shall discharge the obligations of the Municipality in respect of such Bonds to the extent of the payments so made. Payment of principal of and premium, if any, on the Bonds shall be made upon presentation and surrender of such Bonds to the Registration Agent as the same shall become due and payable. All rates of interest specified herein shall be computed on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each. In the event the Bonds are no longer registered in the name of DTC, or a successor Depository, if requested by the Owner of at least $1,000,000 in aggregate principal amount of the Bonds, payment of interest on such Bonds shall be paid by wire transfer to a bank within the continental United States or deposited to a designated account if such account is maintained with the Registration Agent and written notice of any such election and designated account is given to the Registration Agent prior to the record date.

Any interest on any Bond that is payable but is not punctually paid or duly provided for on any interest payment date (hereinafter "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Regular Record Date; and, in lieu thereof, such Defaulted Interest shall be paid by the Municipality to the persons in whose names the Bonds are registered at the close of business on a date (the "Special Record Date") for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Municipality shall notify the Registration Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment, and at the same time the Municipality shall deposit with the Registration Agent an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Registration Agent for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this Section provided. Thereupon, not less than ten (10) days after the receipt by the Registration Agent of the notice of the proposed payment, the Registration Agent shall fix a Special Record Date for the payment of such Defaulted Interest which date shall be not more than fifteen (15) nor less than ten (10) days prior to the date of the proposed payment to the registered Owners. The Registration Agent shall promptly notify the Municipality of such Special Record Date and, in the name and at the expense of the Municipality, not less than ten (10) days prior to such Special Record Date, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each registered owner at the address thereof as it appears in the Bond registration records maintained by the Registration Agent as of the date of such notice. Nothing contained in this Section or in the Bonds shall impair any statutory or other rights in law or in equity of

any registered owner arising as a result of the failure of the Municipality to punctually pay or duly provide for the payment of principal of, premium, if any, and interest on the Bonds when due.

The Bonds are transferable only by presentation to the Registration Agent by the registered owner, or his legal representative duly authorized in writing, of the registered Bond(s) to be transferred with the form of assignment contained therein completed in full and signed with the name of the registered owner as it appears upon the face of the Bond(s) accompanied by appropriate documentation necessary to prove the legal capacity of any legal representative of the registered owner. Upon receipt of the Bond(s) in such form and with such documentation, if any, the Registration Agent shall issue a new Bond or the Bond to the assignee(s) in $5,000 denominations, or integral multiples thereof, as requested by the registered owner requesting transfer. The Registration Agent shall not be required to transfer or exchange any Bond during the period commencing on a Regular or Special Record Date and ending on the corresponding interest payment date of such Bond, nor to transfer or exchange any Bond after the publication of notice calling such Bond for redemption has been made, nor to transfer or exchange any Bond during the period following the receipt of instructions from the Municipality to call such Bond for redemption; provided, the Registration Agent, at its option, may make transfers after any of said dates. No charge shall be made to any registered owner for the privilege of transferring any Bond, provided that any transfer tax relating to such transaction shall be paid by the registered owner requesting transfer. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and neither the Municipality nor the Registration Agent shall be affected by any notice to the contrary whether or not any payments due on the Bonds shall be overdue. The Bonds, upon surrender to the Registration Agent, may, at the option of the registered owner, be exchanged for an equal aggregate principal amount of the Bonds of the same maturity in any authorized denomination or denominations.

The Bonds shall be executed in such manner as may be prescribed by applicable law, in the name, and on behalf, of the Municipality with the signature of the Mayor and the attestation of the City Clerk.

Except as otherwise provided in this resolution, the Bonds shall be registered in the name of Cede & Co., as nominee of DTC, which will act as securities depository for the Bonds. References in this Section to a Bond or the Bonds shall be construed to mean the Bond or the Bonds that are held under the Book-Entry System. One Bond for each maturity shall be issued to DTC and immobilized in its custody or a custodian of DTC. The Registration Agent is a custodian and agent for DTC, and the Bond will be immobilized in its custody. A Book-Entry System shall be employed, evidencing ownership of the Bonds in authorized denominations, with transfers of beneficial ownership effected on the records of DTC and the DTC Participants pursuant to rules and procedures established by DTC.

Each DTC Participant shall be credited in the records of DTC with the amount of such DTC Participant's interest in the Bonds. Beneficial ownership interests in the Bonds may be purchased by or through DTC Participants. The holders of these beneficial ownership interests are hereinafter referred to as the "Beneficial Owners." The Beneficial Owners shall not receive the Bonds representing their beneficial ownership interests. The ownership interests of each Beneficial Owner shall be recorded through the records of the DTC Participant from which such Beneficial Owner purchased its Bonds. Transfers of ownership interests in the Bonds shall be accomplished by book entries made by DTC and, in turn, by DTC Participants acting on behalf of Beneficial Owners. SO LONG AS CEDE & CO., AS NOMINEE FOR DTC, IS THE REGISTERED OWNER OF THE BONDS, THE REGISTRATION AGENT SHALL TREAT CEDE & CO. AS THE ONLY HOLDER OF THE BONDS FOR ALL PURPOSES UNDER THIS RESOLUTION, INCLUDING RECEIPT OF ALL PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, RECEIPT OF NOTICES, VOTING AND REQUESTING OR DIRECTING THE REGISTRATION AGENT TO TAKE OR NOT TO TAKE, OR CONSENTING TO, CERTAIN ACTIONS UNDER THIS RESOLUTION.

Payments of principal, interest, and redemption premium, if any, with respect to the Bonds, so long as DTC is the only owner of the Bonds, shall be paid by the Registration Agent directly to DTC or its nominee, Cede & Co., as provided in the Letter of Representation relating to the Bonds from the Municipality and the Registration Agent to DTC (the "Letter of Representation"). DTC shall remit such payments to DTC Participants, and such payments thereafter shall be paid by DTC Participants to the Beneficial Owners. The Municipality and the Registration Agent shall not be responsible or liable for payment by DTC or DTC Participants for sending transaction statements or for maintaining, supervising or reviewing records maintained by DTC or DTC Participants.

In the event that (1) DTC determines not to continue to act as securities depository for the Bonds, or (2) to the extent permitted by the rules of DTC, the Municipality determines that the continuation of

the Book-Entry System of evidence and transfer of ownership of the Bonds would adversely affect their interests or the interests of the Beneficial Owners of the Bonds, then the Municipality shall discontinue the Book-Entry System with DTC or, upon request of such original purchaser, deliver the Bonds to the original purchaser in the form of fully-registered Bonds, as the case may be. If the Municipality fails to identify another qualified securities depository to replace DTC, the Municipality shall cause the Registration Agent to authenticate and deliver replacement Bonds in the form of fully-registered Bonds to each Beneficial Owner. If the purchaser(s) certifies that it intends to hold the Bonds for its own account, then the Municipality may issue certificated Bonds without the utilization of DTC and the Book-Entry System.

THE MUNICIPALITY AND THE REGISTRATION AGENT SHALL NOT HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO ANY PARTICIPANT OR ANY BENEFICIAL OWNER WITH RESPECT TO (i) THE BONDS; (ii) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (iii) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; (iv) THE DELIVERY OR TIMELINESS OF DELIVERY BY DTC OR ANY DTC PARTICIPANT OF ANY NOTICE DUE TO ANY BENEFICIAL OWNER THAT IS REQUIRED OR PERMITTED UNDER THE TERMS OF THIS RESOLUTION TO BE GIVEN TO BENEFICIAL OWNERS; (v) THE SELECTION OF BENEFICIAL OWNERS TO RECEIVE PAYMENTS IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE BONDS; OR (vi) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC OR ITS NOMINEE, CEDE & CO., AS OWNER.

The Registration Agent is hereby authorized to take such action as may be necessary from time to time to qualify and maintain the Bonds for deposit with DTC, including but not limited to, wire transfers of interest and principal payments with respect to the Bonds, utilization of electronic book entry data received from DTC in place of actual delivery of Bonds and provision of notices with respect to Bonds registered by DTC (or any of its designees identified to the Registration Agent) by overnight delivery, courier service, telegram, telecopy or other similar means of communication. No such arrangements with DTC may adversely affect the interest of any of the owners of the Bonds; provided, however, that the Registration Agent shall not be liable with respect to any such arrangements it may make pursuant to this Section.

The Registration Agent is hereby authorized to authenticate and deliver the Bonds to the original purchaser, upon receipt by the Municipality of the proceeds of the sale thereof and to authenticate and deliver Bonds in exchange for Bonds of the same principal amount delivered for transfer upon receipt of the Bond(s) to be transferred in proper form with proper documentation as hereinabove described. The Bonds shall not be valid for any purpose unless authenticated by the Registration Agent by the manual signature of an officer thereof on the certificate set forth herein on the Bond form.

In case any Bond shall become mutilated, or be lost, stolen, or destroyed, the Municipality, in its discretion, shall issue, and the Registration Agent, upon written direction from the Municipality, shall authenticate and deliver, a new Bond of like tenor, amount, maturity and date, in exchange and substitution for, and upon the cancellation of, the mutilated Bond, or in lieu of and in substitution for such lost, stolen or destroyed Bond, or if any such Bond shall have matured or shall be able to mature, instead of issuing a substituted Bond the Municipality may pay or authorize payment of such Bond without surrender thereof. In every case, the applicant shall furnish evidence satisfactory to the Municipality and the Registration Agent of the destruction, theft or loss of such Bond, and indemnify satisfactory to the Municipality and the Registration Agent; and the Municipality may charge the applicant for the issue of such new Bond an amount sufficient to reimburse the Municipality for the expense incurred by it in the issue thereof.

Source of Payment. The Bonds shall be payable from unlimited ad valorem taxes to be levied on all taxable property within the Municipality. For the prompt payment of the principal of, premium, if any, and interest on the Bonds, the full faith and credit of the Municipality are hereby irrevocably pledged. The portions of the Bonds (based on allocation of Bonds and Bond proceeds as determined by the Municipality) that finance improvements to the water and wastewater system of the Municipality shall be additionally payable from but not secured by the revenues of such system.

Form of Bonds. The Bonds shall be in substantially the following form, the omissions to be appropriate completed when the Bonds are prepared and delivered:

(Form of Bond)

REGISTERED
Number ____

REGISTERED
$_____

UNITED STATES OF AMERICA
STATE OF TENNESSEE
COUNTY OF BRADLEY
CITY OF CLEVELAND, TENNESSEE
GENERAL OBLIGATION BOND, SERIES 2022

Interest Rate: Maturity Date: Date of Bond: CUSIP No.:

Registered Owner:

Principal Amount:

FOR VALUE RECEIVED, the City of Cleveland, Tennessee (the "Municipality") hereby promises to pay to the registered owner hereof, hereinabove named, or registered assigns, in the manner hereinafter provided, the principal amount hereinabove set forth on the maturity date hereinabove set forth (or upon earlier redemption as set forth herein), and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on said principal amount at the annual rate interest hereinabove set forth from the date hereof until said maturity date or redemption date, said interest being payable on December 1, 2022, and semi-annually thereafter on the first day of June and December in each year until this Bond matures or is redeemed. The principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the designated trust office of _____, _____, _____, as registration agent and paying agent (the "Registration Agent"). The Registration Agent shall make all interest payments with respect to this Bond on each interest payment date directly to the registered owner hereof shown on the Bond registration records maintained by the Registration Agent as of the close of business on the fifteenth day of the month next preceding the interest payment date (the "Regular Record Date") by check or draft mailed to such owner at such owner's address shown on said Bond registration records, without, except for final payment, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the Municipality to the extent of the payments so made. Any such interest not so punctually paid or duly provided for on any interest payment date shall forthwith cease to be payable to the registered owner on the relevant Regular Record Date; and, in lieu thereof, such defaulted interest shall be payable to the person in whose name this Bond is registered at the close of business on the date (the "Special Record Date") for payment of such defaulted interest to be fixed by the Registration Agent, notice of which shall be given to the owners of the Bonds of the issue of which this Bond is one not less than ten (10) days prior to such Special Record Date. Payment of principal of and premium, if any, on this Bond shall be made when due upon presentation and surrender of this Bond to the Registration Agent.

Except as otherwise provided herein or in the Resolution, as hereinafter defined, this Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the Bonds of the series of which this Bond is one. One Bond for each maturity shall be issued to DTC and immobilized in its custody or a custodian of DTC. The Registration Agent is a custodian and agent for DTC, and the Bond will be immobilized in its custody. A book-entry system shall be employed, evidencing ownership of the Bonds in $5,000 denominations, or multiples thereof, with transfers of beneficial ownership effected on the records of DTC and the DTC Participants, as defined in the Resolution, pursuant to rules and procedures established by DTC. So long as Cede & Co., as nominee for DTC, is the registered owner of the Bonds, the Municipality and the Registration Agent shall treat Cede & Co. as the only owner of the Bonds for all purposes under the Resolution, including receipt of all principal and maturity amounts of, premium, if any, and interest on the Bonds, receipt of notices, voting and requesting or taking or not taking, or consenting to, certain actions hereunder. Payments of principal, maturity amounts, interest, and redemption premium, if any, with respect to the Bonds, so long as DTC is the only owner of the Bonds, shall be paid directly to DTC or its nominee, Cede & Co. DTC shall remit such payments to DTC Participants, and such payments thereafter shall be paid by DTC Participants to the Beneficial Owners, as defined in the Resolution. Neither the Municipality nor the Registration Agent shall be responsible or liable for payment by DTC or DTC Participants, for sending transaction statements or for maintaining, supervising or reviewing records maintained by DTC or DTC Participants. In the event that (1) DTC determines not to continue to act as securities depository for the Bonds or (2) to the extent permitted by the rules of DTC, the Municipality determines that the continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect its interests or the interests of the

Beneficial Owners of the Bonds, the Municipality may discontinue the book-entry system with DTC. If the Municipality fails to identify another qualified securities depository to replace DTC, the Municipality shall cause the Registration Agent to authenticate and deliver replacement Bonds in the form of fully-registered Bonds to each Beneficial Owner. Neither the Municipality nor the Registration Agent shall have any responsibility or obligations to DTC Participant or any Beneficial Owner with respect to (i) the Bonds; (ii) the accuracy or any records maintained by DTC or any DTC Participant; (iii) the payment by DTC or any DTC Participant of any amount due to any Beneficial Owner in respect of the principal or maturity amounts of and interest on the Bonds; (iv) the delivery or timeliness of delivery by DTC or any DTC Participant of any notice due to any Beneficial Owner that is required or permitted under the terms of the Resolution to be given to Beneficial Owners; (v) the selection of Beneficial Owners to receive payments in the event of any partial redemption of the Bonds; or (vi) any consent given or other action taken by DTC, or its nominee, Cede & Co., as owner.

Bonds of the issue of which this Bond is one maturing on or after June 1, 2033 shall be subject to redemption prior to maturity at the option of the Municipality on June 1, 2032 and thereafter, as a whole or in part at any time at the redemption price of par plus accrued interest to the redemption date.

If less than all the Bonds shall be called for redemption, the maturities to be redeemed shall be designated by the City Council of the Municipality, in its discretion. If less than all the principal amount of the Bonds of a maturity shall be called for redemption, the interests within the maturity to be redeemed shall be selected as follows:

(i) if the Bonds are being held under a Book-Entry System by DTC, or a successor Depository, the amount of the interest of each DTC Participant in the Bonds to be redeemed shall be determined by DTC, or such successor Depository, by lot or such other manner as DTC, or such successor Depository, shall determine; or

(ii) if the Bonds are not being held under a Book-Entry System by DTC, or a successor Depository, the Bonds within the maturity to be redeemed shall be selected by the Registration Agent by lot or such other random manner as the Registration Agent in its discretion shall determine.

[Subject to the credit hereinafter provided, the Municipality shall redeem Bonds maturing _____ on the redemption dates set forth below opposite the maturity dates, in aggregate principal amounts equal to the respective dollar amounts set forth below opposite the respective redemption dates at a price of par plus accrued interest thereon to the date of redemption. DTC, as securities depository for the series of Bonds of which this Bond is one, or such Person as shall then be serving as the securities depository for the Bonds, shall determine the interest of each Participant in the Bonds to be redeemed using its procedures generally in use at that time. If DTC or another securities depository is no longer serving as securities depository for the Bonds, the Bonds to be redeemed within a maturity shall be selected by the Registration Agent by lot or such other random manner as the Registration Agent in its discretion shall select. The dates of redemption and principal amount of Bonds to be redeemed on said dates are as follows:

Final Maturity	Redemption Date	Principal Amount of Bonds Redeemed

*Final Maturity

At its option, to be exercised on or before the forty-fifth (45th) day next preceding any such redemption date, the Municipality may (i) deliver to the Registration Agent for cancellation Bonds to be redeemed, in any aggregate principal amount desired, and/or (ii) receive a credit in respect of its redemption obligation under this mandatory redemption provision for any Bonds of the maturity to be redeemed which prior to said date have been purchased or redeemed (otherwise than through the operation of this mandatory sinking fund redemption provision) and cancelled by the Registration Agent and not theretofore applied as a credit against any redemption obligation under this mandatory sinking fund provision. Each Bond so delivered or previously purchased or redeemed shall be credited by the Registration Agent at 100% of the principal amount thereof on the obligation of the Municipality on such payment date and any excess shall be credited on future redemption obligations in chronological order, and the principal amount of Bonds to be redeemed by operation of this mandatory sinking fund provision shall be accordingly reduced. The Municipality shall on or before the forty-fifth (45th) day next preceding each payment date furnish the Registration Agent with its certificate indicating whether or not and to what extent the provisions of clauses (i) and (ii) of this subsection are to be availed of with respect to such

payment and confirm that funds for the balance of the next succeeding prescribed payment will be paid on or before the next succeeding payment date.]

Notice of any call for redemption shall be given by the Registration Agent not less than twenty (20) nor more than sixty (60) days prior to the date fixed for redemption by sending an appropriate notice to the registered owners of the Bonds to be redeemed by first-class mail, postage prepaid, at the addresses shown on the Bond registration records of the Registration Agent as of the date of the notice; but neither failure to mail such notice nor any defect in any such notice so mailed shall affect the sufficiency of the proceedings for the redemption of any of the Bonds for which proper notice was given. The notice may state that it is conditioned upon the deposit of moneys in an amount equal to the amount necessary to effect the redemption with the Registration Agent no later than the redemption date ("Conditional Redemption"). As long as DTC, or a successor Depository, is the registered owner of the Bonds, all redemption notices shall be mailed by the Registration Agent to DTC, or such successor Depository, as the registered owner of the Bonds, as and when above provided, and neither the Municipality nor the Registration Agent shall be responsible for mailing notices of redemption to DTC Participants or Beneficial Owners. Failure of DTC, or any successor Depository, to provide notice to any DTC Participant will not affect the validity of such redemption. From and after any redemption date, all Bonds called for redemption shall cease to bear interest if funds are available at the office of the Registration Agent for the payment thereof and it notice has been duly provided as set forth in the Resolution, as hereafter defined. In the case of a Conditional Redemption, the failure of the Municipality to make funds available in part or in whole on or before the redemption date shall not constitute an event of default, and the Registration Agent shall give immediate notice to the affected Bondholders that the redemption did not occur and that the Bond called for redemption and not so paid remain outstanding.

This Bond is transferable by the registered owner hereof in person or by such owner's attorney duly authorized in writing at the designated trust office of the Registration Agent set forth on the front side hereof, but only in the manner, subject to limitations and upon payment of the charges provided in the Resolution, as hereafter defined, and upon surrender and cancellation of this Bond. Upon such transfer, a new Bond or Bonds of authorized denominations of the same maturity and interest rate for the same aggregate principal amount will be issued to the transferee in exchange therefor. The person in whose name this Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes and neither the Municipality nor the Registration Agent shall be affected by any notice to the contrary whether or not any payments due on the Bond shall be overdue. Bonds, upon surrender to the Registration Agent, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of the Bonds of the same maturity in authorized denomination or denominations, upon the terms set forth in the Resolution. The Registration Agent shall not be required to transfer or exchange any Bond during the period commencing on a Regular Record Date or Special Record Date and ending on the corresponding interest payment date of such Bond, nor to transfer or exchange any Bond after the notice calling such Bond for redemption has been made, nor during a period following the receipt of instructions from the Municipality to call such Bond for redemption.

This Bond is one of a total authorized issue aggregating $_____ and issued by the Municipality to finance in whole or in part, (i) acquisition of land for and the construction, improvement and/or equipping of roads, bridges, streets, highways and sidewalks, schools and school facilities, parks and recreation facilities, public buildings, storm water drainage systems, fire department equipment and buildings, law enforcement buildings and equipment, libraries, and the acquisition of related vehicles and equipment including, but not limited to, lighting, computers and other technological equipment; (ii) the improvement and extension of the water and wastewater system of the Municipality; (ii) payment of architectural, engineering, legal, fiscal and administrative costs incident to the foregoing; and (iii) payment of costs incident to the issuance and sale of the Bonds, pursuant to 9-21-101, et seq., Tennessee Code Annotated, as amended, and pursuant to a resolution adopted by the City Council of the Municipality on February 28, 2022 (the "Resolution").

This Bond and the income therefrom are exempt from all present state, county and municipal taxes in Tennessee except (a) Tennessee excise taxes on interest on the Bond during the period the Bond is held or beneficially owned by any organization or entity, other than a sole proprietorship or general partnership, doing business in the State of Tennessee, and (b) Tennessee franchise taxes by reason of the inclusion of the book value of the Bond in Tennessee franchise tax base of any organization or entity, other than a sole proprietorship or general partnership, doing business in the State of Tennessee.

The Bonds shall be payable from unlimited ad valorem taxes to be levied on all taxable property within the Municipality. For the prompt payment of the principal of, premium, if any, and interest on the Bonds, the full faith and credit of the Municipality are hereby irrevocably pledged. The portions of the

Bonds (based on allocation of Bonds and Bond proceeds as determined by the Municipality) that finance improvements to the water and wastewater system the Municipality shall be additionally payable from but not secured by the revenues of such system.

It is hereby certified, recited, and declared that all acts, conditions and things required to exist, happen and be performed precedent to the issuance of this Bond exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the Municipality, does not exceed any limitation prescribed by the constitution and statutes of the State of Tennessee.

IN WITNESS WHEREOF, the Municipality has caused this Bond to be signed by its Mayor and attested by its City Clerk as of the date hereinabove set forth.

CITY OF CLEVELAND, TENNESSEE
By: FORM OF BOND – DO NOT SIGN
Mayor

ATTESTED:
FORM OF BOND – DO NOT SIGN
City Clerk

Transferable and payable at the
trust office of: _____
_____, _____

Date of Registration: _____

This Bond is one of the issue of Bonds issued pursuant to the Resolution hereinabove described.

_____
Registration Agent
By: _____
Authorized Officer

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____ _____, whose address is _____ (Please insert Federal Identification or Social Security Number of Assignee _____), the within Bond of City of Cleveland, Tennessee, and does hereby irrevocably constitute and appoint _____, attorney, to transfer the said Bond on the records kept for registration thereof with full power of substitution in the premises.

Dated: _____

_____
NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature guaranteed:

_____
NOTICE: Signature(s) must be guaranteed
by a member firm of a Medallion Program
acceptable to the Registration Agent

Levy of Tax. The Municipality, through its Governing Body, shall annually levy and collect a tax upon all taxable property within the Municipality, in addition to all other taxes authorized by law, sufficient to pay principal of, premium, if any, and interest on the Bonds when due, and for that purpose there is hereby levied a direct annual tax in such amount as may be found necessary each year to pay principal and interest coming due on the Bonds in said year. Principal and interest falling due at any time when there are insufficient funds from this tax levy on hand shall be paid from the current funds of the Municipality and reimbursement therefor shall be made out of the taxes hereby provided to the levied

when the same shall have been collected. The tax herein provided may be reduced to the extent of any direct appropriations from other funds, taxes and revenues of the Municipality to the payment of debt service on the Bonds, including available revenues from the electric system and water and sewer system of the Municipality to the extent the debt service on the Bonds relates to projects for such electric system and water and sewer system.

Sale of Bonds.

The Bonds shall be offered for competitive public sale in one or more series, at a price of not less than 98% of par, plus accrued interest, as a whole or in part from time to time as shall be determined by the Mayor, in consultation with the Municipal Advisor. The Bonds, or any series thereof, shall be sold by delivery of bids via physical delivery, mail, fax, or telephone or by electronic bidding means of an Internet bidding service as shall be determined by the Mayor, in consultation with the Municipal Advisor.

If the Bonds are sold in more than one series, the Mayor is authorized to cause to be sold in each series an aggregate principal amount of Bonds less than that shown in Section 4 hereof for each series, so long as the total aggregate principal amount of all series issued does not exceed the total aggregate of Bonds authorized to be issued herein.

The Mayor is further authorized with respect to each series of Bonds to:

change the dated date of the Bonds, or any series thereof, to a date other than the date of issuance of the Bonds;

change the designation of the Bonds, or any series thereof, to a designation other than "General Obligation Bonds, Series 2022" and to specify the series designation of the Bonds, or any series thereof;

change the first interest payment date on the Bonds, or any series thereof, to a date other than December 1, 2022, provided that such date is not later than twelve months from the dated date of such series of Bonds;

establish and adjust the principal and interest payment dates and the maturity amounts of the Bonds, or any series thereof, provided that (A) the total principal amount of all series of the Bonds does not exceed the total amount of Bonds authorized herein; (B) the final maturity date of each series shall not exceed the final maturity described in Section 4 hereof; and (C) the debt service schedule shall be consistent with the terms of Section 4 and shall not result in balloon indebtedness requiring the approval of Director of the Division of State and Local Finance of the State of Tennessee;

adjust or remove the Municipality's optional redemption provisions of the Bonds, provided that the premium amount to be paid on Bonds or any series thereof does not exceed two percent (2%) of the principal amount thereof;

sell the Bonds, or any series thereof, or any maturities thereof as Term Bonds with mandatory redemption requirements corresponding to the maturities set forth herein or as otherwise determined by the Mayor, as he shall deem most advantageous to the Municipality; and

cause all or a portion of the Bonds to be insured by a bond insurance policy issued by a nationally recognized bond insurance company if such insurance is requested and paid for by the winning bidder of the Bonds, or any series thereof.

The form of the Bond set forth in Section 6 hereof shall be conformed to reflect any changes made pursuant to this Section 8 hereof.

The Mayor is authorized to sell the Bonds, or any series thereof, simultaneously with any other bonds or notes authorized by resolution or resolutions of the Governing Body. The Mayor is further authorized to sell the Bonds, or any series thereof, as a single issue of bonds with any other bonds with substantially similar terms authorized by resolution or resolutions of the Governing Body, in one or more series as the Mayor shall deem to be advantageous to the Municipality and in doing so, the Mayor is authorized to change the designation of the Bonds to a designation other than "General Obligation Bonds"; provided, however, that the total aggregate principal amount of combined bonds to be sold does

not exceed the total aggregate principal amount of Bonds authorized by this resolution or bonds authorized by any other resolution or resolutions adopted by the Governing Body.

The Mayor is authorized to award the Bonds, or any series thereof, in each case to the bidder whose bid results in the lowest true interest cost to the Municipality, provided the rate or rates on the Bonds does not exceed the maximum rate prescribed by Section 4 hereof. The award of the Bonds by the Mayor to the lowest bidder shall be binding on the Municipality, and no further action of the Governing Body with respect thereto shall be required.

The Mayor and City Clerk are authorized to cause the Bonds, in book-entry form (except as otherwise permitted herein), to be authenticated and delivered by the Registration Agent to the successful bidder and to execute, publish, and deliver all certificates and documents, including an official statement and closing certificates, as they shall deem necessary in connection with the sale and delivery of the Bonds. The Mayor is hereby authorized to enter into a contract with the Municipal Advisor, for Municipal Advisory services in connection with the sale of the Bonds and to enter into an engagement letter with Bass, Berry & Sims PLC to serve as bond counsel in connection with the Bonds, and all actions heretofore taken by the officers of the Municipality in that regard are hereby ratified and approved.

No Bonds shall be issued until publication of the Initial Resolution in a newspaper of general circulation in the Municipality and the passage of twenty (20) days from the date of publication thereof, and in no event shall the Bonds be issued if a legally sufficient petition, as defined by Section 9-21-207, Tennessee Code Annotated, is filed within such twenty-day period.

Disposition of Bond Proceeds. The proceeds of the sale of the Bonds shall be deposited with a special fund of the Municipality known as the Construction Fund (the "Construction Fund"), or such other designation as shall be determined by the Mayor, to be kept separate and apart from all other funds of the Municipality, provided that any funds to be applied to finance improvements to the water and wastewater system of the Municipality may be transferred to the Cleveland Utilities Board to be applied for such purpose. The Municipality shall disburse funds in the Construction Fund to pay costs of issuance of the Bonds, including necessary legal, accounting and fiscal expenses, printing, engraving, advertising and similar expenses, administrative and clerical costs, Registration Agent fees, bond insurance premiums, if any, and other necessary miscellaneous expenses incurred in connection with the issuance and sale of the Bonds. Notwithstanding the foregoing, costs of issuance of the Bonds may be withheld from the good faith deposit or purchase price of the Bonds and paid to the Municipal Advisor to be used to pay costs of issuance of the Bonds. The remaining funds in the Construction Fund shall be disbursed solely to pay the costs of the Projects and to reimburse the Municipality for any funds previously expended for costs of the Projects. Money in the Construction Fund shall be secured in the manner prescribed by applicable statutes relative to the securing of public or trust funds, if any, or, in the absence of such a statute, by a pledge of readily marketable securities having at all times a market value of not less than the amount in said Construction Fund. Money in the Construction Fund shall be invested in such investments as shall be permitted by applicable law to the extent permitted by applicable law.

Official Statement. The officers of the Municipality, or any of them, are hereby authorized and directed to provide for the preparation and distribution of a Preliminary Official Statement describing the Bonds. After bids have been received and the Bonds have been awarded, the officers of the Municipality, or any of them, shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this resolution as are necessary or desirable to complete it as a final Official Statement for purposes of Rule 15c2-12(e)(3) of the Securities and Exchange Commission. The officers of the Municipality, or any of them, shall arrange for the delivery to the successful bidder on the Bonds of a reasonable number of copies of the Official Statement within seven business days after the Bonds have been awarded for delivery, by the successful bidder on the Bonds, to each potential investor requesting a copy of the Official Statement and to each person to whom such bidder and members of his bidding group initially sell the Bonds.

The officers of the Municipality, or any of them, are authorized, on behalf of the Municipality, to deem the Preliminary Official Statement and the Official Statement in final form, each to be final as of its date within the meaning of Rule 15c2-12(b)(1), except for the omission in the Preliminary Official Statement of certain pricing and other information allowed to be omitted pursuant to such Rule 15c2-12(b)(1). The distribution of the Preliminary Official Statement and the Official Statement in final form shall be conclusive evidence that each has been deemed in final form as of its date by the Municipality except for the omission in the Preliminary Official Statement of such pricing and other information.

Notwithstanding the foregoing, no Official Statement is required to be prepared if the Bonds, or any series thereof, are purchased by a purchaser that certifies that such purchaser intends to hold the Bonds, or any series thereof, for its own account and has no present intention to reoffer the Bonds, or any series thereof.

Discharge and Satisfaction of Bonds. If the Municipality shall pay and discharge the indebtedness evidenced by any series of the Bonds in any one or more of the following ways:

By paying or causing to be paid, by deposit of sufficient funds as and when required with the Registration Agent, the principal of and interest on such Bonds as and when the same become due and payable;

By depositing or causing to be deposited with any trust company or financial institution whose deposits are insured by the Federal Deposit Insurance Corporation or similar federal agency and which has trust powers (an "Agent"; which Agent may be the Registration Agent) in trust or escrow, on or before the date of maturity or redemption, sufficient money or Defeasance Obligations, as hereafter defined, the principal of and interest on which, when due and payable, will provide sufficient moneys to pay or redeem such Bonds and to pay interest thereon when due until the maturity or redemption date (provided, if such Bonds are to be redeemed prior to maturity thereof, proper notice of such redemption shall have been given or adequate provision shall have been made for the giving of such notice); or

By delivering such Bonds to the Registration Agent for cancellation by it;

and if the Municipality shall also pay or cause to be paid all other sums payable hereunder by the Municipality with respect to such Bonds, or make adequate provision therefor, and by resolution of the Governing Body instruct any such Escrow Agent to pay amounts when and as required to the Registration Agent for the payment of principal of and interest on such Bonds when due, then and in that case the indebtedness evidenced by such Bonds shall be discharged and satisfied and all covenants, agreements and obligations of the Municipality to the holders of such Bonds shall be fully discharged and satisfied and shall thereupon cease, terminate and become void.

If the Municipality shall pay and discharge the indebtedness evidenced by any of the Bonds in the manner provided in either clause (a) or clause (b) above, then the registered owners thereof shall thereafter be entitled only to payment out of the money or Defeasance Obligations deposited as aforesaid.

Except as otherwise provided in this Section, neither Defeasance Obligations nor moneys deposited with the Registration Agent pursuant to this Section nor principal or interest payments on any such Defeasance Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal and interest on said Bonds; provided that any cash received from such principal or interest payments on such Defeasance Obligations deposited with the Registration Agent, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Municipality as received by the Registration Agent and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Defeasance Obligations maturing at times and in amounts sufficient to pay when due the principal and interest to become due on said Bonds on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Municipality, as received by the Registration Agent. For the purposes of this Section, Defeasance Obligations shall direct obligations of, or obligations, the principal of and interest on which are guaranteed by, the United States of America, or any agency thereof, obligations of any agency or instrumentality of the United States or any other obligations at the time of the purchase thereof are permitted investments under Tennessee law for the purposes described in this Section, which bonds or other obligations shall not be subject to redemption prior to their maturity other than at the option of the registered owner thereof.

Federal Tax Matters Related to the Bonds.

The Bonds are expected to be issued as federally tax-exempt bonds. If so issued, the Municipality hereby covenants that it will not use, or permit the use of, any proceeds of the Bonds in a manner that would cause the Bonds to be subjected to treatment under Section 148 of the Code, and applicable regulations thereunder, as an "arbitrage bond." To that end, the Municipality shall comply with applicable regulations adopted under said Section 148. The Municipality further covenants with the registered owners from time to time of the Bonds that it will, throughout the term of the Bonds and through the date that the final rebate, if any, must be made to the United States in accordance with Section 148 of the Code, comply with the provisions of Sections 103 and 141 through 150 of the Code and all

regulations proposed and promulgated thereunder that must be satisfied in order that interest on the Bonds shall be and continue to be excluded from gross income for federal income tax purposes under Section 103 of the Code.

The Governing Body hereby delegates to the Mayor the authority to designate, and determine whether to designate, any series of the Bonds as "qualified tax-exempt obligations," as defined in Section 265 of the Code, to the extent permitted under the Code.

It is reasonably expected that the Municipality will reimburse itself for certain expenditures made by it in connection with the Projects by issuing the Bonds. This resolution shall be placed in the minutes of the Governing Body and shall be made available for inspection by the general public at the office of the Governing Body. This resolution constitutes a declaration of official intent under Treas. Reg. §1.150-2.

The appropriate officers of the Municipality are authorized and directed, on behalf of the Municipality, to execute and deliver all such certificates and documents that may be required of the Municipality in order to comply with the provisions of this Section related to the issuance of the Bonds.

Continuing Disclosure. The Municipality hereby covenants and agrees that it will provide annual financial information and material event notices if and as required by Rule 15c2-12 of the Securities Exchange Commission for the Bonds. The Mayor is authorized to execute at the Closing of the sale of the Bonds an agreement for the benefit of and enforceable by the owners of the Bonds specifying the details of the financial information and material event notices to be provided and its obligations relating thereto. Failure of the Municipality to comply with the undertaking herein described and to be detailed in said closing agreement shall not be a default hereunder, but any such failure shall entitle the owner or owners of any of the Bonds to take such actions and to initiate such proceedings as shall be necessary and appropriate to cause the Municipality to comply with their undertaking as set forth herein and in said agreement, including the remedies of mandamus and specific performance.

Resolution a Contract. The provisions of this resolution shall constitute a contract between the Municipality and the registered owners of the Bonds, and after the issuance of the Bonds, no change, variation or alteration of any kind in the provisions of this resolution shall be made in any manner until such time as the Bonds and interest due thereon shall have been paid in full.

Separability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

Repeal of Conflicting Resolutions and Effective Date. All other resolutions and orders, or parts thereof in conflict with the provisions of this resolution, are, to the extent of such conflict, hereby repealed and this resolution shall be in immediate effect from and after its adoption.

Duly adopted and approved on February 28, 2022.

_____
Mayor

Attested:

_____
City Clerk

STATE OF TENNESSEE)

COUNTY OF BRADLEY)

I, Shawn McKay, certify that I am the duly qualified and acting City Clerk of City of Cleveland, Tennessee, and as such official I further certify that attached hereto is a copy of excerpts from the minutes of a meeting of the governing body of the Municipality held on February 28, 2022; that these minutes were promptly and fully recorded and are open to public inspection; that I have compared said copy with the original minute record of said meeting in my official custody; and that said copy is a true, correct and complete transcript from said original minute record insofar as said original record relates to the Municipality's General Obligation Bonds, Series 2022.

WITNESS my official signature of said Municipality on _____, 2022.

_____
City Clerk

Councilman May moved that Resolution 2022-19 be accepted as presented. The motion was seconded by Vice Mayor Johnson. Councilman Estes stated these will be fixed rate bonds. Councilman Cassada added with no tax increase for the citizens. Mayor Brooks stated both statements are correct. Upon roll call, the motion unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, March 14, 2022.

There being no future business the meeting was adjourned at 3:13 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
MARCH 14, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MARCH 14, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director and Tim Siniard 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 28, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

No hearing petitions and communications.

CONSENT AGENDA

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

- **Resolution 2022-20** – Authorizing a loan agreement in the principal amount not to exceed $825,000 for Wastewater Facilities Project (Cleveland Utilities).

CITY OF CLEVELAND
DWF 2022-247
AUTHORIZING RESOLUTION 2022-20

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 (Bradley County) , 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 2022-247 (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 funds 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 eight hundred twenty-five thousand dollars ($825,000) 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 eight hundred twenty-five thousand dollars ($825,000), for the purpose of funding all or a portion of the total estimated cost of the Project, which is eight hundred twenty-five thousand dollars ($825,000), by Tim Henderson, the President/CEO Cleveland Utilities Board 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/CEO Cleveland Utilities Board 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 are 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 _____, 2022.

I certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision. The submitted information is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting

false information, including the possibility of fine and imprisonment. As specified in Tenn. Code Ann. § 39-16-702(a)(4), this declaration is made under penalty of perjury.

_____
Kevin Brooks, Mayor

- **Resolution 2022-21** - Authorizing the Mayor to sign an agreement with Wiser Consultants, LLC for CEI Services for the Paul Huff Resurfacing Project.

RESOLUTION 2022-21

A RESOLUTION APPROVING OF THE SELECTION OF WISER CONSULTANTS, LLC TO PROVIDE PROFESSIONAL CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES FOR THE PAUL HUFF PARKWAY RESURFACING PROJECT AND APPROVING OF A PROFESSIONAL SERVICES AGREEMENT FOR THIS PROJECT

WHEREAS, the City is proceeding with the Paul Huff Resurfacing Project; and

WHEREAS, the City staff are recommending to the City Council that the City select Wiser Consultants, LLC to provide professional construction engineering and inspection (CEI) services for this project; and

WHEREAS, the City Council desires to approve of the selection of Wiser Consultants, LLC for the professional services described herein, and to authorize the Mayor to execute the attached professional services agreement with Wiser Consultants, LLC on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee that the City Council does hereby approve of the selection of Wiser Consultants, LLC to provide professional services as described in the attached agreement, and the City Council further authorizes the Mayor to execute the agreement on behalf of the City.

This 14th day of March, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-22** – Authorizing the City to purchase firefighter self-contained breathing apparatus through the Master Intergovernmental Cooperative Purchasing Agreement #PS20120.

RESOLUTION 2022-22

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE FIRE FIGHTER SELF CONTAINED BREATHING APPARATUS (SCBA) THROUGH MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT #PS20120, AS AMENDED, WHICH IS ADMINISTERED BY NATIONAL PURCHASING PARTNERS, LLC dba PUBLIC SAFETY GPO, dba FIRST RESPONDER GPO, dba LAW ENFORCEMENT GPO and dba NPPGOV, A NATIONAL COOPERATIVE PROCUREMENT ORGANIZATION FOR THE LEAGUE OF OREGON CITIES.

WHEREAS *Tennessee Code Annotated* § 12-3-1205 provides that any municipality may participate in, sponsor, conduct, or administer a "cooperative purchasing agreement" for the procurement of any supplies, services, or construction with one (1) or more other local

governments in accordance with an agreement entered into between the participants, including governmental entities outside this state; and

WHEREAS, the Master Intergovernmental Cooperative Purchasing Agreement ("MICPA") to provide fire fighter self contained breathing apparatus (SCBA) between Municipal Emergency Services, Inc/Lawmen Supply Company ("Company") and League of Oregon Cities ("Lead Public Agency") in cooperation with National Public Partners, LLC dba Public Safety GPO, dba First Responder GPO, dba Law Enforcement GPO and dba NPPGov, a National Cooperative Procurement Organization on behalf of the Lead Public Agency and any Participating Public Agency, which may include the City of Cleveland, Tennessee, meets the authorized public bidding requirements for the State of Tennessee and allows governmental purchases of fire fighter self contained breathing apparatus pursuant to this MICPA at discounted contract prices, as permitted by *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City of Cleveland is authorized to participate in this Master Intergovernmental Cooperative Purchasing Agreement provided that it adopts a resolution accepting the terms of the Master Agreement and the City of Cleveland as a participant acquires and maintains documentation that the purchasing entity that procured the bid complied with the purchasing requirements for the City of Cleveland pursuant to *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City Manager has determined that the Master Agreement shall be construed in accordance with and governed by the laws of the State in which the City of Cleveland exists as a participating agency and that the City of Cleveland has registered on-line with NPPGov which allows the City of Cleveland to enter into this MICPA and which is intended to allow the City of Cleveland to meet applicable legal requirements and facilitate access to the Master Agreement and the Company under Contract #PS20120, as amended, held by the League of Oregon Cities as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE that the City of Cleveland be and is hereby authorized to purchase fire fighter self contained breathing apparatus as a participating public agency under MICPA Contract #PS20120, as amended, held by League of Oregon Cities as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through NPPGov, to be used by the Fire Department for the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-23** – Authorizing the City to purchase firefighting equipment through the Master Intergovernmental Cooperative Purchasing Agreement #PS20040.

RESOLUTION 2022-23

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE FIRE FIGHTING EQUIPMENT THROUGH MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT #PS20040, AS AMENDED, WHICH IS ADMINISTERED BY NATIONAL PURCHASING PARTNERS, LLC dba PUBLIC SAFETY GPO, dba FIRST RESPONDER GPO, dba LAW ENFORCEMENT GPO and dba NPPGOV, A NATIONAL COOPERATIVE PROCUREMENT ORGANIZATION FOR THE LEAGUE OF OREGON CITIES.

WHEREAS *Tennessee Code Annotated* § 12-3-1205 provides that any municipality may participate in, sponsor, conduct, or administer a "cooperative purchasing agreement" for the

procurement of any supplies, services, or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants, including governmental entities outside this state; and

WHEREAS, the Master Intergovernmental Cooperative Purchasing Agreement ("MICPA") to provide fire fighting equipment between Municipal Emergency Services, Inc/Lawmen Supply Company ("Company") and League of Oregon Cities ("Lead Public Agency") in cooperation with National Public Partners, LLC dba Public Safety GPO, dba First Responder GPO, dba Law Enforcement GPO and dba NPPGov, a National Cooperative Procurement Organization on behalf of the Lead Public Agency and any Participating Public Agency, which may include the City of Cleveland, Tennessee, meets the authorized public bidding requirements for the State of Tennessee and allows governmental purchases of fire fighter equipment pursuant to this MICPA at discounted contract prices, as permitted by *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City of Cleveland is authorized to participate in this Master Intergovernmental Cooperative Purchasing Agreement provided that it adopts a resolution accepting the terms of the Master Agreement and the City of Cleveland as a participant acquires and maintains documentation that the purchasing entity that procured the bid complied with the purchasing requirements for the City of Cleveland pursuant to *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City Manager has determined that the Master Agreement shall be construed in accordance with and governed by the laws of the State in which the City of Cleveland exists as a participating agency and that the City of Cleveland has registered on-line with NPPGov which allows the City of Cleveland to enter into this MICPA and which is intended to allow the City of Cleveland to meet applicable legal requirements and facilitate access to the Master Agreement and the Company under Contract #PS20040, as amended, held by the League of Oregon Cities as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE that the City of Cleveland be and is hereby authorized to purchase fire fighting equipment as a participating public agency under MICPA Contract #PS20040, as amended, held by League of Oregon Cities as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through NPPGov, to be used by the Fire Department for the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-24** – Authorizing the City to purchase firefighter personal protective equipment through the Master Intergovernmental Cooperative Purchasing Agreement #PS20070.

RESOLUTION 2022-24

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE FIRE FIGHTER PERSONAL PROTECTIVE EQUIPMENT (PPE) THROUGH MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT #PS20070, AS AMENDED, WHICH IS ADMINISTERED BY NATIONAL PURCHASING PARTNERS, LLC dba PUBLIC SAFETY GPO, dba FIRST RESPONDER GPO, dba LAW ENFORCEMENT GPO and dba NPPGOV, A NATIONAL COOPERATIVE PROCUREMENT ORGANIZATION FOR THE LEAGUE OF OREGON CITIES.

WHEREAS *Tennessee Code Annotated* § 12-3-1205 provides that any municipality may participate in, sponsor, conduct, or administer a "cooperative purchasing agreement" for the procurement of any supplies, services, or construction with one (1) or more other local

governments in accordance with an agreement entered into between the participants, including governmental entities outside this state; and

WHEREAS, the Master Intergovernmental Cooperative Purchasing Agreement ("MICPA") to provide fire fighter personal protective equipment (PPE) between Municipal Emergency Services, Inc/Lawmen Supply Company ("Company") and League of Oregon Cities ("Lead Public Agency") in cooperation with National Public Partners, LLC dba Public Safety GPO, dba First Responder GPO, dba Law Enforcement GPO and dba NPPGov, a National Cooperative Procurement Organization on behalf of the Lead Public Agency and any Participating Public Agency, which may include the City of Cleveland, Tennessee, meets the authorized public bidding requirements for the State of Tennessee and allows governmental purchases of fire fighter personal protective equipment pursuant to this MICPA at discounted contract prices, as permitted by *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City of Cleveland is authorized to participate in this Master Intergovernmental Cooperative Purchasing Agreement provided that it adopts a resolution accepting the terms of the Master Agreement and the City of Cleveland as a participant acquires and maintains documentation that the purchasing entity that procured the bid complied with the purchasing requirements for the City of Cleveland pursuant to *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City Manager has determined that the Master Agreement shall be construed in accordance with and governed by the laws of the State in which the City of Cleveland exists as a participating agency and that the City of Cleveland has registered on-line with NPPGov which allows the City of Cleveland to enter into this MICPA and which is intended to allow the City of Cleveland to meet applicable legal requirements and facilitate access to the Master Agreement and the Company under Contract #PS20070, as amended, held by the League of Oregon Cities as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE that the City of Cleveland be and is hereby authorized to purchase fire fighter personal protective equipment as a participating public agency under MICPA Contract #PS20070, as amended, held by League of Oregon Cities as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through NPPGov, to be used by the Fire Department for the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Bid Update** – College Hill Sports Flooring System.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **March 14, 2022**
RE: **Bid Summary – College Hill Recreation Sports Flooring System**

SUMMARY:
The City advertised to receive sealed bids for a new hardwood sports flooring system at College Hill Recreation. No bids were received.

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City will rebid this project.

- **Surplus Property** – Declaring a 2002 Crown Victoria as surplus property and to be used for Fire Department training.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **March 14, 2022**
RE: **Surplus Property**

SUMMARY:
The Fire Department has requested the City Council declare the following vehicle as surplus property to be used for training:

- 2002 Ford Crown Victoria VIN 2FAFP71W33140718

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Hughes inquired about the status for this year's Old Timers Banquet. Ms. Petitt stated they are finalizing a date with the Museum but they are planning sometime in the fall.

Vice Mayor Johnson inquired if Mr. Fivas has looked into the flooding conditions across from Stuart School for Steve McCullen. Mr. Fivas' response was inaudible. Vice Mayor Johnson then asked about the status of the street light request for Octavia Blair. Ms. Brandon stated a response was received today and will be on the next agenda for approval.

Councilwoman McKenzie stated she received a call concerning 912 Fairmont Ave, it is being rented as a duplex even after Council denied the rezoning. Mr. Jobe stated they have sent notice to the property owner that it can only be rented to one resident.

Councilman Estes stated he has positive remarks concerning Vest Grocery demo last week. He thanked staff for their joint efforts. He then asked Mr. Varnell to make him aware before work begins on the Gaut Street sidewalk project. Secondly, the deadline for 360 17th Street NW concerning the fire damage is approaching and he appreciates a follow-up. Next, he asked Chief Gaylor if the Fire Department monthly call report could be sorted by address or district.

Councilman Cassada asked when the privacy fence along the development on Paul Huff Parkway development near Robinhood Subdivision. The residents of the adjacent subdivision have been exposed to light and noise pollution and his understanding was the fence would be completed before additional building permits were issued. He hopes the fence will be completed soon.

Councilman May asked for an update on the Army Corps and the two additional ponds. Mr. Jobe replied that is federal funds and they are still awaiting to begin the bid process. They will be detention ponds located on Carolina and behind Logan's Roadhouse. Additional comments were made by Mr. Jobe and Mr. Fivas but they were inaudible.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

RESOLUTION 2022-25

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE EQUIPMENT, PRODUCTS, OR SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING CONTRACT #060920-NVA, AS AMENDED, WHICH IS ADMINISTERED BY SOURCEWELL A STATE OF MINNESOTA LOCAL GOVERNMENT AGENCY AND SERVICE COOPERATIVE.

WHEREAS *Tennessee Code Annotated* § 12-3-1205 provides that any municipality may participate in, sponsor, conduct, or administer a "cooperative purchasing agreement" for the procurement of any supplies, services, or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants, including governmental entities outside this state; and

WHEREAS, the Master Intergovernmental Cooperative Purchasing Agreement ("MICPA") to provide equipment products or services between Navistar, Inc. dba International Truck ("Company") and Participating Entities in cooperation with Sourcewell a State of Minnesota local government agency and service cooperative on behalf of Participating Entities, which may include the City of Cleveland, Tennessee, meets the authorized public bidding requirements for the State of Tennessee and allows governmental purchases of equipment, products or services pursuant to this MICPA at discounted contract prices, as permitted by *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City of Cleveland is authorized to participate in this Master Intergovernmental Cooperative Purchasing Agreement provided that it adopts a resolution accepting the terms of the Contract and the City of Cleveland as a participant acquires and maintains documentation that the purchasing entity that procured the bid complied with the purchasing requirements for the City of Cleveland pursuant to *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City Manager has determined that the Master Agreement shall be construed in accordance with and governed by the laws of the State in which the City of Cleveland exists as a participating agency and that the City of Cleveland has registered with Sourcewell which allows the City of Cleveland to enter into this MICPA and which is intended to allow the City of Cleveland to meet applicable legal requirements and facilitate access to the Master Agreement and the Company under Contract #060920-NVS, as amended, held by Sourcewell as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE that the City of Cleveland be and is hereby authorized to purchase equipment, products or services as a participating public agency under MICPA Contract #060920-NVS, as amended, held by Sourcewell as required by *Tennessee Code Annotated* § 12-

3-1205 (a)(1) through Sourcewell to be used by the Public Works Department for the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2022-25 be accepted as presented and approve the purchase of the dump truck. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, March 28, 2022.

Mayor Brooks stated T. Roy Jones recently passed away and asked for a moment of silence.

There being no future business the meeting was adjourned at 3:25 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
MARCH 28, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MARCH 28, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Mark Lay; Alex Staup; Charlie Boothe; Elize Goldston; Paulette Pugh and Tim Siniard with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson, a moment of silence was held for retired city employees Larry Bryant and Engineer Ron "Smokey" Davis who both recently passed away. 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 March 14, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 12.4 acres, more or less, located on King Den Drive (Tax Map 34 Parcel 029.00) from R1 Single Family Residential Zoning District to PUD35 Planned Unit Development. Robert Varnell gave a brief summary of the rezoning request. The item was approved by the Planning Commission 5-0; with 1 recused and 3 members absent. This development will be single-family homes as well as townhomes and will be consistent with the feel of existing neighborhoods. Mayor Brooks asked if anyone would like to speak in favor of the approval of the rezoning. Ben Berry with Berry Engineering stated he was representing the developer and was available for any questions. Councilman Hughes stated initially he received calls concerning townhomes and after speaking with Mr. Sheehan, he spoke with resident Mitch Long, who was not in agreement with the rezoning. The townhomes will not be seen by King Den Drive. He then asked if the developer considered a gated community. Mr. Berry stated the townhomes will be located in the back of the development, so yes, they will not be seen from King Den Drive. The developer has not discussed a gated community. The biggest challenge with gated communities is the road remain private and maintenance obligations are passed to the homeowners. This development is an expansion of the surrounding neighborhood. Mayor Brooks asked if anyone would like to speak in opposition to the approval of the rezoning. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

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

- **Street Light Recommendation** – Octavia Blair located at 528 15th Street NE (Cleveland Utilities states the fixtures along 15th Street NE comply with city guidelines. The existing fixtures can be upgraded to 41-watt LED fixtures at a cost of $146.70 and an additional 41-watt fixture be installed on an existing pole in the alleyway. Tree trimming is recommended around the pole as well).

- **Bid Report** – Laundry & Dry Cleaning.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **March 28, 2022**
RE: **Bid Summary – Laundry & Dry Cleaning**

SUMMARY:
Sealed bids were received on March 22, 2022, for Laundry & Dry Cleaning Services. The bids are listed below:

VENDOR:	Champion Cleaners			
DRESS PANT	3.50		SPORT COAT (CIVILIAN)	3.50
DRESS SHIRT	3.25		SUIT - 2 PIECES (CIVILIAN)	6.75
EISENHOWER JACKET	4.00		BLACK FATIGUES - 2 PIECES	6.75
SERVICE JACKET, FUR LINED	4.00		JEANS	3.50
DRESS SHIRT, LAUNDRY	1.75		SHORTS	3.50
DRESS PANT, LAUNDRY	3.50		DRESS	5.40
KNIT SHIRT	2.80		BLOUSE	3.50
BROWN FATIGUES, LAUNDRY	3.50		RAINCOAT	5.70
KNIT PULLOVER, LAUNDRY	2.75		SUIT JACKET	3.50
TIES	2.00		VEST	2.70
BULLET PROOF VEST (CARRIER)	3.00		SEWING OF INSIGNIAS	6.00
SWEATER (CIVILIAN)	3.25			

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funds are available.

RECOMMENDATION:
Staff recommends award to Champion Cleaners. The initial term of this contract will be for a one-year period beginning May 1, 2022.

- **Surplus Property** – Declaring SCBA's from the Fire Department as surplus property and to be sold to a Volunteer Fire Department and/or placed for sale on Tennessee Fire Mutual Aid group.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **March 28, 2022**
RE: **Surplus Property**

SUMMARY:
The Fire Department has requested the City Council declare the following SCBA's as surplus property.

To be sold to a volunteer fire department and/or placed for sale on Tennessee Fire Mutual Aid group:

Serial #'s 35008666, 17001649, 3026474, 808003581, 8004977, 210068880, 21006874, OO428596, 2020312, 2020316, 2020320 ,2020376, 2020457, 2020379, 2020313, 2020464, 2020456, 2020304, 2020310, 2020322, 2020307, 301036, 51002510, 2030383, 2020381, 2020303, 2020454, 2020460, 2020375, 2021179, 2020461, 2020451, 2021178, 2020465, 2020470, 2020452, 2020305, 2020368, 2020468, 2020369, 2020994, 2020319, 2020306, 2020366, 2020372, 2020462, 2020378, 2020573, 2020455, 2020314, 817001639

To be donated to Cleveland Utilities:
Serial #'s 2020377, 2020463

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

- **Reappointment** – *Building Board of Adjustment and Appeals* - Donald Humes for an additional 3-year term to expire January, 2025.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Webb asked for an update on the potential signal at Stuart Crossing and North Lee Highway. Mr. Fivas stated that was one of two projects submitted to the State for Local Safety Programs and we have not received a response yet. Councilman Webb asked for staff to follow-up and request a timeline. He continued that on Saturday he participated in another tire cleanup event off Exit 20 and Councilwoman McKenzie will have an additional update.

Vice Mayor Johnson stated he received a call from Robert Martin on Peerless Road concerning the drainage washing out his front yard. It has been reported to Mr. Myers and he will take a look at the property.

Councilwoman McKenzie updated everyone on the last tire cleanup event at Exit 20. Bradley High Football team helped with this event, which we collected 700+ tires. To date we have cleaned up 4,400 tires and still have approximately 2,700 tires left to clean up at this location. Keep America Beautiful has worked hard with organizing the events and we have several additional sites to clean up as well. Secondly, she asked if there is plan from the State to repave South Lee Highway. Mr. Fivas stated it was last repaved in 2016 but staff will reach out for an updated paving list. Councilman Webb added he just received a text from Amanda Peels and the next cleanup will be April 9 and volunteers are needed.

Councilman Estes stated Coach Mark Brew who coaches the men's baseball team at Lee University stopped by during the break and distributed invitations to the Military Appreciation Day annual fund raiser for local veterans. It is a wonderful annual event.

Councilman Cassada asked when paving cycles would begin. Mr. Myers stated typically around May. He then thanked Mr. Myers and his staff for taking care of a situation in his neighborhood. Lastly, he asked about where we stand with Jim Sharp Park. Ms. Petitt stated they have a meeting scheduled this week to finalize the contracts.

Councilman Hughes stated a word of wisdom for Jim Sharp Park would be to follow the design plan of Deer Park. Also, on the April 11 meeting he would like the State Champions Cleveland High School Wrestling Team to be present. We are fortunate in Cleveland and Bradley County to have our high schools win it every year. Several years ago, all three high schools placed First, Second and Third. The students and coaches are committed to the program. They have been invited to attend on April 11, along with the Director and Principal. Councilman Cassada asked if a cake can be provided as well.

Mayor Brooks thanked Ms. Petitt and her crew for the repairs to the late-night water leak on the Greenway. Staff responded immediately and had it quickly fixed.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-06** – Rezoning 12.4 acres, more or less, located on King Den Drive (Tax Map 34 Parcel 029.00) from R1 Single Family Residential to PUD35 Panned Unit Development (Planning Commission: Approved 5-0; 1 recused, 3 absent).

ZONING ORDINANCE 2022-06

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 KING DEN "PUD 35" ON PROPERTY DESCRIBED AS TAX MAP 34 PARCEL 029, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 35; 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 inSection 3 herein as "PUD 35" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 35 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 35 district is 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 theterms of this ordinance is a zoning violation and is unlawful, subject to the penaltiesprescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 3. PROPERTY DESCRIPTION.

PUD 35, King Den Road Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 34 Parcel 29. Exhibit A illustrates the overall King Den Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of the King Den development. The project consists of a mixture of detached single-family homes on small lots and attached single-family dwellings in multi-unit townhome structures. The attached multi-unit townhome units may constitute no more than 44 percent, or 22 units of the of the 50 overall units within the greater development. Exhibit A shows the general location of proposed infrastructure and common areas. The developer shall include common open space designed within the development, including any permanent retention or detention pond areas, or landscapedcommon area.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 35 Subdivision allows for the construction of up to 50 dwelling units in detached single family houses and multi-unit townhome structures with up to four 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 conceptual plan through the Cleveland Municipal Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 35 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 King Den development 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 35 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 PUD 35, The King Den Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on February 15, 2022. The conceptual plan consists of a site plan for the overall development however additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD35 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland

Municipal Planning Commission. Any modification through the platting process may not increase the total number of dwelling units beyond 50 without a revision to the PUD ordinance approved by the City Council. Additional plans, plats, and other developmentrelated documents and permits will be necessary to carry out the construction of this project. It is recognized that the plats and site plans for The King Den development 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 PUD35 King Den development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed atthe expense of the developer. Where and if the Right of Way along King Den Drive is narrow adjacent to PUD 35 and the intention is that the King Den 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 King Den along the entire property so as to make room for future city improvements to the King Den roadway including sidewalks. Exhibit A shall be modified to reflect any additional ROW needed along King Den.

6.B. PLATS.

One or more plats will be prepared for the PUD35 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. These plats shall be consistent in general layout with the conceptual site plan.

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 35 as envisioned herein. It is a requirement of this ordinance that such documents are in placeand enforced by the Developer (or Developer's heirs, successors, or assigns) to the extent necessary for PUD 35 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.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD35 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.

All Single Family Detached Residential 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. The front facade of all structures shall contain a minimum of at least 50% of either brick, stone materials, or cement fiber materials. Vinyl Siding is prohibited on the front elevations except when used for soffits and similar accents. No blank walls along street elevations are allowed. A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area. The driveways and parking areas for each Townhome shall be separated by a minimum of 3-foot planted landscape strip, therefore allowing for placement of trees and other landscaping.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff. A vertical curb and gutter should be extended along King Den Drive to the development property line. If a ground sign installed it should be a monument style sign.

Open space shall be maintained at proportion no less than 20% of the total buildable area. All common areas, facilities and landscaping shall bekept in good repair by the developer, future owners, or an established homeowner's association. In coordination with Cleveland City Schools, a bus shelter must be placed on the property. A centralized cluster mailbox unit shall be provided, if required by the United States Postal service, and shall include a minimum of 2 off-street parking spaces. This may be combined with site amenity as provided. 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.

The minimum setbacks and lot width requirements 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 25 feet, Minimum side setback for single family lots is 3' on one side and 10' on the remaining side. Each 3' side setback must be joined by a 10' setback on the adjoining lot. Minimum side setback for townhomes is 10'. No setback is required for shared walls of townhouse units, and rear setbacks shall be no less than 15' from the property line. 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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address.

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 PUD35 King Den Development. 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 thisordinance 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 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 PUD35, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit A then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD35 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 11Developer" is intended to encompass Kings Den JMINV, LLC 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 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 this ____ day of _____, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Zoning Ordinance 2022-06 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, April 11, 2022.

There being no future business the meeting was adjourned at 3:28 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
APRIL 11, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, APRIL 11, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Joyce Stapek; Charlie Boothe; Ben Berry with Berry Engineering; Doug Berry with the Chamber of Commerce and Tim Siniard with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Councilwoman McKenzie, 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 March 28, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning approval of a Plan of Service, to hear public comments concerning a request by the property owner to annex, and to hear public comments concerning a request by the property owner to rezone .51 acres, more or less, from the unincorporated County FAR to R-2 for property located at 1555 Johnson Boulevard (Tax Map 58P Parcel 007.00). Robert Varnell stated this item was approved by the Planning Commission 9-0. It will be developed in the future. Mayor Brooks asked if anyone would like to speak in favor of the annexation. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the annexation. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning approval of Plan of Service, to hear public comments concerning a request by the property owner to annex from the unincorporated County, and to hear public comments concerning a request by the property owner to rezone 7.35 acres, more or less, from the unincorporated County FAR to PUD36 for property located at 3210 Michigan Avenue (Tax Map 50 Parcels 014.01). Robert Varnell stated this item was approved by the Planning Commission 4-1; 1 recused and 3 members were absent. The area will be developed with an extra buffer along the northern property line that borders the single-family homes. The general development plan is for 48 townhomes. Mayor Brooks asked if anyone would like to speak in favor of the annexation. Ben Berry with Berry Engineers stated this townhome project will be built by a local builder. The residents have been very receptive, and the developer has done several upgrades and added individual driveways for each unit. Mayor Brooks asked if anyone would like to speak in opposition of the annexation. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning approval of Plan of Service, to hear public comments concerning a request by the property owner to annex, and to hear public comments concerning a request by the property owner to rezone 22.69 acres, more or less, from the unincorporated County FAR to

PUD37 for property located on Michigan Avenue (Tax Map 50 Parcels 043.00). Robert Varnell stated this item was approved by the Planning Commission 9-0. Looking at the best options, the developer decided PUD zoning was beneficial in the long run. This will be a maximum of 199 units, with a left turn in from Michigan Avenue and site distance issues will be cleaned up as well. Mayor Brooks asked if anyone would like to speak in favor of the annexation. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the annexation. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2022-06** – heretofore passed on first reading March 28, 2022 and found in Minute Book 30, Page 598; Rezoning 12.4 acres, more or less, located on King Den Drive (Tax Map 34 Parcel 029.00) from R1 Single Family Residential to PUD35 Panned Unit Development (Planning Commission: Approved 5-0; 1 recused, 3 absent).
- **Bid Report** – Mosby Park Basketball Courts.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **April 11, 2022**
RE: **Bid Summary – Mosby Park Basketball Court**

SUMMARY:
The City advertised to accept sealed bids on April 5, 2022, for the Mosby Park Basketball Court project. One bid was received and is listed below:

- B&W Contractors, Inc. dba Cherokee Construction Co. — **$84,710.00**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
CDBG funded.

RECOMMENDATION:
Staff recommends award to B&W Contractors, Inc. dba Cherokee Construction Co.

- **Bid Report** – College Hill Harwood Sports Flooring System.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **April 11, 2022**
RE: **Bid Summary – College Hill Hardwood Sports Flooring System**

SUMMARY:
The City advertised to accept sealed bids on April 4, 2022, for replacement of the sports flooring system at College Hill Recreation. Bids are listed below.

- Finchum Sports Floors, LLC — **$91,913.00**
- Praters, Incorporated — **$147,724.00**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff recommends award to Finchum Sports Floors, LLC.

- **Resolution 2022-26** – Approving entry of construction form with the Department of the Army for the 12th Street Detention Structure Project.

RESOLUTION NO. 2022-26

WHEREAS, the City has received the attached Authorization for Entry of Construction form from the Department of the Army for the 12th Street Detention Structure Project; and

WHEREAS, the City Council desires to approve of this authorization with the Department of the Army, and to further authorize the Mayor to execute this authorization form 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 authorization for the entry of construction form with the Department of the Army for the 12th Street Detention Structure Project, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 11th day of April 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-27** – Authorizing the Mayor to sign the Custodian Agreement with Pinnacle Bank and authorizing the City Clerk to execute any documents related to purchasing Treasury Bills.

RESOLUTION 2022-27

WHEREAS, from time to time the City has idle funds maintained within the City's operating account; and

WHEREAS, in order to maximize the City's return on these idle funds, the City would like to have the option to purchase Treasury Bills (up to 12 month) with the idle cash maintained in the City's operating account; and

WHEREAS, City Staff have been in touch with the City's current financial institution, Pinnacle Bank, and Pinnacle Bank has provided the City with the attached custodian agreement which will allow the City to make these Treasury Bill purchases; and

WHEREAS, Pinnacle Bank has requested an official Resolution of the City Council which provides that the City Council approves of the establishment of a Custodian Agreement with Pinnacle Bank for this purpose, and which also confirms that the City Clerk is authorized to execute any documents which may be necessary or appropriate to make these Treasury Bill purchases from time to time with the idle funds contained within the City's operating account.

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 Custodian Agreement with Pinnacle Bank for this purpose.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute this Custodian Agreement with Pinnacle Bank on behalf of the City.

BE IT FURTHER RESOLVED that from and after the passage of this Resolution and the execution of the Custodian Agreement, that the City Clerk is hereby authorized to execute any documents or take any other actions which may hereafter be necessary or appropriate between the City of Cleveland and Pinnacle Bank to purchase the Treasury Bills as described herein.

This 11th day of April 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Street Light Recommendation** – Linda Moffett at 1114 Maple Dr NW (Cleveland Utilities recommends the addition of a new 41-watt LED cobra fixture on an existing 40-foot wood pole at the location and to upgrade street light #155 to an LED equivalent at a cost of $146.70).
- **Street Light Recommendation** – 4th Street NW between Broad and Worth Street NW (Cleveland Utilities recommends the existing street light #2666 be replaced with a 126-watt mongoose LED fixture and installing a new 126-watt mongoose LED fixture on the north side of the city-owned public parking lot and to upgrade existing street lights #2667 and #2998 to 41-watt LED cobras at a cost of $146.70 each, if desired).
- **Street Light Recommendation** – Candies Lane NW (Cleveland Utilities recommends the installation of five new 41-watt LED cobra fixtures (estimated cost is $5,665.42 which will result in an increase of $42.49 per month to the city's monthly investment account) and to upgrade thirteen existing fixtures to 41-watt LED cobra fixtures at a cost of $146.70 each, if desired).
- **Street Light Recommendation** – Bowman Circle Drive NE (Cleveland Utilities states there are fourteen fixtures that can be upgraded to 41-watt LED cobra fixtures at a cost of $146.70 per fixture, if desired by the City Council).

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilwoman McKenzie inquired about the drain in the roadway at Harle and 20th Street. Mr. Varnell stated it was designed and installed to specs, but staff is working to see how to correct it without disrupting the existing connection to the stormwater drainage system. She then inquired about the light at Jacinto's which shines into nearby residential homes. Mr. Fivas stated he and Mr. Varnell will need to go look at the site to determine which light it is.

Councilman Estes stated it has been nice having property owners work with the city together on the Michigan Avenue Road safety project. It is appreciative. Secondly, he is interested in seeing how the townhomes with independent driveways will work. Personally, this is something he might like to see city-wide as it is a step-up for aesthetics. Lastly, there has been some push back on residency requirements for our board members and asks that staff revisit the topic and double check status of members.

Councilman Webb thanked all involved for the street light recommendation along Candies Lane NW.

Mayor Brooks stated we had an incredible weekend of festivals across the city. It was a team effort between Parks and Recreation, Public Works, Cleveland Police Department and Cleveland Fire Department. There were three to four festivals and pickleball tournaments. We appreciate everyone's hard work.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution 2022-29** – Adopting a Plan of Service for the annexation area of about .51 acres located at 1555 Johnson Boulevard (Tax Map 58P Parcel 007.00) (Planning Commission: Approve 9-0).

RESOLUTION 2022-29

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

1555 JOHNSON BLVD SE PROPERTY 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 11, 2022 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 Terry and Mary Rodgers, as recorded in BCROD deed book 1520 page 382; thence with the southern line of the lands of Rodgers north 67 degrees 0 minutes west, 177 feet, more or less, to a point where the southern line of the lands of Rodgers intersects with the existing City Limits; thence crossing the property of Rodgers with the existing City Limits in a northeasterly direction 140 feet, more or less, to a point where the existing City Limits intersects the northern line of the lands of Rodgers; thence with the northern line of the lands of Rodgers south 68 degrees 22 minutes east, 143 feet, more or less, to the northeast corner of the lands of Rodgers; thence south 20 degrees 36 minutes west, 141 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

MARCH 15, 2022
1555 JOHNSON BLVD SE
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately .51 acres located on Johnson Boulevard SE, Washington Ave SE, and Perry St SE 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 2022.

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 property consists of one parcel with approximately .61 of the 1.12 acres currently within city limits. The annexation would take in .51 addition acres and zone the property as R-2. The property is described as of Tax Map 58P Group H Parcel 007.00.

1555 Johnson Blvd SE
MAP



Legal Description

Beginning at the southeast corner of the lands of Terry and Mary Rodgers, as recorded in BCROD deed book 1520 page 382; thence with the southern line of the lands of Rodgers north 67 degrees 0 minutes west, 177 feet, more or less, to a point where the southern line of the lands of Rodgers intersects with the existing City Limits; thence crossing the property of Rodgers with the existing City Limits in a northeasterly direction 140 feet, more or less, to a point where the existing City Limits intersects the northern line of the lands of Rodgers; thence with the northern line of the lands of Rodgers south 68 degrees 22 minutes east, 143 feet, more or less, to the northeast corner of the lands of Rodgers; thence south 20 degrees 36 minutes west, 141 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**

   The Cleveland Fire Department could service this area immediately with our existing Station 3 without any impact to the budget.

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

A. Domestic Water--- Domestic water service is available to this parcel. See Figure 1.

B. Sanitary Sewer--- Sewer service to this parcel is available to this parcel. See Figure 1.

C. Fire Protection--- An existing fire hydrant is located at the intersection of Perry Street and Washington Avenue.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Johnson Blvd, Washington Avenue & Perry Street (Tax Map 058P H 007.00)	$0	$0	$0	$0

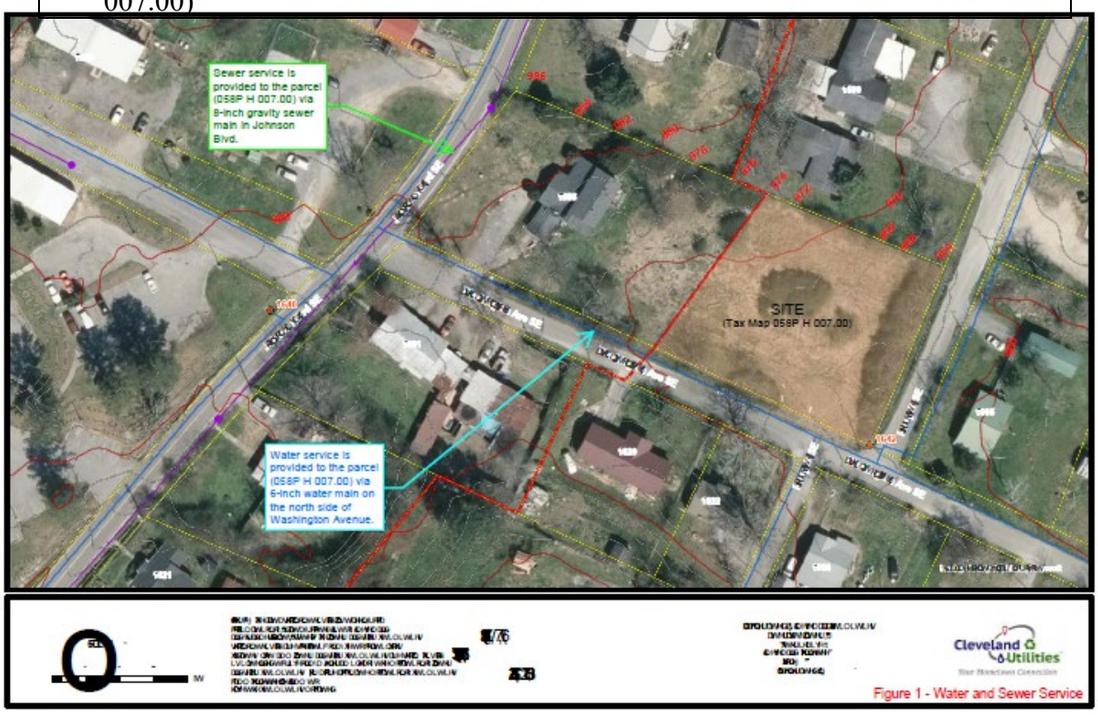


Figure 1 - Water and Sewer Service

4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

5. Public Works

A. <u>Refuse Collection</u>

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

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 impact on City Cleveland School system will be minimal.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 310 residents to the 3rd City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue

The total income from annexation without any improvements would result in approximately **$518.91** in property tax revenue.

With an estimated 2 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$231.50.**

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$750.41.**

Councilman Estes moved that Resolution 2022-29 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 2022-30** – Annexing about .51 acres located at 1555 Johnson Boulevard (Tax Map 58P Parcel 007.00) (Planning Commission: Approve 9-0).

RESOLUTION 2022-30

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

1555 JOHNSON BOULEVARD PROPERTY 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 April 11, 2022.

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 Terry and Mary Rodgers, as recorded in BCROD deed book 1520 page 382; thence with the southern line of the lands of Rodgers north 67 degrees 0 minutes west, 177 feet, more or less, to a point where the southern line of the lands of Rodgers intersects with the existing City Limits; thence crossing the property of Rodgers with the existing City Limits in a northeasterly direction 140 feet, more or less, to a point where the existing City Limits intersects the northern line of the lands of Rodgers; thence with the northern

line of the lands of Rodgers south 68 degrees 22 minutes east, 143 feet, more or less, to the northeast corner of the lands of Rodgers; thence south 20 degrees 36 minutes west, 141 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.

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 for the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Hughes moved that Resolution 2022-30 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-07** – Zoning of about .51 acres of a portion of property located at 1555 Johnson Boulevard from the unincorporated county FAR to R2 Low Density Single and Multi-Family Residential Zoning District (Tax Map 58P Parcel 007.00) (Planning Commission: Approve 9-0).

ZONING ORDINANCE 2022-07

AN ORDINANCE TO ZONE "1555 JOHNSON BOULEVARD" WITHIN THE CORPORATE BOUNDARIES OF CLEVELAND, TENNESSEE

WHEREAS, a public hearing before this body was held on the 11th day of April 2022 a notice thereof published in the *Cleveland Daily Banner* on March 26, 2022 and

WHEREAS, a Plan of Service, including a zoning plan consistent with this ordinance, for this property was adopted by resolution 2022-01; and,

WHEREAS, this property was annexed by resolution 2022-02; 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 Zoning within the unincorporated County to R-2 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Exhibit B

Beginning at the southeast corner of the lands of Terry and Mary Rodgers, as recorded in BCROD deed book 1520 page 382; thence with the southern line of the lands of Rodgers north 67 degrees 0 minutes west, 177 feet, more or less, to a point where the southern line of the lands of Rodgers intersects with the existing City Limits; thence crossing the property of Rodgers with the existing City Limits in a northeasterly direction 140 feet, more or less, to a point where the existing City Limits intersects the northern line of the lands of Rodgers; thence with the northern line of the lands of Rodgers south 68 degrees 22 minutes east, 143 feet, more or less, to the northeast corner of the lands of Rodgers; thence south 20 degrees 36 minutes west, 141 feet, more or less, to the point of beginning.

Councilman Webb moved that Zoning Ordinance 2022-07 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-31** – Adopting a Plan of Service for the annexation area of about 7.35 acres located at 3210 Michigan Avenue (Tax Map 50 Parcels 014.01) (Planning Commission: Approved 4-1; 1 recused, 3 absent).

RESOLUTION 2022-31

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

PUD-36 MICHIGAN AVENUE TOWNHOME DEVELOPMENT

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 11, 2022, 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 and iron pin located at the northwest corner of lot 1 of Meadow View subdivision, as recorded in BCRD plat book 39 page 67, thence with the northern line of Meadow View Subdivision south 66 degrees 16 minutes 38 seconds east, 200 feet, more or less, to a point where the northern line of Meadow View Subdivision intersects the existing City Limits, said point being the true point of beginning; thence with the northern line of Meadow View Subdivision and the existing City Limits south 66 degrees 16 minutes 38 seconds east, 780 feet, more or less, to an iron pin located at the south west corner of lot 78 of Magnolia Lea, as recorded in BCROD plat book 16 page 41; thence leaving the existing City Limits north 9 degrees 17 minutes 7 seconds east, 334.9 feet to an iron pin located at the northeast corner of the lands herein described; thence north 66 degrees 59 minutes 46 seconds west, 48.66 feet to an iron pin; thence north 66 degrees 22 minutes 33 seconds west, 506.74 feet to an iron pin; thence north 66 degrees 22 minutes 33 seconds west, 197 feet, more or less, to a point where the northern line of the lands herein described intersects the existing City Limits; thence with the existing City Limits in a southwesterly direction 336 feet, more or less, to the point of true 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

FEBRUARY 15, 2022
MICHIGAN AVENUE - CT PROPERTIES
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 5.7 acres located on Michigan Avenue 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 2022.

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 property consists of one parcel of which is partially inside the current city limit of the City of Cleveland. The annexation would zone the property as a Planned Unit Development with approximately 48 single family residential dwelling units. The property is described as of Tax Map 50 Parcel 014.01.

MICHIGAN AVENUE PROPERTY
MAP



Legal Description

Beginning at and iron pin located at the northwest corner of lot 1 of Meadow View subdivision, as recorded in BCRD plat book 39 page 67, thence with the northern line of Meadow View Subdivision south 66 degrees 16 minutes 38 seconds east, 200 feet, more or less, to a point where the northern line of Meadow View Subdivision intersects the existing City Limits, said point being the true point of beginning; thence with the northern line of Meadow View Subdivision and the existing City Limits south 66 degrees 16 minutes 38 seconds east, 780 feet, more or less, to an iron pin located at the south west corner of lot 78 of Magnolia Lea, as recorded in BCROD plat book 16 page 41; thence leaving the existing City Limits north 9 degrees 17 minutes 7 seconds east, 334.9 feet to an iron pin located at the northeast corner of the lands herein described; thence north 66 degrees 59 minutes 46 seconds west, 48.66 feet to an iron pin; thence north 66 degrees 22 minutes 33 seconds west, 506.74 feet to an iron pin; thence north 66 degrees 22 minutes 33 seconds west, 197 feet, more or less, to a point where the northern line of the lands herein described intersects the existing City Limits; thence with the existing City Limits in a southwesterly direction 336 feet, more or less, to the point of true 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 could provide immediate service to this parcel from our current Station 3 located on APD40. Providing service to this parcel would have no budgetary impact on the Fire Department.

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

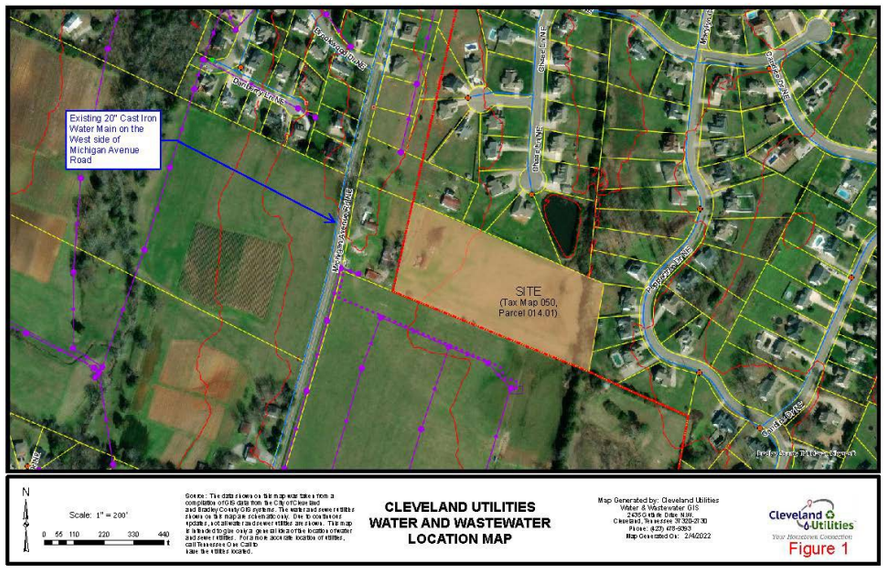
A. Domestic Water--- Domestic water service is available to this parcel.

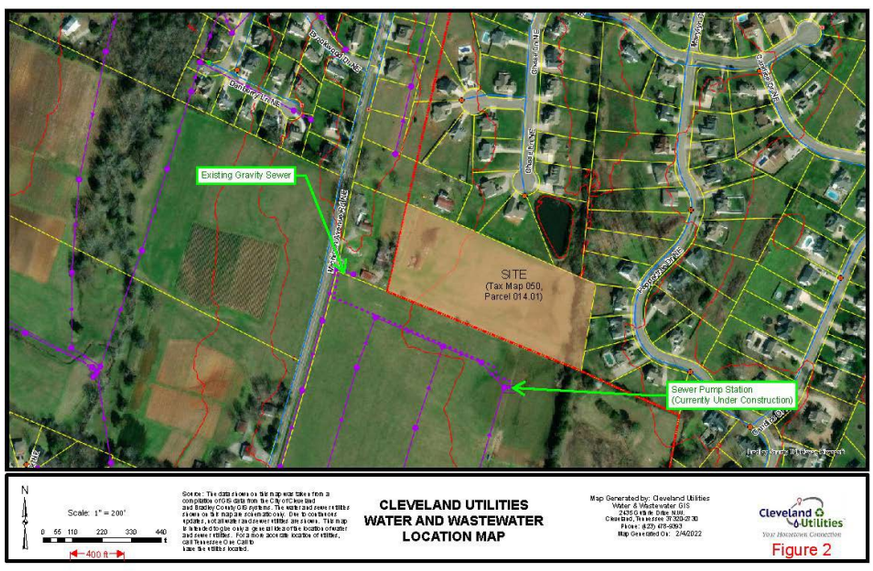
B. Sanitary Sewer---This parcel is presently served with sanitary sewer service via a gravity main at the southwest corner of the parcel. Alternatively, the parcel may also be served via a pump station (currently under construction) on the parcel to the south.

C. Fire Protection--- An existing fire hydrant is located at the intersection of 31st Street and Michigan Avenue Road. A new fire hydrant may be needed closer to the parcel, which would be installed at the time of development.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Michigan Avenue Road (Tax Map 50, Parcel 014.01)	$0	$0	$0	$0





4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

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.

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

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 current cost to the school system is $976.59 per student per year. Using this formula, it is estimated the Michigan Avenue annexation would cost the city $46,872.32 per year and add 48 students to enrollment.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 121 residents to the 4th City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue

The total income from annexation without any improvements would result in approximately **$710.85** in property tax revenue.

With approximately 48 homes developed on the site with an estimated value of 260,000 each, property tax revenue would increase to approximately **$55,068**.

With an estimated 121 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$14,005.75.**

The annual stormwater fee for all homes on this site is estimated at **$748.80**.

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$69,822.55.**

Councilman May moved that Resolution 2022-31 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-32** – Annexing about 7.35 acres located at 3210 Michigan Avenue (Tax Map 50 Parcels 014.01) (Planning Commission: Approved 4-1; 1 recused, 3 absent).

RESOLUTION 2022-32

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

PUD 36 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 April 11, 2022.

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 and iron pin located at the northwest corner of lot 1 of Meadow View subdivision, as recorded in BCRD plat book 39 page 67, thence with the northern line of Meadow View Subdivision south 66 degrees 16 minutes 38 seconds east, 200 feet, more or less, to a point where the northern line of Meadow View Subdivision intersects the existing City Limits, said point being the true point of beginning; thence with the northern line of Meadow View Subdivision and the existing City Limits south 66 degrees 16 minutes 38 seconds east, 780 feet, more or less, to an iron pin located at the south west corner of lot 78 of Magnolia Lea, as recorded in BCROD plat book 16 page 41; thence leaving the existing City Limits north 9 degrees 17 minutes 7 seconds east, 334.9 feet to an iron pin located at the northeast corner of the lands herein described; thence north 66 degrees 59 minutes 46 seconds west, 48.66 feet to an iron pin; thence north 66 degrees 22 minutes 33 seconds west, 506.74 feet to an iron pin; thence north 66 degrees 22 minutes 33 seconds west, 197 feet, more or less, to a point where the northern line of the lands herein described intersects the existing City Limits; thence with the existing City Limits in a southwesterly direction 336 feet, more or less, to the point of true 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 for the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2022-32 be accepted as presented. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-08** – Zoning of about 7.35 acres located at 3210 Michigan Avenue from the unincorporated county FAR to PUD36 Planned Unit Development (Tax Map 50 Parcels 014.01) (Planning Commission: Approved 4-1; 1 recused, 3 absent).

ZONING ORDINANCE 2022-08

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 MICHIGAN AVE TOWNHOME "PUD 36" ON PROPERTY DESCRIBED AS TAX MAP 50 PARCEL 14.01, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 36; 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 inSection 3 herein as "PUD 36" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 36 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 36 district is 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 theterms of this ordinance is a zoning violation and is unlawful, subject to the penaltiesprescribed by the Cleveland Municipal Code and the laws of Tennessee.

Section 3. PROPERTY DESCRIPTION.

PUD 36, Michigan Ave Townhome Road Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning), includes property generally identified as Tax Map 50 Parcel 14.01. Exhibit A illustrates the overall Michigan Ave Townhome Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of the Michigan Ave Townhome development. The project consists of attached single-family dwellings in multi-unit townhome structures. The attached multi-unit townhome units may constitute no more than 48 overall units within the development. Exhibit A shows the general location of proposed infrastructure and common areas. The developer shall include common open space designed within the development, including any permanent retention or detention pond areas, or landscapedcommon area.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 36 Subdivision allows for the construction of up to 48 dwelling units in multi-unit townhome structures with up to four 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 conceptual plan through the Cleveland Municipal Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 36 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 Michigan Ave Townhome development 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 36 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 PUD 36, The Michigan Ave Townhome Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on February 15, 2022. The conceptual plan consists of a site plan for the overall development however additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD36 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. Any modification through the platting process may not increase the total number of dwelling units beyond 48 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 site plans for The Michigan Ave Townhome development 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 PUD36 Michigan Ave Townhome development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Where existing Right of Way along Michigan Avenue is narrow adjacent to PUD 36 and the intention is that the Michigan Avenue ROW be at least 50 feet inwidth; 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 Michigan Ave

Townhome along the entire property so as to make room for future city improvements to the Michigan Ave roadway including sidewalks. Exhibit A shall be modified to reflect if additional ROW along Michigan Ave Townhome is required. A right turn deceleration lane must be placed at the entrance to the subdivision. This deceleration lane shall be placed outside of the 50’ ROW profile to allow for anticipated future road improvements on Michigan Avenue.

6.B. PLATS.
One or more plats will be prepared for the PUD36 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; identifylots; and identify easements that are necessary for various purposes within the development such as utilities, access, maintenance, and conservation, etc. These plats shall be consistent in general layout with the conceptual site plan.

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 36 as envisioned herein. It is a requirement of this ordinance that such documents are in placeand enforced by the Developer (or Developer's heirs, successors, or assigns) to the extent necessary for PUD 36 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.

Section 7. DEVELOPMENT STANDARDS
The development standards for PUD36 shall be those established in this ordinance. 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.

Residential areas must incorporate a variety of building elements and treatments for the townhome style housing. Structures must include articulation, change in materials or texture, windows, or other architectural features. The front facade of all structures shall contain a minimum of at least 50% of either brick, stone materials, or cement fiber materials. Vinyl Siding is prohibited outside of any accents such as soffits. No blank walls along street elevations are allowed. A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed between each building. The driveways and parking areas for each Townhome shall be separated by a minimum of 3-foot planted landscape strip. A buffer strip including an 8’ decorative fence must be placed along the northern property line where the development borders the existing houses along Chase Lane in unincorporated Bradley County.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff. A curb and gutter should be extended along Michigan Ave to the development property line. A monument style ground sign shall be installed at all entrances to the site. A landscaped berm no smaller than 2.5' in height shall be installed along Michigan Ave to provide privacy and to maintain a high-quality appearance. This berm shall include various trees and shrubs planted at a minimum of 2” caliper for the trees and 3’ in height for the shrubs. Open space shall be maintained at proportion no less than 20% of the total buildable area.

The open space amenity shall be accessible to all lots within the subdivision by a sidewalk. All common areas, facilities and landscaping shall bekept in good repair by the developer, future owners, or an established homeowner’s association. In coordination with Cleveland City Schools, a bus shelter must be placed on the property. A centralized cluster mailbox unit shall be provided, if required by the United States Postal service, and shall include a minimum of 2 off-street parking spaces. This may be combined with site amenity as provided. 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.

The minimum setbacks and lot width requirements for townhome sites shall comply with existing city townhome regulations. Minimum side setback for townhomes is 10’. No setback is required for shared walls of townhouse units, and rear setbacks shall be no less than 15' from the property line. Front setback requirements are 25’ minimum. The setback along Michigan Avenue shall be a minimum of 30’ from the needed Right-of-way and right turn deceleration lane. 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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address.

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 PUD36 Michigan Ave Townhome Development. 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 thisordinance 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 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 PUD36, an amendment tothis 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit A then a revised conceptualplan must be reviewed by the Cleveland Municipal Planning Commission.

Section 10. BINDING UPON OTHERS. This ordinance is a law and not a contract, andas such it is generally binding upon all development and use of property in the PUD36 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 11Developer" is intended to encompass Donna Haney & Melba Lilligene 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 establishedfor 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 forceand effect. This ordinance shall take effect upon after passage and upon the executionof the development order as described above, the public convenience and necessity requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk



Councilman Webb moved that Zoning Ordinance 2022-08 be approved 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 2022-33** – Adopting a Plan of Service for the annexation area of about 22.69 acres located on Michigan Avenue (Tax Map 50 Parcels 043.00) (Planning Commission: Approved 9-0).

RESOLUTION 2022-33

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

PUD-37 MICHIGAN AVENUE/MINNIS ROAD

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 11, 2022, 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 Sandra Carlyle, Don Hill & Gail Vann, as recorded in BCRD deed book 367 page 759, said point also being the southwest corner of the lands of Taz Randles, as recorded in BCROD deed book 2769 page 527; thence with the southern line of the lands of Carlyle in a northwesterly direction 268 feet, more or less, to the southeast corner of the lands of Estell Ramsey, as recorded in BCROD deed book 1473 page 876; thence with the eastern line of the lands of Ramsey in a northeast direction 200 feet, more or less, to the northeast corner of the lands of Ramsey; thence with the northern line of the lands of Ramsey in a northwesterly direction 394 feet, more or less, to the point where the northern line of the lands of Ramsey intersects the existing City Limits; thence following the existing City Limits as it crosses the Carlyle property and then crosses Minnis Road 1622 feet, more or less, to the point where the City Limits begins to follow the eastern right of way of Minnis Road; thence with the eastern right of way of Minnis Road, which is also the existing City Limits, 365 feet, more or less, to the north east corner of the intersection of Minnis Road and Michigan Avenue School Road; thence crossing the road at an angle perpendicular to the eastern right of way of Minnis Road 44 feet, more or less, to a point in the western right of way of Minnis Road, said point being located in the easternmost line of the lands of Carlyle; thence in a southerly direction with the western right of way of Minnis Road 81 feet, more or less, to the northernmost point of the lands of Bertie and Tonya McCallie, as recorded in BCROD deed book 1691 page 104, said point also being located in an eastern line of the lands of Carlyle; thence with the aforementioned eastern line of the lands of Carlyle 782 feet, more or less, to an easterly turn in the line of the lands of Carlyle, said point also being located in the western line of the lands of Dorcas Howard-Dowdle, as recorded in BCROD deed book 2437 page 94; thence in a southeasterly direction with the eastern line of the lands of Carlyle 140 feet, more or less, to a point where the eastern line of the lands of Carlyle turns in a southerly direction; thence in a southerly direction with the eastern line of the lands of Carlyle 327 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 notices 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

MARCH 15, 2022
MICHIGAN AVENUE/MINNIS ROAD
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 15.4 acres located on Michigan Avenue/Minnis Roads 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 2022.

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.

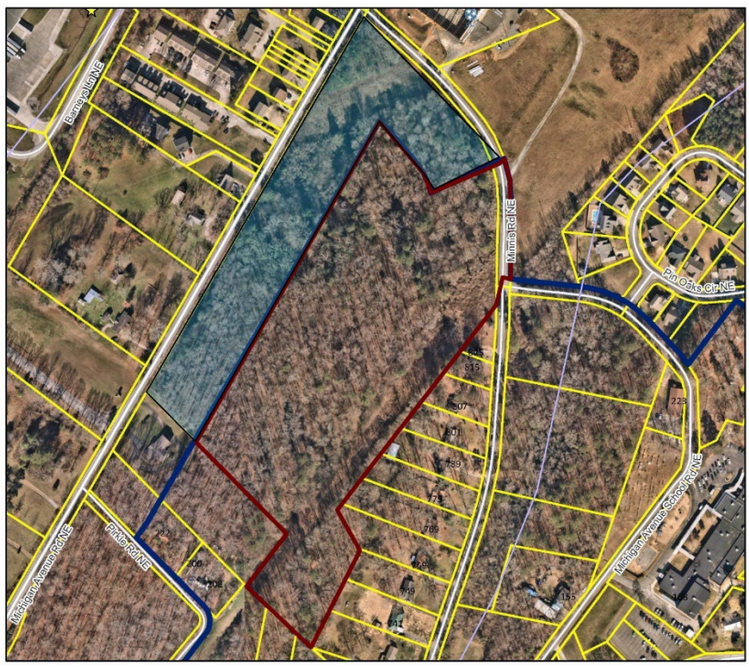
Introduction

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 property consists of one parcel with approximately 7.2 of the 22.6 acres currently within city limits. The annexation would zone the property as a Planned Unit Development with no more than 195 single-family dwellings in multi-unit townhome structures. The property is described as of Tax Map 50 Parcel 043.00.

Michigan_Minnis Townhome Development
MAP



Legal Description

Beginning at the southeast corner of the lands of Sandra Carlyle, Don Hill & Gail Vann, as recorded in BCRD deed book 367 page 759, said point also being the southwest corner of the lands of Taz Randles, as recorded in BCROD deed book 2769 page 527; thence with the southern line of the lands of Carlyle in a northwesterly direction 268 feet, more or less, to the southeast corner of the lands of Estell Ramsey, as recorded in BCROD deed book 1473 page 876; thence with the eastern line of the lands of Ramsey in a northeast direction 200 feet, more or less, to the northeast corner of the lands of Ramsey; thence with the northern line of the lands of Ramsey in a northwesterly direction 394 feet, more or less, to the point where the northern line of the lands of Ramsey intersects the existing City Limits; thence following the existing City Limits as it crosses the Carlyle property and then crosses Minnis Road 1622 feet, more or less, to the point where the City Limits begins to follow the eastern right of way of Minnis Road; thence with the eastern right of way of Minnis Road, which is also the existing City Limits, 365 feet, more or less, to the north east corner of the intersection of Minnis Road and Michigan Avenue School Road; thence crossing the road at an angle perpendicular to the eastern right of way of Minnis Road 44 feet, more or less, to a point in the western right of way of Minnis Road, said point being located in the easternmost line of the lands of Carlyle; thence in a southerly direction with the western right of way of Minnis Road 81 feet, more or less, to the northernmost point of the lands of Bertie and Tonya McCallie, as recorded in BCROD deed book 1691 page 104, said point also being located in an eastern line of the lands of Carlyle; thence with the aforementioned eastern line of the lands of Carlyle 782 feet, more or less, to an easterly turn in the line of the lands of Carlyle, said point also being located in the western line of the lands of Dorcas Howard-Dowdle, as recorded in BCROD deed book 2437 page 94; thence in a southeasterly direction with the eastern line of the lands of Carlyle 140 feet, more or less, to a point where the eastern line of the lands of Carlyle turns in a southerly direction; thence in a southerly direction with the eastern line of the lands of Carlyle 327 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

The Cleveland Fire Department could service this area immediately with our existing Station 3 without any impact to the budget.

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

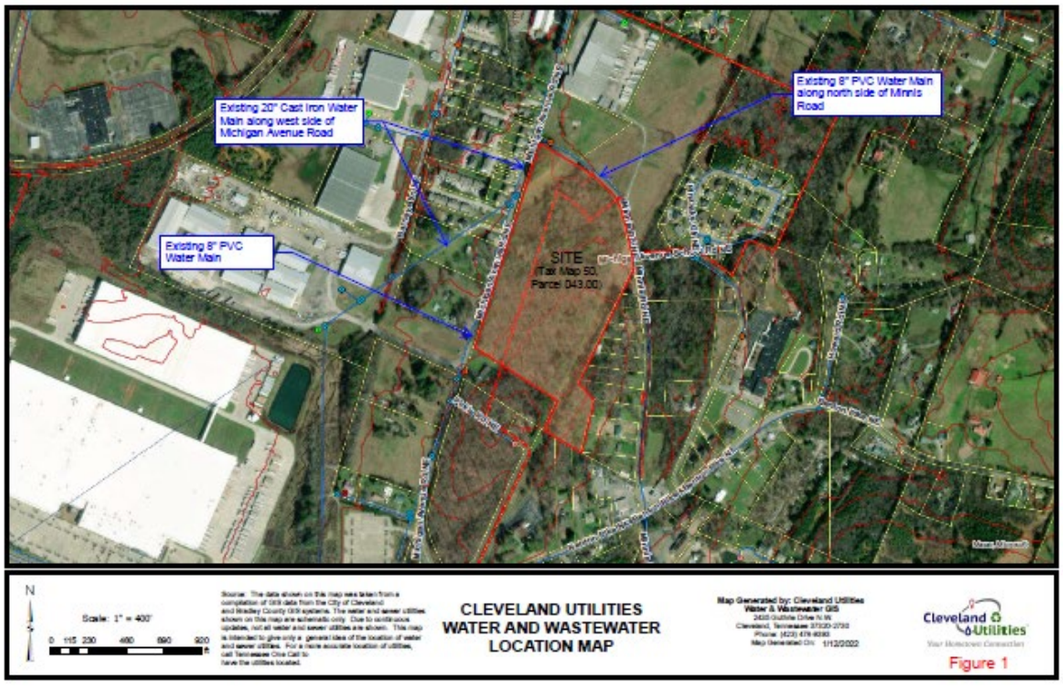
A. Domestic Water---Domestic water service is available to this parcel. See Figure 1. Note that water would be provided via the 8-inch main on Minnis Road or the 8-inch main on Michigan Avenue Road.

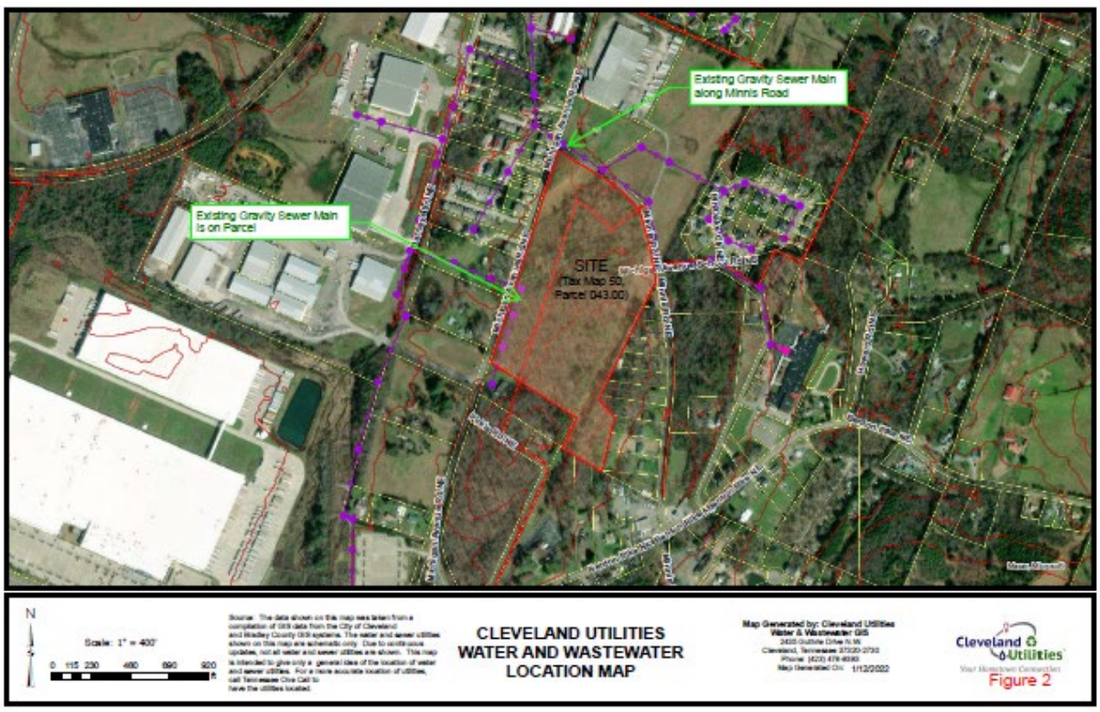
B. Sanitary Sewer--- This parcel is presently served with sanitary sewer service via an 8-inch gravity sewer main within the parcel. See Figure 2.

C. Fire Protection--- A fire hydrant is located at the intersection of Michigan Avenue Road and Minnis Road.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Michigan Avenue Roar @ MinnisRoad (Tax Map 050, 043.00)	$0	$0	$0	$0





4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

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

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 current cost to the school system is $976.59 per student per year. Using this formula, it is estimated the New Murraytown/Freewill annexation would cost the city $76,147.02 per year and add 78 students to enrollment.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 310 residents to the 3rd City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue

The total income from annexation without any improvements would result in approximately **$720.12** in property tax revenue.

With approximately 195 homes developed on the site with an estimated value of 250,000 each, property tax revenue would increase to approximately **$215,109.38**.

With an estimated 488 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$56,486.**

The annual stormwater fee for all homes on this site is estimated at **$3,042**.

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$274,637.38.**

Councilman Hughes moved that Resolution 2022-33 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 2022-34** – Annexing about 22.69 acres located on Michigan Avenue (Tax Map 50 Parcels 043.00) (Planning Commission: Approved 9-0).

RESOLUTION 2022-34

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

PUD 37 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 April 11, 2022.

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 Sandra Carlyle, Don Hill & Gail Vann, as recorded in BCRD deed book 367 page 759, said point also being the southwest corner of the lands of Taz Randles, as recorded in BCROD deed book 2769 page 527; thence with the southern line of the lands of Carlyle in a northwesterly direction 268 feet, more or less, to the southeast corner of the lands of Estell Ramsey, as recorded in BCROD deed book 1473 page 876; thence with the eastern line of the lands of Ramsey in a northeast direction 200 feet, more or less, to the northeast corner of the lands of Ramsey; thence with the northern line of the lands of Ramsey in a northwesterly direction 394 feet, more or less, to the point where the northern line of the lands of Ramsey intersects the existing City Limits; thence following the existing City Limits as it crosses the Carlyle property and then crosses Minnis Road 1622 feet, more or less, to the point where the City Limits begins to follow the eastern right of way of Minnis Road; thence with the eastern right of way of Minnis Road, which is also the existing City Limits, 365 feet, more or less, to the north east corner of the intersection of Minnis Road and Michigan Avenue School Road; thence crossing the road at an angle perpendicular to the eastern right of way of Minnis Road 44 feet, more or less, to a point in the western right of way of Minnis Road, said point being located in the easternmost line of the lands of Carlyle; thence in a southerly direction with the western right of way of Minnis Road 81 feet, more or less, to the northernmost point of the lands of Bertie and Tonya McCallie, as recorded in BCROD deed book 1691 page 104, said point also being located in an eastern line of the lands of Carlyle; thence with the aforementioned eastern line of the lands of Carlyle 782 feet, more or less, to an easterly turn in the line of the lands of Carlyle, said point also being located in the western line of the lands of Dorcas Howard-Dowdle, as recorded in BCROD deed book 2437 page 94; thence in a southeasterly direction with the eastern line of the lands of Carlyle 140 feet, more or less, to a point where the eastern

line of the lands of Carlyle turns in a southerly direction; thence in a southerly direction with the eastern line of the lands of Carlyle 327 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.

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 for the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Resolution 2022-34 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-09** – Zoning of about 22.69 acres located on Michigan Avenue from the unincorporated county FAR to PUD37 Planned Unit Development (Tax Map 50 Parcels 043.00) (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2022-09

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 MICHIGAN_MINNIS TOWNHOME "PUD 37" ON PROPERTY DESCRIBED AS TAX MAP 50 PARCEL 043.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 37; 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 37" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 37 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 37 district are 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 37, Michigan_Minnis Townhome Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning), includes property generally identified as Tax Map 50 Parcel 043.00. Exhibit A illustrates the overall Michigan_Minnis Townhome Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.
This section is intended to provide a general description of the Michigan_Minnis Townhome development. The project consists of attached single-family dwellings in multi-unit townhome structures. The attached multi-unit townhome units may constitute no more than 198 overall units within the development. Exhibit A shows the general location of proposed infrastructure and common areas. The developer shall 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 37 Subdivision allows for the construction of up to 198 dwelling units in multi-unit townhome structures with up to four 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 conceptual plan through the Cleveland Municipal Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 37 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 Michigan_Minnis Townhome development 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 37 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 PUD 37, The Michigan_Minnis Townhome Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on March 15, 2022. The conceptual plan consists of a site plan for the overall development however additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD37 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. Any modification through the platting process may not increase the total number of dwelling units beyond 198 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 site plans for The Michigan_Minnis Townhome development 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 PUD37 Michigan_Minnis Townhome development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Where existing Right of Way along Michigan Avenue and Minnis Road is narrow adjacent to PUD 37 and the intention is that the Michigan Avenue and Minnis Road 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 Michigan Avenue and Minnis Road along the entire property so as to make room for future city improvements to the Michigan Ave roadway. Approximately an extra 15’ of ROW will be required along Michigan Avenue and Minnis Road where they intersect to account for future improvements to the intersection. Exhibit A shall be modified to reflect if additional ROW along Michigan_Minnis Townhome is required.

6.B. PLATS.
One or more plats will be prepared for the PUD37 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. These plats shall be consistent in general layout with the conceptual site plan.

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 37 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 37 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.

Section 7. DEVELOPMENT STANDARDS
The development standards for PUD37 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.

All Residential 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. The front facade of all structures which front Michigan Avenue or Minnis Road shall be built of either brick, stone, or cement fiber materials or combination thereof. Vinyl Siding is prohibited on front elevations with the exception of soffit areas. For Elevations which are interior to the development and do not front Michigan Avenue or Minnis Road, the front façade shall contain a minimum 25% either brick, stone, or cement fiber materials. Vinyl Siding is allowable on interior eleveations. No blank walls along street elevations are allowed.

A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed between each building. The driveways and parking areas for each Townhome facing Michigan Avenue or Minnis Road shall be to the rear of the structure and shall include garages. The driveways for all other structures shall be separated by a minimum of 3-foot planted landscape strip.
All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff. A sidewalk, curb and gutter should be extended along Michigan Avenue and Minnis Road to the development property line. A monument style ground sign shall be installed at all entrances to the site. The townhomes which front Michigan Avenue and Minnis Road shall include one tree and multiple shrubs planted at a minimum of 2” caliper for the trees and 3’ in height for the shrubs. Open space shall be maintained at proportion no less than 25% of the total buildable area.

A high-quality picnic pavilion or greater amenity shall be provided within the designated open space by the developer once 75% the buildable lots in the development are established or under construction. This amenity shall be accessible to all lot within the subdivision by a sidewalk. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner’s association. In coordination with Cleveland City Schools, a bus shelter must be placed on the property. A centralized cluster mailbox unit shall be provided, if required by the United States Postal service, and shall include a minimum of 4 off-street parking spaces, or if broken up into multiple kiosks throughout the development each must provide 2 off street parking spots. This may be combined with site amenity as provided. 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. All stormwater detention/retention areas will be screened from the public ROW.

The minimum setbacks and lot width requirements for townhome sites shall comply with existing city townhome regulations. Minimum side setback for townhomes is 10’. No setback is required for shared walls of townhouse units, and rear setbacks shall be no less than 15' from the property line. Front setback requirements are 25’ minimum. The setback along Michigan Avenue/Minnis Road shall be a minimum of 30’. Townhomes 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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address.

Infrastructure upgrades at the site will be critical to service a development of this magnitude. These upgrades shall include the following:
1. Only one access point on Michigan Avenue, accessed by a left turn lane and a right deceleration lane will be allowed.
2. Dual access points, separated by a minimum of 300', on Minnis Road with a right deceleration lane with one lining up directly across from Michigan Avenue School Road.

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 PUD37 Michigan_Minnis Townhome Development. 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 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 PUD37, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit A then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD37 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 11Developer" is intended to encompass Morgan Lane Development 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 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 this ___ day of ____, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Zoning Ordinance 2022-09 be approved 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 2022-28** – Donating property located at 1804 S. Blythe Ave. and approving the contract with City Fields to accept the donation and to construct affordable single-family housing.

RESOLUTION 2022-28

WHEREAS, the City's Redevelopment Coordinator is recommending to the City Council that the City enter into the attached agreement with City Fields, Inc. relative to property owned by the City located at 1804 Blythe Avenue SE; and

WHEREAS, the purpose of the attached agreement is to approve of the donation of the property owned by the City of Cleveland to City Fields, Inc., and

WHEREAS, as provided in the agreement, once the property is donated to City Fields, Inc., the corporation will then construct single-family affordable housing on the property which will then made available for sale by City Fields, Inc. to qualified buyer(s) in accordance with the terms of the agreement; and

WHEREAS, the City Council desires to approve of the attached agreement with City Fields, Inc., and the City Council further desires to authorize the Mayor to execute this 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 City Fields, Inc.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with City Fields, Inc. on behalf of the City for this project. [on file in the City Clerk’s Office.]

This 11th day of April 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Resolution 2022-28 be accepted as presented. The motion was seconded by Councilman Hughes. Councilman Estes stated he had an indirect conflict, which did not affect his vote. Upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, April 11, 2022.
- City Offices will be closed on Friday, April 15 in observance of Good Friday.

There being no future business the meeting was adjourned at 3:29 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
APRIL 25, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, APRIL 25, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Ben Berry with Berry Engineering; Mike Griffin with the Chamber of Commerce; Paulette Pugh; Aaron Weatherford; Elise Goldston; Charlie Boothe and Tim Siniard 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 11, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Chris Townsend addressed the Council concerning the agenda item on the proposed lease/purchase of property at 70 Inman Street. He has made a request to a couple of the Councilmembers that the City Manager's full report be made available to the public prior to the 1:00 and 3:00 session so the public is informed about the topics being discussed at each meeting. The agenda and packet notes only say a property on Inman Street and the property wasn't identified. If the Council would consider making the City Manager reports available ahead of the meetings, it could be beneficial to the public at large. On Friday, he sent an email to Mayor Brooks and the City Council indicating he has purchased 140 Inman Street (Jacks Kleen Rite) and they are happy to discuss with the City any collaborative community development. Councilman Estes stated the previous owners were not amenable to do soil testing. Is that something you are agreeable to? Mr. Townsend replied, yes. They have already started the process updating phase 1 and phase 2 of environmental reports from 2016 and 2019, respectively. One finding was in the phase 2 report, which was to only register the property in the TDEC Dry Cleaner Registry. If they are able to work with the city in a collaborative measure, they would present the property free of any environmental concerns. They will follow the current soil scientist. We will remediate any potential issues that could arise down the road based on the scientists' recommendation. Councilman Estes stated it is important to protect the citizens and the City. Mr. Townsend encouraged the Council to consider looking into any possible environmental concerns for the Roy's Alternator site as well. Secondly, it was mentioned in the work session about tangible results in downtown revitalization. They have a great interest in the initiative. The question basically says we haven't seen a lot of results since the property tax increase. I would ask the Council to review the May 2019 outline from the City Manager that gave an outline of downtown revitalization and look to see if there are any timelines and how the city has responded.

HEARING PETITIONS AND COMMUNICATIONS

No hearing petitions and communications.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2022-03 –** heretofore passed on first reading January 10, 2022 and found in Minute Book 30, Page 533; Rezoning 13.00 acres, more or less, located on Cherokee Gateway Boulevard (a portion of Tax Map 56 Parcel 45.00) from CH Commercial Highway Zoning District to IL Light Industrial Zoning District (Planning Commission: Approved 7-0; 2 absent) (City Council: 1st Reading, January 10, 2022; Approved 7-0).
- **Final Passage - Zoning Ordinance 2022-07** – heretofore passed on first reading April 11, 2022 and found in Minute Book 30, Page 615; Zoning of about .51 acres of a portion of property located at 1555 Johnson Boulevard from the unincorporated county FAR to R2 Low Density Single and Multi-Family Residential Zoning District (Tax Map 58P Parcel 007.00) (Planning Commission: Approve 9-0).
- **Final Passage - Zoning Ordinance 2022-08** – heretofore passed on first reading April 11, 2022 and found in Minute Book 30, Page 625; Zoning of about 7.35 acres located at 3210 Michigan Avenue from the unincorporated county FAR to PUD36 Planned Unit Development (Tax Map 50 Parcels 014.01) (Planning Commission: Approved 4-1; 1 recused, 3 absent).
- **Final Passage - Zoning Ordinance 2022-09** – heretofore passed on first reading April 11, 2022 and found in Minute Book 30, Page 638; Zoning of about 22.69 acres located on Michigan Avenue from the unincorporated county FAR to PUD37 Planned Unit Development (Tax Map 50 Parcels 043.00) (Planning Commission: Approved 9-0).
- **Resolution 2022-35** – Supporting the designation certain streets within the City as a portion of the United States Bike Route 21 (USBR21).

RESOLUTION 2022-35

A RESOLUTION OF THE CITY COUNCIL OF CLEVELAND, TENNESSEE SUPPORTING THE DESIGNATION CERTAIN STREETS WITHIN THE CITY OF CLEVELAND AS A PORTION OF THE UNITED STATES BIKE ROUTE 21 (USBR 21) AND AUTHORIZING THE SIGNING OF THE USBR 21 ROUTE WITHIN THE CITY OF CLEVELAND ONCE THE ROUTE HAS BEEN DESIGNATED BY THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) AT THE REQUEST OF THE TENNSSEE DEPARTMENT OF TRANSPORTATION (TDOT)

WHEREAS bicycle tourism is a growing industry in North America, contributing $47 billion a year to the economies of communities that provide facilities for such tourists; and

WHEREAS the American Association of State Highway and Transportation Officials (AASHTO) has designated a corridor crossing Tennessee to be developed as United States Bike Route 21 (USBR 21); and

WHEREAS the Adventure Cycling Association and Bike/Walk Tennessee, with the cooperation of TDOT, have proposed specific route to be designated as USBR 21, and

WHEREAS the proposed route for USBR 21 comes through Cleveland and can therefore provide benefits to our city, and

WHEREAS we have examined the proposed route shown in EXHIBIT A below and recognize it as a route selected by skilled cyclists familiar with local roadways, and we support the designation of the route so that it can be mapped and signed, thereby promoting bicycle tourism in our area,

NOW THEREFORE BE IT RESOLVED:

1. The City Cleveland hereby expresses its approval and support for the development of USBR 21, and requests that TDOT get the route officially designated by AASHTO as soon as this can be achieved.

2. The posting of signs within Cleveland right-of-way identifying the route through the City once the official designation has been made is authorized.

Approved this 25th day of April, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Cassada asked if the paving schedule was still on track for May. Mr. Myers stated yes, end of May. Secondly, he asked for an update on installation of the 4th Street parking lot lights. Mr. Fivas stated that was approved at the last meeting on the consent agenda and should be installed soon. Third, he asked for an update on the Raider Drive building. Mayor Brooks stated he believes we are waiting on additional documentation. Councilman Cassada asked for a follow-up report. Lastly, we had a feasibility study for the Raider Drive building that was given to us but with the property lease/purchase at 70 Inman Street, no due diligence has been done. No environmental study. We don't continue the same path when with these items. We need to know what we are getting into and can't support the item at this time.

Councilman Hughes stated the business site at 70 Inman Street is probably the most unsightly place downtown. Ms. Gilbert had asked $800,000 for it and now we are down to $430,000. Sometimes you have to buy 'b' before 'a' to work. This site could generate 30 additional parking spaces and doesn't feel we can sell the Cherokee Hotel without the site. Secondly, he has had many people compliment the pickleball courts at Tinsley Park. We have local residences that have won State. It is a popular game.

Councilman Webb stated last week he met with Senator Bell and Representative Hall at the Chamber discussing some issues we have in Cleveland. The intersection at Ocoee/25th Street was discussed in detail. They were receptive to our ideas of trying to move the project along. We can help them help us by reaching out to interested parties so everyone at the State knows we have a real desire to work on the issue. The intersection is a regional issue, and the community and businesses are on board with the project. Mr. Fivas agreed to gather a packet for the Legislators to help them make the case in Nashville.

Vice Mayor Johnson stated he met with Senator Bell and Representative Hall as well and he was interested to hear about the plans for the railroad overpass. Mr. Fivas we have had some conversations with USDOT and we know the downtown transportation network needs to be modified. In the last week there has been three or four trucks stuck under the railroad bridge. We are working to make it a more pedestrian and retail friendly and the federal government has awarded us a grant on how to make the corridor work for the future. Getting the first pieces going and making it happen is a huge win that the United States Department of Transportation to buy what we are selling.

Mayor Brooks stated we continue to receive great comments about the Hot Slaw Festival, and he has forwarded an email to Mr. Fivas and Mr. Jobe about the possibility of Cleveland to be known as the Hot Slaw Capital of the World. Mr. Fivas responded if the Council votes for it.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution 2022-36** – City may consider the lease of property at 70 Inman Street.

RESOLUTION 2022-36

WHEREAS, the City Manager has had discussions with representatives of Five Point Commons and Marketplace, Inc. about the possibility of the City of Cleveland leasing and purchasing property located at 70 Inman Street East (Tax Identification Number 049M-V-004.00); and

WHEREAS, Five Point Commons and Marketplace, Inc. has entered into a commercial purchase and sale agreement with the current owner of the property located at 70 Inman Street East; and

WHEREAS, assuming the transaction is closed according to the terms of the contract between the Five Point Commons and Marketplace, Inc., and the current owner, then Five Point Commons and Marketplace, Inc. is willing to lease and sell the property to the City of Cleveland; and

WHEREAS, Five Point Commons and Marketplace, Inc. presented the City with the attached documents which would allow the City of Cleveland to lease and purchase the property located at 70 Inman Street, assuming the sale from the current owner is completed; and

WHEREAS, Five Point Commons and Marketplace, Inc. has presented the City Manager with the following attached documents pertaining to the property located at 70 Inman Street East:

(a) Lease agreement;
(b) Option for the purchase and sale of real estate agreement;
(c) Assignment of commercial purchase and sale agreement.

WHEREAS, the City Manager is now requesting and recommending that the City Council approve of these agreements with Five Point Commons and Marketplace, Inc.; and

WHEREAS, the City Council desires to accept the recommendation of the City Manager and approve of these agreements with Five Point Commons and Marketplace, Inc. and to authorize the Mayor to execute the agreements 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 attached agreements with Five Point Commons and Marketplace, Inc. for the property located at 70 Inman Street East.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute these agreements on behalf of the City of Cleveland.

This 25th day of April 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Vice Mayor Johnson moved that Resolution 2022-36 be accepted as presented. The motion was seconded by Councilman Estes. Councilman Cassada moved for a substitute motion, that the City conduct a feasibility and environmental study on the property before moving forward with the lease/purchase agreements. The motion was seconded by Councilman Hughes. Councilman Estes asked if there are any state regulations for mechanic shops, like dry cleaner businesses. Mr. Fivas stated no. Dry cleaner businesses use toxic chemicals that radiate from the ground and foundation, so they have to be cleaned up. There could be some soil contamination of oil which would be capped in place but there is nothing comparable. Councilman Cassada stated do you know there is not any contamination in the ground? Mr. Fivas replied no, I didn't say that. At the end of the day, you would have to clean it up anyway. Councilman Cassada asked what would be the cost? Mr. Fivas stated you wouldn't know until you got under the concrete. If you purchase it and dug into the soil, which you may cap in place, you probably wouldn't ever have to touch it or mitigate it. If you wanted to you would do it at that time. Councilman Hughes stated their will not be a problem purchasing it in the future, just lease it now with a chance of purchasing within a few months. Mr. Kimball replied if you approve the lease, it is for ten years with an option to buy. Councilman Estes asked if there has ever been a gas station there. Mr. Fivas replied not that we know of, that would have triggered for us to be more concerned. It appears to have only been an auto repair site. Councilman Webb stated this is a ten-year lease with no minimum lease requirement. Mr. Kimball stated the resolution is to approve all three documents and you can end the lease immediately. Mr. Fivas stated the closing of the property is this week and he does not know of any ramifications of that if we can miss our opportunity. Councilman Hughes stated this motion is to delay this until the next meeting. Mr. Fivas stated an environmental study could take months. Upon roll call on the substitute motion Councilman Cassada, Councilman Hughes and Vice Mayor Johnson voted aye. Councilman Estes, Councilman Webb and Councilman May voted no. Councilwoman McKenzie passed. The substitute motion failed 3:3:1. Mayor Brooks stated we will now vote on the original motion to approve Resolution 2022-36 be accepted. Upon roll call, Vice Mayor Johnson, Councilwoman McKenzie, Councilman Estes, Councilman May, Councilman Hughes and Councilman Webb voted aye. Councilman Cassada voted no. The motion carried 6:1.

The following memo was presented in full:

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **April 25, 2022**
RE: **Purchase of Dell VxRail Hyperconverged Server/Storage System**

SUMMARY:

In 2016, the Information Technology Department completed a large server and wide area network upgrade to separate the City's Wide Area Network (WAN) from the local utility company. This created a completely stand-alone network/server infrastructure while maintaining our fiber connectivity to the 911 Center and other City locations. The money spent created an updated non-redundant network, updated server capacity, and disaster recovery storage backup location at the 911 Center. The global Covid 19 pandemic began in 2020, and we realized that we needed more capabilities including additional hardware and more bandwidth for remote workers. IT also saw a need for more redundancy in the network to help maintain stability and minimize any downtime. Storage servers purchased in 2016 were now at end-of-life and options for replacement needed to be explored. Due to ongoing cybersecurity threats including ransomware, new redundant firewalls with the latest technology were also deemed a priority.

City staff is recommending the purchase of a new Dell Server for $673,000 and Spare Dell Switch for $20,000. We will use a combination current budgeted funds and ARPA funds to make this purchase. We have been told to expect a cost increase in May of 10 to15%. The current server will run out of warranty

in the next fiscal year and be out of data storage shortly after that point. If purchased, the old server will be used as other a server for other uses within the organization. The new server has a hard 5-year warranty. We intend to have the new server system up and running before July 1st.

Here is more detail on the server and switch:

Dell VxRail Hyperconverged Server/Storage System (2) – Replacement for end-of-life Dell Compellent Storage System. This hardware appliance is the core data server for all virtual servers/data on our network. It maintains every department's software and data. By migrating to the Rail, it will add speed, storage space, and support, as well as improved disaster recovery with another at the 911 Center. Current system is expected to be out of storage space within the next 2-3 years and can't be expanded due to end of life. Disaster Recovery would be much faster and more automated, reducing the risk of losing data and limiting downtime. The price of this unit has changed since last memo due to reevaluation of expansion needed for long term use as well as Dell price increase. Continuous supply issues will cause server pricing to increase. This total also includes professional services for assistance in installation. $673K

Spare Dell N3248P-ON Switch (2) – Spare network switches for disaster recovery. Currently spares have 9-month lead time. $20K

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
The purchase of a new Dell Server for $673,000 and Spare Dell Switch for $20,000. We will use a combination current budgeted funds and ARPA funds to make this purchase.

RECOMMENDATION:
City staff recommends approval of this item.

Councilman Cassada moved that the IT Department move forward with purchase of the server utilizing ARPA funds. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, May 9, 2022.

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

_____ _____

Mayor City Clerk

REGULAR SESSION
MAY 9, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MAY 9, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Ken Webb and Councilwoman Marsha McKenzie. Councilman Dale Hughes was absent from the meeting. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Chris Townsend; Cathy Andrews, CDBG Coordinator; Ben Berry with Berry Engineering; Paulette Pugh; Jessica Aubert and Tim Siniard 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 Councilman Dale Hughes from the meeting. The motion was seconded by Councilman Webb; 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 April 25, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Councilman Estes moved to declare the service weapon of Sergeant Jeremy Noble as surplus property effective upon the date of his retirement and hereby given to him as a token of the City's appreciation for his 30 years of dedicated service to the City of Cleveland's Police Department. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

Dr. Bill Seymour, President of Cleveland State Community College stated he appreciates the support over the years from the Council and Mayor Brooks to help Cleveland State transform their campus. He is thankful to finish his 43-year career working in the best community and the ability to work with local governments that make things happen and understand the value of a community college and how it serves this region. The new President, Dr. Ty A. Stone, will take over on July 1. Mayor Brooks thanked Dr. Seymour for his leadership capabilities and taking Cleveland State to never imagined heights over the years. Councilman Cassada also thanked Dr. Seymour for all he has done over the years for Cleveland State and the impact in the community.

Chris Townsend addressed the City Council to again state his support and their interest in being a part of the redevelopment of downtown Cleveland. It is a great initiative, good for the city and happy to see the city taking action. He continued should the city choose to purchase property to facilitate it happening that is certainly the city's discretion as they weight the best interest of the public. The individual or individuals that came forward to make that happen are providing a service to the city, specifically with 70 Inman Street or Roy's Alternator. Mr. Townsend stated his issue is more with the process behind the purchase of that property. He then asked if the public had an opportunity to comment on Resolution 2022-36? Mayor Brooks asked for clarification on the resolution. Mr. Townsend replied on the April 25 agenda under new business it stated, City may consider the lease of property on Inman Street Corridor (Documents available prior to Monday). He asked his question again, did the public have an opportunity to comment on this topic. Mayor Brooks stated there are many actions taken by the City Council that don't require a public hearing or comment. This was not an ordinance, simply an approval to lease/purchase the property. Mr. Kimball stated the open meetings law requires that the date,

time and location of your meetings be made public, that is done once a year, which is done by your Clerk, so everyone knows the City Council meets on the second and fourth Monday's at 1:00 for the Work Session and 3:00 for the Regular Session, with the exception of an election year, where the first meeting in September is held at the Museum. Mr. Townsend stated the point of the question is before city tax dollars are spent on purchasing property, it may be a good idea for the public to be aware of what the Council is considering, and it be made known to the public. At the last meeting he requested not only the agendas for the meetings, but the supplemental documentation as well be provided to the public prior to the Monday meetings so the public could be informed. He appreciates their consideration. Mr. Kimball added there is an agenda email distribution list that anyone can request to be added by notifying Mrs. Brandon. Councilman Estes stated we all received the email from Mr. Townsend concerning the April 25 minutes and possible corrections. He will only point fingers at himself, but thinks they are all guilty at times saying things that are incorrect, that get in the minutes that are factually incorrect. He continued that the email documents Mr. Townsend submitted be placed in the minutes under Petitions. Councilman Cassada stated yes, he made that suggestion during the Work Session. Mayor Brooks stated he will submit the documents to Mrs. Brandon for the minutes.

HEARING PETITIONS AND COMMUNICATIONS

Documents submitted by Chris Townsend concerning the April 25 minutes.

Sue Zius

From: Chris Townsend <christownsendis@gmail.com>
Sent: Friday, May 6, 2022 8:51 AM
To: Kevin Brooks
Subject: COC Council Meeting Minutes Correction
Attachments: COC Council Meeting Minutes 4252022.pdf; City Council Meeting Minutes Correction 42522.pdf; COC ORR Results 4252022.pdf

Mayor Brooks,

Attached are a couple documents. The first document contains the minutes from the 4/25/2022 City Council meeting. The second document is a summary correcting the record, and a few follow up questions. The third document contains the results of an open records request made on 4/25/2022.

The minutes of the 4/25/2022 meeting omit City Manager Fivas' statement that "we looked" into Roy's alternator previously operating as a gas station. The results of the open records request submitted on 4/25/2022 clearly indicate that the City has no record of investigating whether or not the property at 70 Inman St operated as a gas station in the past.

My request is that the reading of the minutes is not waived, and the record be corrected.

Let me know if you have any questions, thanks for your service to the City of Cleveland.

--
Blessings,

Chris Townsend

Gmail

FW: Townsend ORR

Christy Brandon <cbrandon@clevelandtn.gov> Tue, May 3, 2022 at 4:50 PM
To: Chris Townsend <christownsendis@gmail.com>

Hi Chris,

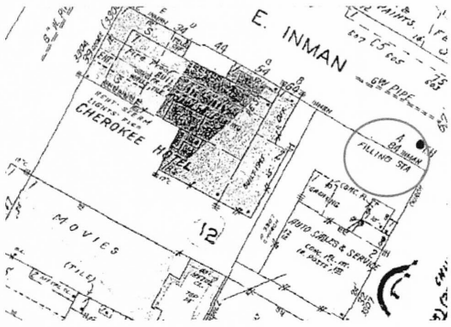
Below is the document provided by Mr. Fivas in response to your request.

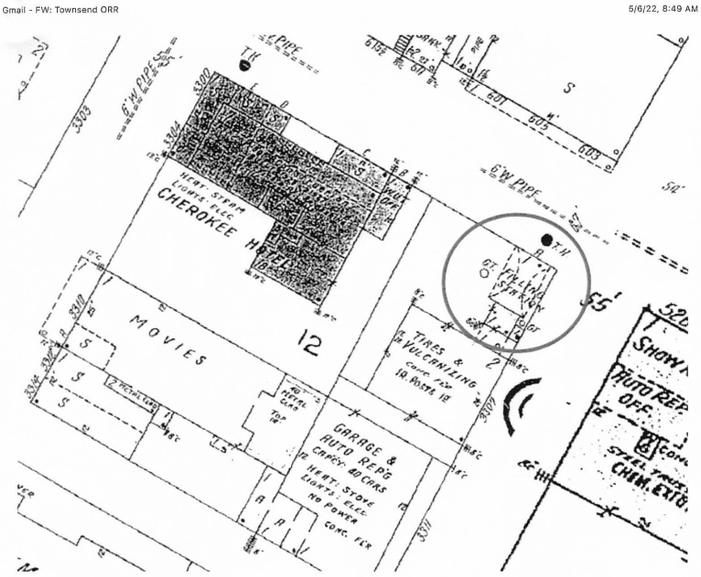
Thanks,

Christy Brandon

From: Joe Fivas <jfivas@clevelandtn.gov>
Sent: Tuesday, May 3, 2022 4:48 PM
To: Christy Brandon <cbrandon@clevelandtn.gov>
Subject: Townsend ORR

This is the only document I have. We received it on April 25th, 2022 at 8:39pm.





Joe Fivas
City Manager
City of Cleveland
(423) 457-9194

City Council Meeting April 25, 2022:

> Councilman Estes: (29:36) "I have always known this place as Roy's Alternator, some people call it Firestone. Was it ever a gas station?"
>
> Joe Fivas: (29:44) "Not that we know of, we looked. That would have been a trigger for us to be more concerned. I don't know the full history, but as far as we know it was just as an auto repair."

Correction of the Minutes: Page 4, paragraph 1, line 16. The minutes omit the statement made by City Manager Fivas that indicate that "we looked" into Roy's Alternator previously operating as a gas station.

Questions for City Manager Fivas:

1. Specifically, what actions did the City of Cleveland take to evaluate if 70 Inman St had been a gas station?
2. Is there a written record for any of the findings from those actions?
3. Did you mislead the City Council on April 25, 2022 by indicating that the City looked into the historical nature of the property?
4. Now that you know the property was formerly a gas station, is the City of Cleveland "more concerned."
5. If the Roy's Alternator building is demolished, could an environmental issue be created?

p. 645

REGULAR SESSION
APRIL 25, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, APRIL 25, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Ben Berry with Berry Engineering; Mike Griffin with the Chamber of Commerce; Paulette Pugh; Aaron Weatherford; Elise Goldston; Charlie Boothe and Tim Siniard 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 11, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Chris Townsend addressed the Council concerning the agenda item on the proposed lease/purchase of property at 70 Inman Street. He has made a request to a couple of the Councilmembers that the City Manager's full report be made available to the public prior to the 1:00 and 3:00 session so the public is informed about the topics being discussed at each meeting. The agenda and packet notes only say a property on Inman Street and the property wasn't identified. If the Council would consider making the City Manager reports available ahead of the meetings, it could be beneficial to the public at large. On Friday, he sent an email to Mayor Brooks and the City Council indicating he has purchased 140 Inman Street (Jacks Kleen Rite) and they are happy to discuss with the City any collaborative community development. Councilman Estes stated the previous owners were not amenable to do soil testing. Is that something you are agreeable to? Mr. Townsend replied, yes. They have already started the process updating phase 1 and phase 2 of environmental reports from 2016 and 2019, respectively. One finding was in the phase 2 report, which was to only register the property in the TDEC Dry Cleaner Registry. If they are able to work with the city in a collaborative measure, they would present the property free of any environmental concerns. They will follow the current soil scientist. We will remediate any potential issues that could arise down the road based on the scientists' recommendation. Councilman Estes stated it is important to protect the citizens and the City. Mr. Townsend encouraged the Council to consider looking into any possible environmental concerns for the Roy's Alternator site as well. Secondly, it was mentioned in the work session about tangible results in downtown revitalization. They have a great interest in the initiative. The question basically says we haven't seen a lot of results since the property tax increase. I would ask the Council to review the May 2019 outline from the City Manager that gave an outline of downtown revitalization and look to see if there are any timelines and how the city has responded.

HEARING PETITIONS AND COMMUNICATIONS

No hearing petitions and communications.

NOW THEREFORE BE IT RESOLVED:

1. The City Cleveland hereby expresses its approval and support for the development of USBR 21, and requests that TDOT get the route officially designated by AASHTO as soon as this can be achieved.

2. The posting of signs within Cleveland right-of-way identifying the route through the City once the official designation has been made is authorized.

Approved this 25th day of April, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Cassada asked if the paving schedule was still on track for May. Mr. Myers stated yes, end of May. Secondly, he asked for an update on installation of the 4th Street parking lot lights. Mr. Fivas stated that was approved at the last meeting on the consent agenda and should be installed soon. Third, he asked for an update on the Raider Drive building. Mayor Brooks stated he believes we are waiting on additional documentation. Councilman Cassada asked for a follow-up report. Lastly, we had a feasibility study for the Raider Drive building that was given to us but with the property lease/purchase at 70 Inman Street, no due diligence has been done. No environmental study. We don't continue the same path when with these items. We need to know what we are getting into and can't support the item at this time.

Councilman Hughes stated the business site at 70 Inman Street is probably the most unsightly place downtown. Ms. Gilbert had asked $800,000 for it and now we are down to $430,000. Sometimes you have to buy 'b' before 'a' to work. This site could generate 30 additional parking spaces and doesn't feel we can sell the Cherokee Hotel without the site. Secondly, he has had many people compliment the pickleball courts at Tinsley Park. We have local residences that have won State. It is a popular game.

Councilman Webb stated last week he met with Senator Bell and Representative Hall at the Chamber discussing some issues we have in Cleveland. The intersection at Ocoee/25th Street was discussed in detail. They were receptive to our ideas of trying to move the project along. We can help them help us by reaching out to interested parties so everyone at the State knows we have a real desire to work on the issue. The intersection is a regional issue, and the community and businesses are on board with the project. Mr. Fivas agreed to gather a packet for the Legislators to help them make the case in Nashville.

Vice Mayor Johnson stated he met with Senator Bell and Representative Hall as well and he was interested to hear about the plans for the railroad overpass. Mr. Fivas we have had some conversations with USDOT and we know the downtown transportation network needs to be modified. In the last week there has been three or four trucks stuck under the railroad bridge. We are working to make it a more pedestrian and retail friendly and the federal government has awarded us a grant on how to make the corridor work for the future. Getting the first pieces going and making it happen is a huge win that the United States Department of Transportation to buy what we are selling.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2022-03** – heretofore passed on first reading January 10, 2022 and found in Minute Book 30, Page 533; Rezoning 13.00 acres, more or less, located on Cherokee Gateway Boulevard (a portion of Tax Map 56 Parcel 45.00) from CH Commercial Highway Zoning District to IL Light Industrial Zoning District (Planning Commission: Approved 7-0; 2 absent) (City Council: 1st Reading, January 10, 2022; Approved 7-0).
- **Final Passage - Zoning Ordinance 2022-07** – heretofore passed on first reading April 11, 2022 and found in Minute Book 30, Page 615; Zoning of about .51 acres of a portion of property located at 1555 Johnson Boulevard from the unincorporated county FAR to R2 Low Density Single and Multi-Family Residential Zoning District (Tax Map 58P Parcel 007.00) (Planning Commission: Approve 9-0).
- **Final Passage - Zoning Ordinance 2022-08** – heretofore passed on first reading April 11, 2022 and found in Minute Book 30, Page 625; Zoning of about 7.35 acres located at 3210 Michigan Avenue from the unincorporated county FAR to PUD36 Planned Unit Development (Tax Map 50 Parcels 014.01) (Planning Commission: Approved 4-1; 1 recused, 3 absent).
- **Final Passage - Zoning Ordinance 2022-09** – heretofore passed on first reading April 11, 2022 and found in Minute Book 30, Page 638; Zoning of about 22.69 acres located on Michigan Avenue from the unincorporated county FAR to PUD37 Planned Unit Development (Tax Map 50 Parcels 043.00) (Planning Commission: Approved 9-0).
- **Resolution 2022-35** – Supporting the designation certain streets within the City as a portion of the United States Bike Route 21 (USBR21).

RESOLUTION 2022-35

A RESOLUTION OF THE CITY COUNCIL OF CLEVELAND, TENNESSEE SUPPORTING THE DESIGNATION CERTAIN STREETS WITHIN THE CITY OF CLEVELAND AS A PORTION OF THE UNITED STATES BIKE ROUTE 21 (USBR 21) AND AUTHORIZING THE SIGNING OF THE USBR 21 ROUTE WITHIN THE CITY OF CLEVELAND ONCE THE ROUTE HAS BEEN DESIGNATED BY THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) AT THE REQUEST OF THE TENNSSEE DEPARTMENT OF TRANSPORTATION (TDOT)

WHEREAS bicycle tourism is a growing industry in North America, contributing $47 billion a year to the economies of communities that provide facilities for such tourists; and

WHEREAS the American Association of State Highway and Transportation Officials (AASHTO) has designated a corridor crossing Tennessee to be developed as United States Bike Route 21 (USBR 21); and

WHEREAS the Adventure Cycling Association and Bike/Walk Tennessee, with the cooperation of TDOT, have proposed specific route to be designated as USBR 21, and

WHEREAS the proposed route for USBR 21 comes through Cleveland and can therefore provide benefits to our city, and

WHEREAS we have examined the proposed route shown in EXHIBIT A below and recognize it as a route selected by skilled cyclists familiar with local roadways, and we support the designation of the route so that it can be mapped and signed, thereby promoting bicycle tourism in our area,

Mayor Brooks stated we continue to receive great comments about the Hot Slaw Festival, and he has forwarded an email to Mr. Fivas and Mr. Jobe about the possibility of Cleveland to be known as the Hot Slaw Capital of the World. Mr. Fivas responded if the Council votes for it.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution 2022-36** – City may consider the lease of property at 70 Inman Street.

RESOLUTION 2022-36

WHEREAS, the City Manager has had discussions with representatives of Five Point Commons and Marketplace, Inc. about the possibility of the City of Cleveland leasing and purchasing property located at 70 Inman Street East (Tax Identification Number 049M-V-004.00); and

WHEREAS, Five Point Commons and Marketplace, Inc. has entered into a commercial purchase and sale agreement with the current owner of the property located at 70 Inman Street East; and

WHEREAS, assuming the transaction is closed according to the terms of the contract between the Five Point Commons and Marketplace, Inc., and the current owner, then Five Point Commons and Marketplace, Inc. is willing to lease and sell the property to the City of Cleveland; and

WHEREAS, Five Point Commons and Marketplace, Inc. presented the City with the attached documents which would allow the City of Cleveland to lease and purchase the property located at 70 Inman Street, assuming the sale from the current owner is completed; and

WHEREAS, Five Point Commons and Marketplace, Inc. has presented the City Manager with the following attached documents pertaining to the property located at 70 Inman Street East:

(a) Lease agreement;
(b) Option for the purchase and sale of real estate agreement;
(c) Assignment of commercial purchase and sale agreement.

WHEREAS, the City Manager is now requesting and recommending that the City Council approve of these agreements with Five Point Commons and Marketplace, Inc.; and

WHEREAS, the City Council desires to accept the recommendation of the City Manager and approve of these agreements with Five Point Commons and Marketplace, Inc. and to authorize the Mayor to execute the agreements 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 attached agreements with Five Point Commons and Marketplace, Inc. for the property located at 70 Inman Street East.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute these agreements on behalf of the City of Cleveland.

This 25th day of April 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Vice Mayor Johnson moved that Resolution 2022-36 be accepted as presented. The motion was seconded by Councilman Estes. Councilman Cassada moved for a substitute motion, that the City conduct a feasibility and environmental study on the property before moving forward with the lease/purchase agreements. The motion was seconded by Councilman Hughes. Councilman Estes asked if there are any state regulations for mechanic shops, like dry cleaner businesses. Mr. Fivas stated no. Dry cleaner businesses use toxic chemicals that radiate from the ground and foundation, so they have to be cleaned up. There could be some soil contamination of oil which would be capped in place but there is nothing comparable. Councilman Cassada stated do you know there is not any contamination in the ground? Mr. Fivas replied no, I didn't say that. At the end of the day, you would have to clean it up anyway. Councilman Cassada asked what would be the cost? Mr. Fivas stated you wouldn't know until you got under the concrete. If you purchase it and dug into the soil, which you may cap in place, you probably wouldn't ever have to touch it or mitigate it. If you wanted to you would do it at that time. Councilman Hughes stated their will not be a problem purchasing it in the future, just lease it now with a chance of purchasing within a few months. Mr. Kimball replied if you approve the lease, it is for ten years with an option to buy. Councilman Estes asked if there has ever been a gas station there. Mr. Fivas replied not that we know of, that would have triggered for us to be more concerned. It appears to have only been an auto repair site. Councilman Webb stated this is a ten-year lease with no minimum lease requirement. Mr. Kimball stated the resolution is to approve all three documents and you can end the lease immediately. Mr. Fivas stated the closing of the property is this week and he does not know of any ramifications of that if we can miss our opportunity. Councilman Hughes stated this motion is to delay this until the next meeting. Mr. Fivas stated an environmental study could take months. Upon roll call on the substitute motion Councilman Cassada, Councilman Hughes and Vice Mayor Johnson voted aye. Councilman Estes, Councilman Webb and Councilman May voted no. Councilwoman McKenzie passed. The substitute motion failed 3:3:1. Mayor Brooks stated we will now vote on the original motion to approve Resolution 2022-36 be accepted. Upon roll call, Vice Mayor Johnson, Councilwoman McKenzie, Councilman Estes, Councilman May, Councilman Hughes and Councilman Webb voted aye. Councilman Cassada voted no. The motion carried 6:1.

The following memo was presented in full:

TO: Mayor and City Council
FROM: Joe Fivas, City Manager
DATE: April 25, 2022
RE: Purchase of Dell VxRail Hyperconverged Server/Storage System

SUMMARY:
In 2016, the Information Technology Department completed a large server and wide area network upgrade to separate the City's Wide Area Network (WAN) from the local utility company. This created a completely stand-alone network/server infrastructure while maintaining our fiber connectivity to the 911 Center and other City locations. The money spent created an updated non-redundant network, updated server capacity, and disaster recovery storage backup location at the 911 Center. The global Covid 19 pandemic began in 2020, and we realized that we needed more capabilities including additional hardware and more bandwidth for remote workers. IT also saw a need for more redundancy in the network to help maintain stability and minimize any downtime. Storage servers purchased in 2016 were now at end-of-life and options for replacement needed to be explored. Due to ongoing cybersecurity threats including ransomware, new redundant firewalls with the latest technology were also deemed a priority.

City staff is recommending the purchase of a new Dell Server for $673,000 and Spare Dell Switch for $20,000. We will use a combination current budgeted funds and ARPA funds to make this purchase. We have been told to expect a cost increase in May of 10 to15%. The current server will run out of warranty

in the next fiscal year and be out of data storage shortly after that point. If purchased, the old server will be used as other a server for other uses within the organization. The new server has a hard 5-year warranty. We intend to have the new server system up and running before July 1st.

Here is more detail on the server and switch:

Dell VxRail Hyperconverged Server/Storage System (2) – Replacement for end-of-life Dell Compellent Storage System. This hardware appliance is the core data server for all virtual servers/data on our network. It maintains every department's software and data. By migrating to the Rail, it will add speed, storage space, and support, as well as improved disaster recovery with another at the 911 Center. Current system is expected to be out of storage space within the next 2-3 years and can't be expanded due to end of life. Disaster Recovery would be much faster and more automated, reducing the risk of losing data and limiting downtime. The price of this unit has changed since last memo due to reevaluation of expansion needed for long term use as well as Dell price increase. Continuous supply issues will cause server pricing to increase. This total also includes professional services for assistance in installation. $673K

Spare Dell N3248P-ON Switch (2) – Spare network switches for disaster recovery. Currently spares have 9-month lead time. $20K

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
The purchase of a new Dell Server for $673,000 and Spare Dell Switch for $20,000. We will use a combination current budgeted funds and ARPA funds to make this purchase.

RECOMMENDATION:
City staff recommends approval of this item.

Councilman Cassada moved that the IT Department move forward with purchase of the server utilizing ARPA funds. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, May 9, 2022.

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

Mayor _____ City Clerk _____

Richard Burnette addressed the City Council concerning the purchase of 70 Inman Street and asked what action did the City of Cleveland take to evaluate if this had been a gas station? Mr. Fivas asked for clarification. Mr. Burnette asked what did you guys look for to determine whether this had been a previous, years ago, a service/gas station, what action did you guys take to determine that. Mr. Fivas replied they asked people in the downtown community if they've ever seen it to be a gas station and the people we asked had never, in their lifetime had seen it as a gas station. Mr. Burnette stated now that we know it was, if the property was ever demolished, what kind of environmental issues could result or come from that? Mr. Fivas stated he would have to determine on factors on what was actually in the ground. Mayor Brooks added there was a presentation during the Work Session that TDEC, according to their records, there are no tanks in the ground since they began keeping records. Mr. Burnette stated so even though it was a gas station, there should be no environmental issues. Mayor Brooks stated his impression from the letter from TDEC they have given an all clear. Councilman Cassada stated well, they don't know if it's been removed or not, but they are willing to use federal funds to come in and clean it up. If there are tanks in there, they will remove them at no cost to the city or taxpayers.

CONSENT AGENDA

Councilman Cassada moved to approve the following items from the Consent Agenda. The motion was seconded by Councilman Webb; and upon roll call, the consent agenda unanimously passed. Councilman Estes thanked Cathy Andrews for her work with the CDBG program.

- **Final Passage - Zoning Ordinance 2022-05** – heretofore passed on first reading February 14, 2022 and found in Minute Book 30, Page 557; Rezoning 69.1 acres located on Old Powerline Rd NE and Durkee Rd NE (Tax Map 58 Parcels 34.00, 34.01, 4.00 & 5.00) from IL Light Industrial Zoning District to PUD33 Planned Unit Development Zoning District (Planning Commission: Approved 6-0; 3 absent) (City Council: 1st Reading, February 14, 2022; Approved 6-0; 1 absent).
- **Resolution 2022-37** – Approval of the 2022-2023 CDBG Annual Action Plan.

RESOLUTION 2022-37

**RESOLUTION FOR APPROVAL OF THE
2022-2023 ANNUAL ACTION PLAN
FOR THE
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

WHEREAS, the City of Cleveland, Tennessee will be receiving a CDBG annual allocation of an estimated amount of $375,000 for FY 2022-2023; and

WHEREAS, public hearings were held on September 13, 2021, February 8, 2022 and February 15, 2022 to hear comments and input from the public. A draft was available on April 2, 2021 which began a thirty-day comment period ending on May 4, 2022. A copy of the Plan was made available at the Development and Engineering Services Office as advertised in the *Cleveland Daily Banner* on April 2, 2022;

WHEREAS, comments made during public hearings regarding the Action Plan were received and reviewed by City staff;

NOW, THEREFORE, BE IT RESOLVED, the *2022-2023 Action Plan* be approved by the City Council, and be it further resolved that City staff authorized to submit the 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 9th day of May 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-38** – Authorizing the Mayor to sign amendment #1 with TDOT related to the Adkisson Drive NW project.

RESOLUTION 2022-38

WHEREAS, the City has received the attached Amendment #1 from the Tennessee Department of Transportation (hereafter "TDOT") for the project described below; and

Project: Adkisson Drive NW, from Paul Huff Parkway to south of Norman Chapel Road NW
Agreement Number: 190097
Project Identification Number (PIN): 128789.00
Federal Project Number: STP-M-3660(10)
State Project Number: 06LPLM-F3-064

WHEREAS, the City Council desires to enter into the attached Amendment #1 with TDOT, and to further authorize the Mayor to execute this 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 Amendment Number 1 from the Tennessee Department of Transportation for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 9th day of May, 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-39** – Accepting Shelterwood Drive (beginning at the north line of Tasso Lane and continuing for approximately 1500 feet) and Meadowbend Drive (beginning along the east line of Shelterwood Drive and continuing for approximately 940 feet) in the Heartland Planned Unit Development.

RESOLUTION 2022-39

WHEREAS, two streets located within the City of Cleveland are Shelterwood Drive (beginning at the north line of Tasso Lane and continuing for approximately 1500 feet) and Meadowbend Drive (beginning along the east line of Shelterwood Drive and continuing for approximately 940 feet), which are both depicted on a final plat entitled Heartland PUD and which are located off Tasso Lane and are located within the City of Cleveland; and

WHEREAS, these two streets are shown on a final plat recorded in the Bradley County Register of Deeds office at Plat Book 36 Page 2; and

WHEREAS, the developer has requested that the City accept these two streets as City streets; and

WHEREAS, the City's engineering staff has inspected these streets is now recommending that the City accept these streets as City streets; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, in regular session assembled, that the City does hereby accept Shelterwood Drive (beginning at the north line of Tasso Lane and continuing for approximately 1500 feet) and Meadowbend Drive (beginning along the east line of Shelterwood Drive and continuing for approximately 940 feet), as City streets.

This 9th day of May 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Motion –** Extending the Brush Chipping Services for an additional one-year period with Big Woody's Tree Service.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Estes thanked Robert Varnell for responding to his questions and helping him with narrative. Next, the HCNA is meeting on Friday at Deer Park. Also, Wednesday at 4:30 there will be a meeting at Mosby Park about the layout and needs/wants of the park. Lastly, he asked his colleagues to go to 9th Street SE and work your way back to 18th/20th Streets and look at the new sidewalks and all the new homes. This is the most important kind of investment we can make. We are making neighborhoods flourish. Mr. Fivas added we will have a ribbon cutting in June for the new sidewalks. Councilman Estes stated when the City Schools stopped bussing within a 1-2 mile radius, it was very dangerous for students to get to Blythe. The problem was solved with grant money. Kudos to staff.

Councilman Cassada inquired about the fencing along Robinhood Drive in the Harbor Freight development. It is still knocked down and ask to see the development plan, as far as the buffer and what was agreed by the developer and what the Council voted on. Secondly, as construction is happening on Hwy 60, he would like to see a designated right hand turn lane into Cleveland Middel School. Mr. Jobe stated they have asked us to evaluate it when they are done.

Councilman May inquired about the completion timeline of the 20th Street project. Mr. Varnell stated the contract deadline with Wilson Construction is May 31. They are actively paving the more difficult, smaller tedious work now. Hopefully, by the end of the week it will be mostly paved. We are seven to ten days ahead of schedule. We are very close to completion.

Councilwoman McKenzie asked if the signal timing at Peerless/25th Street going northbound could be checked by Cleveland Utilities. Mr. Fivas stated staff will reach out to them.

Councilman Cassada asked for the following letter to be included in the minutes:

DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF UNDERGROUND STORAGE TANKS
WILLIAM R. SNODGRASS TENNESSEE TOWER
312 ROSA L. PARKS AVENUE, 12TH FLOOR
NASHVILLE, TENNESSEE 37243

May 6, 2022

Tom Cassada
City Councilman 3rd District
1948 Lenox Drive
Cleveland, TN 37312
tcassada@clevelandtn.gov

RE: Former Mobil Gas Pegasus
70 Inman Street
Cleveland, TN 37311

Dear Mr. Cassada:

The City of Cleveland recently purchased the above-referenced property and has inquired as to whether underground storage tanks (USTs) or petroleum contamination are present on the site. The Tennessee Department of Environment and Conservation (TDEC) Division of Underground Storage Tanks (Division) has no records of USTs in its files for this address. We were informed that the property was previously used as a Mobil Gas Pegasus, but it stopped being used as a gas station in the early 1950s. Based on the information currently available to the Division, it appears that the tanks were taken out of operation prior to January 1, 1974, which would mean that notifying the Division of the tanks was not required pursuant to Tenn. Code Ann. § 68-215-106 and the City of Cleveland does not meet the definition of responsible party under Tenn. Code Ann. § 68-215-103(17).

In 1986, Congress created the Leaking Underground Storage Tank (LUST) Trust Fund to address petroleum releases from federally regulated USTs. TDEC entered into an agreement with the federal government to spend the money for this purpose. The Division uses LUST Trust Fund money to clean up sites that require prompt action to protect human health and the environment and/or where the responsible party is unknown, unwilling, or unable to perform the cleanup. The current property owner does not meet the definition of "owner" or "operator" under 42 U.S.C. § 6991(3) and (4). Given that the tank owner and operator are not known, LUST Trust Funds will be used at this site for the investigation and cleanup of contamination.

Sincerely,

Stanley R. Boyd

Stanley R. Boyd, Director
Division of Underground Storage Tanks

NEW BUSINESS AND ORDINANCES

Mayor Brooks stated the next item is discussion of the Cherokee Hote RFP and due diligence. Mr. Fivas stated he already said what he had to during the Work Session but can recap anything that is necessary.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, May 23, 2022.
- Public Hearing for the FY2023 Budget will be held on Monday, June 13, 2022.
- The City Council meeting for July 25, 2022 will be cancelled.

There being no future business the meeting was adjourned at 3:34 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
MAY 23, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MAY 23, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, Ken Webb and Councilwoman Marsha McKenzie. Councilmen David May, Jr. and Dale Hughes were absent from the meeting. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Chris Townsend; Cathy Andrews, CDBG Coordinator; Tonay and Joyce Stapek; Allen Jones and Aaron Murray with Champy's Chicken; Doug Berry with the Chamber of Commerce; David Kahun; Sonya Norman; Alex Staup; Amy Newman, City Accountant; Brittany Crisp and Tim Siniard 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 and David May from the meeting. The motion was seconded by Councilman Webb; 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 9, 2022 and approve them as written. The motion was seconded by Councilwoman McKenzie; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 4.7 acres from IL to R2 for property located on Ralph Buckner Boulevard (Tax Map 050J Parcel 014.00). Robert Varnell, Planning Director reported the area mirrors the R2 zoning and development. The Planning Commission did approve this request 7-1 with 1 member being absent. Mayor Brooks asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 4.2 acres from CG to PUD38 for property located on Ocoee Crossing (Tax Map 042H Parcels 001.14 and 001.12). Robert Varnell, Planning Director reported this is a commercial style PUD, which does allow for residential use on the second floor above the primary structure, if that is a vision they'd like to pursue. The tenants have been the catalyst for some of the creative design within the PUD. The Planning Commission did approve this request 8-0 with 1 member being absent. Mayor Brooks asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning. Mayor Brooks then declared the public hearing to be closed.

CONSENT AGENDA

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

- **Resolution 2022-40 -** Accepting Cottage Way (beginning along the south line of Cobblestone Drive and continuing for approximately 275 feet) and Cobblestone Drive (beginning along the east line of Old Chattanooga Pike and continuing for 650 feet to a point approximately 45 feet north of the Cottage Way centerline).

RESOLUTION 2022-40

WHEREAS, Cobblestone Ridge Phase 1 is a subdivision located in the City of Cleveland and is depicted on a plat recorded in Plat Book 36 page 45 in the Bradley County Register of Deeds Office; and

WHEREAS, Cottage Way (beginning along the south line of Cobblestone Drive and continuing for approximately 275 feet) is a street located within this development and is depicted on this Plat; and

WHEREAS, Cobblestone Drive (beginning along the east line of Old Chattanooga Pike and continuing for 650 feet to a point approximately 45 feet north of the Cottage Way centerline) is also a street located within this development and is depicted on this Plat; and

WHEREAS, the developer has requested that the City accept these streets as City streets; and

WHEREAS, the City's engineering staff has inspected these streets and is now recommending that the City accept these streets 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 the following as City streets:

(1) Cottage Way – beginning along the south line of Cobblestone Drive and continuing for approximately 275 feet.

(2) Cobblestone Drive – beginning along the east line of Old Chattanooga Pike and continuing for 650 feet to a point approximately 45 feet north of the Cottage Way centerline.

This 23rd day of May, 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-41 –** Authorizing the Mayor to sign a letter of engagement and contract with Wedgewood Accounting, PLLC to audit the accounts of the City of Cleveland for the period July 1, 2021 through June 30, 2022.

RESOLUTION 2022-41

A RESOLUTION AUTHORIZING AN ENGAGEMENT LETTER AND A CONTRACT WITH WEDGEWOOD ACCOUNTING, 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 Wedgewood Accounting, PLLC, to audit the accounts for the period from July 1, 2021, through June 30, 2022, with a fee of $54,000.00; and

WHEREAS, the City Council desires to enter into an engagement letter and a contract with Wedgewood Accounting, PLLC, and to further authorize the Mayor to execute the required engagement letter and the attached contract on behalf of the City of Cleveland.

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 23rd day of May, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-42** – Supporting submission of a 2022 Multi-modal Access Grant (MMAG) notice of intent to apply and authorizing the application and matching funds (State Route 60/Georgetown Road Corridor).

RESOLUTION 2022-42

RESOLUTION CONFIRMING SUBMISSION OF A 2022 MULTI-MODAL ACCESS GRANT (MMAG) NOTICE OF INTENT TO APPLY AND AUTHORIZATION OF APPLICATION TO THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR MMAG PROJECT FUNDING FOR MULTI-MODAL IMPROVEMENTS IN THE STATE ROUTE 60 GEORGETOWN ROAD CORRIDOR AND AUTHORIZATION OF CITY MATCHING FUNDS

WHEREAS, the City Council of previously approved the submission of an MMAG project on SR 60 Georgetown Road in the area generally between Cleveland Middle School and Candies Lane, connecting with the multi-modal improvements in the TDOT SR60 widening project now underway; and

WHEREAS, the aforementioned MMAG application was not successful but the project proposal has been evaluated under the current MMAG requirements and modified in ways that city staff believe would make the project more competitive; and

WHEREAS, it is desirable to submit an MMA Grant application for multi-modal improvements in this area for the maximum state investment of $1,125,000 with the required local match of $125,000; and

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

1. Confirms the submission to TDOT of a Notice of Intent to Apply for an MMAG for the project described herein.

2. Authorizes the Mayor to work with staff to develop and submit all materials necessary for the MMAG located primarily on SR 60 Georgetown Road generally between the end of the TDOT SR 60 widening and Candies Lane, with some necessary connectivity improvements on adjacent streets.

3. The MMAG submission is to be for up to $1,125,000 state funds on an MMAG project total of up to $1,250,000 and the required city match is approved up to $125,000.

4. The Mayor is authorized to sign all documents necessary to the grant application process described herein.

Approved this 23rd day of May, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Bid Summary** – Paul Huff Parkway at Mouse Creek Road Intersection Improvement Project - mast arm pole, foundation and conduit installation [after discussion, it was determined the City would purchase outright and not place on the investment charge.]

TO: **Mayor and City Council**
FROM: **Brian Beck, City Engineer**
DATE: **May 19, 2022**
RE: **Bid Summary – Paul Huff Parkway at Mouse Creek Road Intersection Improvement Project-Mast Arm pole, foundation and conduit installation**

SUMMARY:
Cleveland Utilities received sealed bids on behalf of the City of Cleveland for the construction of traffic signal mast-arm foundations, installation of pre-purchased poles with mast-arms and installation of conduit for a re-constructed traffic signal on the Paul Huff Parkway at Mouse Creek Intersection Improvement project. Two bids were received and are listed below.

- **Nabco Electric** $112,894.00
- **Edison Electric** $115,251.50

COMMITTEE FINDINGS:
No Committee or Board action

FISCAL ANALYSIS:
Funds are available.

RECOMMENDATION:
City staff recommends award to Nabco Electric. Cost to be covered by Cleveland Utilities Investment charge or funded by the City of Cleveland.

- **Bid Summary** – Paul Huff Parkway at Peerless Road Intersection Improvement Project – Materials for mast arm poles [after discussion, it was determined the City would purchase outright and not place on the investment charge.]

TO: **Mayor and City Council**
FROM: **Brian Beck, City Engineer**
DATE: **May 19, 2022**
RE: **Bid Summary – Materials for Mast Arm Poles – Paul Huff Parkway at Peerless Road Intersection Improvement Project**

SUMMARY:
Cleveland Utilities received bids on behalf of the City of Cleveland for mast arm pole materials on the Paul Huff Parkway at Peerless Road Intersection Improvement project. Two bids were received and are listed below.

- **Transportation Control Systems (TCS)** — $89,894 - 16-week delivery time
- **NOV** — $109,690 - 18-week delivery time

COMMITTEE FINDINGS:
No Committee or Board action

FISCAL ANALYSIS:
Funds are available.

RECOMMENDATION:
City staff recommends award to Transportation Control Systems. Cost to be covered by Cleveland Utilities Investment charge or funded by the City of Cleveland.

Note: If the bid is awarded to TCS, delivery times start after engineered drawing approvals. Engineered drawing approval takes 3 – 4 weeks plus the 16-week time period for fabrication and delivery for a total of approximately 20 weeks after City authorization.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Cassada inquired about the buffer area for the development at Paul Huff/Mouse Creek Road and why the developer has not finished. He then showed photos of the fallen fence, that wasn't installed correctly. We have a $30,000 bond on file and doesn't understand why they haven't finished. Mr. Jobe stated the developer doesn't own all the lots. they are different owners. Councilman Cassada stated the developer should be responsible. Mr. Jobe stated the last resort is to pull the bond. Councilman Cassada asked if we can. Mr. Jobe stated LeConte was to reach out to Councilman Cassada. [Mr. Fivas added comments, but they were inaudible.] Mr. Jobe added staff will reach out to LeConte to discuss and pull the bond as a last resort, for staff to complete the work. Councilman Cassada stated he would like to add a motion to new business to discuss further. Secondly, he asked what the plan for the Roy's Alternator building is now that the City owns it. Mr. Fivas stated we are in a holding pattern waiting for the two interested parties to the RFP to turn in their financials and then the Council will decide the best uses for the property. It will be an as is property and before we do anything, let them do research and figure out their costs and investment. Councilman Cassada stated we bought the property for $430,000 but why was it stated it was worth $650,000. Also, Mr. Fivas signed the paperwork for the transaction. Mayor Brooks stated correct. He was out of town and the closing needed to happen before the end of the month. Councilman Cassada then asked about the status of the Raider Drive building. Mr. Fivas responded we are waiting on a signature from the owner. Councilman Cassada asked Mr. Kimball if Mr. Fivas was allowed to sign the paperwork for the Roy's Alternator building. Mr. Kimball replied yes, if the Mayor is out of town he can ask Mr. Fivas, Mr. McKay or Vice Mayor Johnson to act on his behalf, particularly to save the taxpayer money. Mayor Brooks stated he was asked by the City Manager if I approved of his signature on the deed since I was out of town; and I agreed. I did not overstep.

Mr. Kimball then addressed the value on the deed of the Roy's Alternator building. In Tennessee, the affidavit of value can be the purchase price or what the owner suggests is the value, whichever is greater. The seller believes the value is greater and will asked the federal government to request a charitable donation for the difference.

Councilman Webb stated over the weekend there was a Neighborhood Story event in Blythe Oldfield area, where they told the story of Blythe Oldfield. They gave bus tours of the neighborhood, and it was meaningful to see the changes that has taken place in the area with new houses, redeveloped houses, sidewalks and the garden. He listened to the residents talking about how it was rundown and now it has been restored. He encouraged everyone to attend if another event takes place. Michelle Goldston stated she is now with City Fields and thanked Councilman Webb for attending the event. The bus tour was very popular. People enjoyed seeing improvements and renovations. Fourteen houses have been completed and currently have ten under construction. They plan to renovate ten houses a year. She thanked the City for continued support and funding.

Councilwoman McKenzie stated she received a call concerning the median along 25th street needs attention. Also, why can't the rocks be removed and have grass instead. Also, who is responsible for cleaning the canal at Keith/25th Street. It is overgrown. Secondly, she has received calls concerning loud mufflers and speeding down Georgetown Road during the early morning hours. Is it possible for additional patrol? Lastly, she has received several comments concerning the new development and annexation near Exit 20 and asked for additional clarification. Mayor Brooks stated he has heard several comments as well, like how and why would the city take or annex this property. This is the American Dream. There were two families that owned two farms, that came to the city and said they'd like to do something better for the next generation of their family. There was no land grab as reported on Facebook. There was no forced annexation. We've been compared to Ooltewah and Hamilton County in the local media Facebook page. None of it has been retracted or countered. He is thankful we live in a community that families can do better, that they can believe in the American Dream, whether it's in the Blythe Oldfield or the south side. The Council hears nothing, but can you please do something for the south side of our city. We hear it continuously, please develop the south side. Now, two families have come forward saying they would like to participate in the redevelopment of the south end of Bradley County, Cleveland city limits, could we partner with the City. It is absolutely, perfectly wonderful. From our realtor friends we constantly hear we don't have enough inventory. Here we have a chance on the southside of our city that's not popping up like dandelions like Michigan Avenue or overcrowded with traffic like Paul Huff. We have an area in our city that we have been given a chance to make better. He is very concerned about the way it has been reported and the way it has been reacted to because of lack or misinformation in the public. These two families should be thanked, and he can't wait to do so. Many hours have been put in to make sure this development can work. It is not unwelcomed. Councilman Webb stated it was owner request to be annexed. It was not a land grab. This is working like the State designed annexation to work. Vice Mayor stated he has seen many things come and go on the southside of Cleveland. Whatever we can do to revitalize the southside you will have his vote. It is a part of our community that has fallen behind. We are headed in the right direction.

Councilman Estes congratulated HCNA for celebrating 20-years at Deer Park. Secondly, when 25th Street was curbed, we had major flooding on the roadway, so he is not sure how to balance that and the aesthetics. Next, he walked the Greenway to IHOP over the weekend. It is gorgeous and well maintained. Third, he asked Mr. Jobe if the City has a position on pulling the LeConte bond. Mr. Fivas responded that city staff should be given the opportunity to discuss it with them and time to fix the situation. Councilman Cassada stated he would pull the item off the agenda if staff would do that and reach a consensus before the next meeting. Next, he praised Robert Varnell for his work with the Planning Commission over the last four months. This new development off Exit 20, it's not just a bunch of houses. It is extremely high quality, a quality-of-life development. It's not let's get as many houses as possible. This is a catalyst. Lastly, he asked Mr. McKay to check about a one-page flyer that shows the difference in investing in one house in the Blythe community does. Mr. McKay responded he believes Dustin

Tommey has that information available but can provide something. Councilman Estes added it would be good to help the citizens see the investments and growth in the community.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-10** – Rezoning 4.7 acres located on Ralph Buckner Blvd (Tax Map 050J A 014.00) from IL Light Industrial Zoning District to R2 Low Density Single and Multi-Family Residential Zoning District (Planning Commission: Approved 7-1; 1 absent).

ZONING ORDINANCE 2022-10

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 Industrial Zoning District to R2 Low to Medium Density Residential District Zoning District.

Approximately 4.7 acres, more or less, located on Ralph Buckner Boulevard as shown on the attached exhibits.

For reference, also being shown as a portion of Tax Map 50J Parcel 14.00 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A

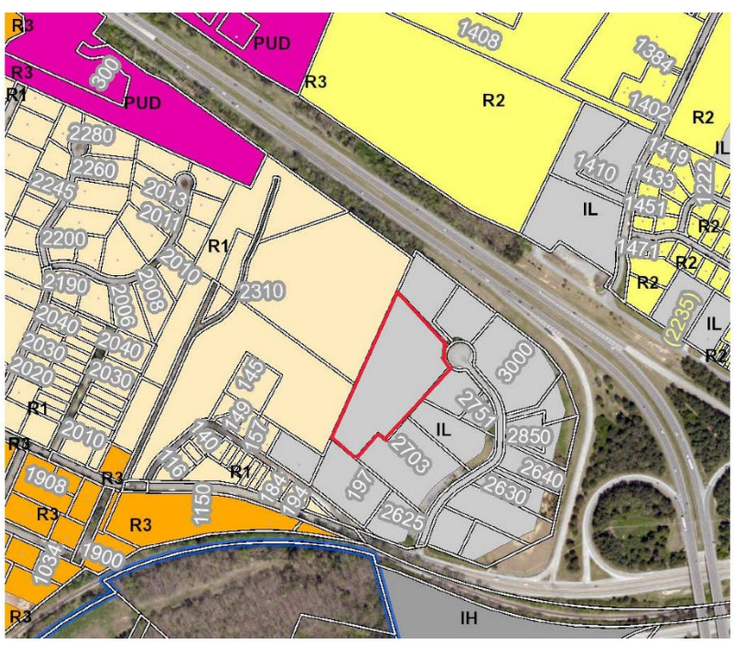


Exhibit B



Vice Mayor Johnson moved that Zoning Ordinance 2022-10 be approved on first reading. The motion was seconded by Councilman Estes. Councilman Estes then added this mirrors what is across APD40 and the Planning Commission looked at this very hard and determined the best use for the property. Upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-11** – Rezoning 4.2 acres located on Ocoee Crossing (Tax Map 042H C 001.14 & 001.12 from CH Commercial Highway Zoning District to PUD38 Planning Unit Development Zoning District (Planning Commission: Approved 8-0; 1 absent).

ZONING ORDINANCE 2022-11

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 OCOEE CROSSING CENTRAL COMMERCIAL "PUD 38" ON PROPERTY DESCRIBED AS TAX MAP 42H C PARCELS 001.14, 001.11, AND 001.12, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 38; 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 38" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 38 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 38 district are 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 38, Ocoee Crossing Central Commercial Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 42H C Parcels 001.14 and 001.12. Exhibit A illustrates the overall Ocoee Crossing Central Commercial Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.
This section is intended to provide a general description of the Ocoee Crossing Central Commercial development. The project consists of multiple commercial buildings, to include one or more restaurants. Exhibit A shows the general location of proposed infrastructure and common parking areas. The developer shall include any permanent retention or detention pond areas, or landscaped common areas.

Section 5. PERMITTED USES AND PROHIBITED USES.
The PUD 38 allows for the construction of single-tenant structures and multi-unit Commercial structures. Specific uses including restaurants (with or without Drive-up facilities), hotels, supermarkets, department stores, commercial recreation/entertainment facilities, shopping centers with multiple tenants, professional offices, service business such as dry cleaners, personal service businesses such as barbers, beauty salons, nail salons, are allowed by right. Prohibited uses include self-storage, car wash’s, oil change facilities, convenience stores with gas pumps, and vehicle sales. If any residential units are desired though the development of the PUD they will be required to be placed above retail units on 2nd or 3rd floors of a structure.

Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 38 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 commercial uses within the Ocoee Crossing Central Commercial development 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. Conditional uses within the PUD 38 district shall be dictated by the underlying Commercial General (CG) zoning. Uses other than those described as permitted or allowed herein are prohibited. Billboard signs are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.
6.A. CONCEPTUAL PLAN.
A conceptual plan (Exhibit A) for PUD 38, The Ocoee Crossing Central Commercial Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on April 19, 2022. The conceptual plan consists of a site

plan for the overall development however additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD38 must be consistent with this Conceptual Plan with regard to development standards and general layout 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 site plans for The Ocoee Crossing Central Commercial development may ultimately reflect some alteration in the conceptual plan such as the exact location of each specific commercial structure typology within the commercial 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.).

6.B. PLATS.
One or more plats will be prepared for the PUD38 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. These plats shall be consistent in general layout with the conceptual site plan.

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 38 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 38 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.

Section 7. DEVELOPMENT STANDARDS
The development standards for PUD38 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the CG 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. All stormwater detention/retention areas will be screened from the public ROW. With the minimized setback for the Champy’s location there will need to be construction of a retaining wall along Ocoee Crossing Place road frontage, said wall will be constructed a Mountain Stone material. Redi Rock or similar is not allowed.

Architectural standards for the Site shall be consistent with the surrounding previously developed commercial property utilizing brick and stone materials. The proposed restaurant shall follow the existing architectural style of Champy’s Restaurant locations already constructed throughout the area (see exhibit “C” for references).

All building shall be serviced by sidewalks within the development. Sidewalks should be illustrated on all plats and site plans for review by city staff. Sidewalk connections shall be made at all entrances to Ocoee Crossing, including the existing drive aisle connecting to Food City.

The minimum setbacks and lot width requirements for Commercial sites shall be as follows:
1. Front Setback – 5’
2. Rear Setback – 5’
3. Side Setback – 5’

Parking lot standards shall be as follows:
1. Parking lots shall be divided with landscaped islands separated by no more than 12 spots.
2. Parking standards shall be in conformance with exhibit A, with a shared parking principal in place for the entire development allowing for flexibility of development. A minimum of 3 parking spots at the front of Champy's proposed site shall be designated for "pick-up" or take-out customers only.

Open patios and decks, if allowed by the Developer, may extend to within 4 feet of a 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.

The development standards for the CG Commercial Zoning District shall apply for any standards this ordinance does not address.

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 PUD38 Ocoee Crossing Central Commercial Development. 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 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 PUD38, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit A then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD38 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 11Developer" is intended to encompass Morgan Lane Development 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 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

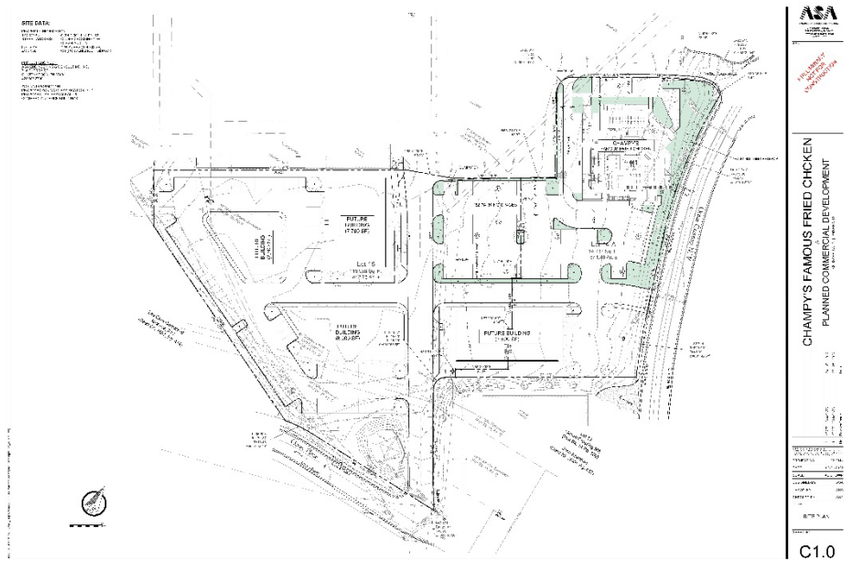
this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk





Councilman Webb moved that Zoning Ordinance 2022-11 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:

- **Ordinance 2022-12** – Amending the FY2022 Budget.

ORDINANCE 2022-12

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE TO AMEND THE 2021-2022 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 2021-2022 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

	City of Cleveland, Tennessee			
	FY2022 Budget Amendment - May 2022			
	ORIGINAL BUDGET	May 2022 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
GENERAL FUND				
Tax Revenues:	43,380,000	45,249,216	1,869,216	Local Sls Tax, In Lieu Tax, Prop Tax
Licenses & permits:	1,430,000	1,542,270	112,270	Building & Electrical Permits
Intergovernmental:	5,235,500	5,737,839	502,339	State Sls Tax, Excise Tax
Charges for services:	1,013,600	1,196,061	182,461	Recreational Program Fees, CPD Contracted Svcs
Fines & forfeits:	519,500	530,959	11,459	Court Clerk Fees
Interest income:	0	45,000	45,000	Interest
Miscellaneous:	120,400	199,336	78,936	Sundry Income, Ins Reimb, Memorial Trees
Public Enterprise Revenue:	303,500	1,737,856	1,434,356	Jetport Operations
Subtotal	52,002,500	56,238,537	4,236,037	
Other Funding Sources:	3,034,767	3,359,808	325,041	Misc Revenues
Total Revenues	55,037,267	59,598,345	4,561,078	
Legis. & Judicial	458,800	460,709	1,909	Professional Svcs
Administration	695,215	725,679	30,464	Office Exp, Professional Dev, Building Maint
Jetport	329,875	1,674,357	1,344,482	Fuel Sales
Human Resources	457,680	461,668	3,988	Grant Exp, Employee Appreciation
Finance	1,365,360	1,362,242	(3,118)	Salaries, Building Maint, Insurance
Information Technology	940,620	958,469	17,849	Software
Development & Engineering	1,782,650	1,777,789	(4,861)	Professional Svcs
Codes Enforcement	261,430	261,207	(223)	Insurance
Police	12,007,520	12,658,629	651,109	Equipment, Extra Duty, Fuel, Ins
Animal Control	599,080	600,667	1,587	Salaries
Fire	11,300,024	11,226,522	(73,502)	Sold Vacation, PPE, Insurance
PW Operations	2,551,135	2,598,488	47,353	Repairs, Paving Materials
Street Lighting & Signals	1,765,000	1,795,550	30,550	Capital Improvements
Fleet	697,010	696,276	(734)	Contracted Svcs
Forestry & Landscaping	852,800	882,820	30,020	Tree Donations. Vehicle Maint
Parks & Recr.	1,333,805	1,435,700	101,895	Program Development, Donations, Building Maint
College Hill Rec Center	443,620	435,693	(7,927)	Utilities, Insurance
Cleveland Comm Center	403,380	400,834	(2,546)	Insurance
Tinsley Park	384,100	371,807	(12,293)	Insurance, Professional Development
Appropriations	1,367,200	1,387,200	20,000	Museum HVAC
Subtotal:	39,996,304	42,172,306	2,176,002	
Transfers	14,519,700	15,987,497	1,467,797	Debt Service, CIP, MPO
Total Expenditures	54,516,004	58,159,803	3,643,799	
Increase (use) of fund balance	521,263	1,438,542	917,279	

	City of Cleveland, Tennessee			
	FY2022 Budget Amendment - May 2022			
	ORIGINAL BUDGET	May 2022 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
SPECIAL REVENUE FUNDS:				
Solid Waste Mgmt. Fund				
Revenues	3,301,000	3,321,274	20,274	Misc Revenue
Transfers from Other Funds	850,000	850,000	0	
Total Rev. & Transfers In	4,151,000	4,171,274	20,274	
Expenditures	4,150,000	4,170,833	20,833	Fuel, Repairs, Operating Supplies
Increase (Use) of Fund Balance:	1,000	441	(559)	
State Street Aid Fund				
Revenues	1,477,000	1,477,000	0	
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	1,477,000	1,477,000	0	
Expenditures	963,320	1,000,341	37,021	Equipment
Transfers Out	447,836	447,836	0	
Total Expenditures & Transfers:	1,411,156	1,448,177	37,021	
Increase (Use) of Fund Balance:	65,844	28,823	(37,021)	
Cleveland Public Library Fund				
Revenues	771,800	850,975	79,175	Misc Revenues, Charges
Transfers from Other Funds	679,900	679,900	0	
Total Rev. & Transfers In	1,451,700	1,530,875	79,175	
Expenditures	1,464,800	1,527,211	62,411	Grant Expenses, Equipment
Increase (Use) of Fund Balance:	(13,100)	3,664	16,764	
Drug Enforcement Trust Fund				
Revenues	18,600	28,112	9,512	Misc Revenues, Fines
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin.	18,600	28,112	9,512	
Expenditures	18,600	33,870	15,270	Seized Vehicle
Increase (Use) of Fund Balance:	0	(5,758)	(5,758)	
E-Ticketing Grant				
Revenues	0	0	0	
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin.	0	0	0	
Expenditures	0	28,508	28,508	Materials-CPD/Court
Increase (Use) of Fund Balance:	0	(28,508)	(28,508)	
Bryne Mem. Justice Asst. Grant				
Revenues	0	38,036	38,036	Annual Grant
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin.	0	38,036	38,036	
Expenditures	0	38,036	38,036	Equipment
Increase (Use) of Fund Balance:	0	0	0	

	City of Cleveland, Tennessee			
	FY2022 Budget Amendment - May 2022			
	ORIGINAL BUDGET	May 2022 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
Community Dev. Block Grant				
Revenues	363,964	1,094,797	730,833	COVID Funding, Carryovers
Transfers from Other Funds	30,000	30,000	0	
Total Rev., Transfers & Other Fin.	393,964	1,124,797	730,833	
Expenditures	321,164	985,349	664,185	Project Carryovers
Increase (Use) of Fund Balance:	72,800	139,448	66,648	
MPO Fund				
Revenues	183,000	198,000	15,000	Federal Funding
Transfers from Other Funds	44,500	89,000	44,500	General Fund Transfer
Total Rev., Transfers & Other Fin.	227,500	287,000	59,500	
Expenditures	339,600	354,600	15,000	Personnel Expenditures
Increase of Fund Balance:	(112,100)	(67,600)	44,500	
School Food Service Fund				
Revenues	3,953,433	3,235,712	(717,721)	USDA Lunch
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	3,953,433	3,235,712	(717,721)	
Expenditures			0	
Transfer to Other Funds	3,953,433	3,235,712	(717,721)	Personnel, Commodities
Total Expenditures & Transfers:	3,953,433	3,235,712	717,721	
Increase (Use) of Fund Balance:	0	0	0	
School General Fund				
Revenues	52,111,062	53,870,524	1,759,462	State Funding, Property Tax
Transfers from Other Funds			0	
Total Rev. & Transfers In	52,111,062	53,870,524	1,759,462	
Expenditures	52,111,062	53,870,524	1,759,462	Regular Instruction, Vocational Ed, Transportation
Transfer to Other Funds			0	
Total Expenditures & Transfers:	52,111,062	53,870,524	1,759,462	
Increase (use) of Fund Balance:	0	0	0	

	City of Cleveland, Tennessee			
	FY2022 Budget Amendment - May 2022			
	ORIGINAL BUDGET	May 2022 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
CAPITAL OUTLAY FUNDS:				
Capital Improv. Program Fund				
Revenues	2,183,759	9,390,235	7,206,476	Carryover - various projects
Transfers & Other Fin.	1,450,000	22,196,746	20,746,746	FY22 Bond Issue
Total Rev., Transfers & Other Fin.	3,633,759	31,586,981	27,953,222	
Expenditures	3,633,759	39,710,119	36,076,360	Various Projects
Transfers to Other Funds	0	0	0	
Total Expenditures & Other Uses	3,633,759	39,710,119	36,076,360	
Increase (Use) of Fund Balance:	0	(8,123,138)	(8,123,138)	
Sales Tax Capital Projects Fund				
Revenues	4,508,000	4,661,000	153,000	Increase Revenue Est.
Total Rev., Transfers & Other Fin.	4,508,000	4,661,000	153,000	
Expenditures	4,205,550	8,001,475	3,795,925	Carryover - various projects
Total Expenditures & Other Uses	4,205,550	8,001,475	3,795,925	
Increase (Use) of Fund Balance:	302,450	(3,340,475)	(3,642,925)	
THDA Home Grant				
Revenues	0	53,972	53,972	Caryrover
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	0	53,972	53,972	
Expenditures	0	53,972	53,972	Carryover
Increase (Use) of Fund Balance:	0	0	0	
Blythe Diabetes Grant				
Revenues	150,000	182,000	32,000	Grant - Yr 3, Carryover
Total Rev., Transfers & Other Fin.	150,000	182,000	32,000	
Expenditures	150,000	182,000	32,000	Sidewalk Improvements
Transfer to Other Funds	0	0		
Total Expenditures & Other Uses	150,000	182,000	32,000	
Increase (Use) of Fund Balance:	0	0	0	

	City of Cleveland, Tennessee			
	FY2022 Budget Amendment - May 2022			
	ORIGINAL BUDGET	May 2022 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
CCS Capital Funds				
Revenues	0	7,400	7,400	Interest
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	0	7,400	7,400	
Expenditures	0	5,123,022	5,123,022	Carryover - various projects
Increase (Use) of Fund Balance:	0	(5,115,622)	(5,115,622)	
American Rescue Plan				
Revenues	0	4,656,500	4,656,500	ARPA Grant - 1st Installment
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	0	4,656,500	4,656,500	
Expenditures	0	2,266,249	2,266,249	COVID Premium, Tech Improv, Affordable Housing
Increase (Use) of Fund Balance:	0	2,390,251	2,390,251	
Internal ServiceFunds:				
Health Insurance Trust Fund				
Revenues	5,214,309	5,214,309	0	
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	5,214,309	5,214,309	0	
Expenditures	4,940,969	5,213,000	272,031	Increase Claims and Fees
Increase (Use) of Fund Balance:	273,340	1,309	(272,031)	
Debt Service Fund:				
Revenues	151,450	151,450	0	
Transfers and Other Fin.	12,046,649	7,735,603	(4,311,046)	Refunding
Total Rev., Transfers & Other Fin..	12,198,099	7,887,053	(4,311,046)	
Expenditures	12,197,747	7,887,053	(4,310,694)	Refunding
Increase (Use) of Fund Balance:	352	0	(352)	
Enterprise Funds:				
Storm Water Management Fund				
Revenues	1,611,700	1,813,319	201,619	Misc Revenues
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	1,611,700	1,813,319	201,619	
Expenditures	1,564,390	2,377,568	813,178	Various projects
Increase (Use) of Fund Balance:	47,310	(564,249)	(611,559)	

	City of Cleveland, Tennessee			
	FY2022 Budget Amendment - May 2022			
	ORIGINAL BUDGET	May 2022 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
Fiduciary Funds:				
Meiler Estate/Animal Shelter Trust Fund				
Revenues	300	300	0	
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	300	300	0	
Expenditures	0	0	0	
Increase (Use) of Fund Balance:	300	300	0	

Councilman Estes moved that Ordinance 2022-12 be approved on first reading. The motion was seconded by Councilman Webb. Councilman Cassada inquired about the increased revenues. Mr. McKay stated we conservatively budget for revenues. We had better than expected sales tax collections this past year. Upon roll call, the motion was unanimously passed

The following Resolution was then presented in full:

- **Resolution 2022-43** – Approving eminent domain proceedings, if necessary, in order to acquire the necessary rights-of-way and/or easements relating to the Gaut Street Sidewalk Project.

RESOLUTION 2022-43

WHEREAS, the City of Cleveland is in the process of constructing sidewalks in the area of Gaut Street, Central Avenue, Inman Street and Dooley Street; and

WHEREAS, to date the City of Cleveland has attempted unsuccessfully to acquire necessary right-of-way and/or easements from one property owners (one parcel) which are necessary in order to move forward with the project even though they agreed on a price per square foot and their signature is on file; and

WHEREAS, the rights-of-way and/or easements that the City needs to acquire are generally identified as Parcel ID 057D H 018.00 for the sidewalk project; and

WHEREAS, due to the time sensitive of the project the City Council of the City of Cleveland desires to go ahead and approve of eminent domain proceedings by the City of Cleveland to the necessary rights-of-way and/or easements should the City Staff be unable to obtain the same through continued negotiations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City's legal representatives be, and hereby are, authorized to institute eminent domain proceedings in order to the necessary rights-of-way and/or easements described herein.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Resolution 2022-43 be accepted as presented. The motion was seconded by Vice Mayor Johnson. Upon roll call, Councilman Estes, Vice Mayor Johnson, Councilman Cassada, Councilman Webb voted aye. Councilwoman McKenzie voted no. The motion carried 4:1.

The following Bid Summary was presented in full:

- **Bid Summary** – Paving

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **May 23, 2022**
RE: **Bid Summary – Paving**

SUMMARY:
Sealed bids were received on May 17, 2022, for Major Street Paving. The bids are listed below:

- Talley Construction Co., Inc.
  Rossville, GA **$1,662,625.00**

- Wright Brothers Construction Co., Inc.
  Charleston, TN **$1,678,475.00**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Recommendation is to award the contract to Talley Construction. The initial term of this contract will be for a one-year period beginning July 1, 2022 and ending June 30, 2023.

Councilman Estes moved to accept the bid report. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- City Offices will be closed on Monday, May 30 in observance of Memorial Day.
- The next City Council meeting will be held on Monday, June 13, 2022.
- Public Hearing for the FY2023 Budget will be held on Monday, June 13, 2022

There being no future business the meeting was adjourned at 4:09 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
JUNE 13, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JUNE 13, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, David May, Tom Cassada, Ken Webb and Councilwoman Marsha McKenzie. Councilman Dale Hughes was absent from the meeting. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Assistant Police Chief Stacy Smith; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Chris Townsend; Hal Taylor with City Schools; Doug Berry with the Chamber of Commerce; Amy Newman, City Accountant; Michael Barille with Ragan Smith; Bryan Bledsoe; Brad Brackett; Mark and Rosa Fairbanks and Tim Siniard with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson, who prayed for Tripp Hathcock, Councilman Hughes, the family of Jim Floyd and Eddie Cartwright 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 23, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Mayor Brooks announced that Airport Director Mark Fidler has received the TN Aeronautics Commission Award for Airport Manager of the Year 2022. The Mayor and City Council then congratulated him. Mr. Fidler stated he was overwhelmed to be selected. He then thanked everyone, including staff for the support.

Councilman Cassada moved to excuse Councilman Dale Hughes from the meeting. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Dave Ramsey, who lives at 400 Mason Road addressed the City Council concerning the proposed Brymer Creek development and the possible annexation of the area. He understands the City needs to expand, but this development puts houses on 1/10 of an acre. The surrounding neighbors have at least 2 acres each. These developments should fit into the existing neighborhoods. The calculations for expenses, traffic, etc. do not seem to be addressed appropriately in the Plan of Service. He is opposed to the annexation and development.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 3.12 acres from PUD20 to R2 for property located on Parker Avenue SW (Tax Map 057G Parcel 004.00). Robert Varnell, Planning Director reported this is reverting from PUD to the original R2 zoning, as the developer has decided to look at single-family options and will subdivide the property. The Planning Commission did approve this request 9-0. Mayor Brooks asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 2.33 acres, from the CH/R2 to CH for property located on North Lee Hwy (Tax Map 034D Group D Parcel 012.00). Robert Varnell, Planning Director reported this is an existing property that is currently divided. The

owner would like to consolidate the parcel into one CH zoning. The Planning Commission did approve this request 8-0 with 1 member recusing. Mayor Brooks asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to amend PUD8 which includes about 12.7 acres to include car washes as an allowable use (Tax Map 050A Group P Parcel 002.03). Robert Varnell, Planning Director reported the PUD specifically has language about where the external doors of the car wash face, away from the residential units. The Planning Commission did approve this request 8-1. Mayor Brooks asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, Chapter 2, Section 5.6. Robert Varnell, Planning Director reported there was some language that need to be clarified, related to distance, and uses. This item will come back before you on July 11 for a second public hearing and first reading of the ordinance so we can confirm some language in the advertisement. Therefore, no vote will take place today. The Planning Commission did approve this request 9-0. Mayor Brooks asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend the Cleveland Municipal Code, Title 14, Zoning Ordinance, in reference to defining Nightclubs and amending allowable uses. Robert Varnell, Planning Director reported as Cleveland continues to grow and different activities, we need to make sure our zoning ordinance addresses the changes. This item will come back before you on July 11 for a second public hearing and first reading of the ordinance so we can confirm some language in the advertisement. Therefore, no vote will take place today. The Planning Commission did approve this request 9-0. Mayor Brooks asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning approval of a Plan of Service for about 238.03 acres, from the unincorporated County for property located on Stone Lake Road (Tax map 056 Parcels 083.00 and 87.00 and Tax Map 064 Parcels 001.04 and 002.00). Robert Varnell, Planning Director reported the typical plan of services process is all department heads contribute responses to drive the document, which staff supports and confident in its effectiveness. The Planning Commission did approve this request 9-0. Mayor Brooks asked if anyone would like to speak in favor of the Plan of Service. Michael Barille with Ragan Smith stated he was present to answer any questions about the development. They were asked to meet with Cleveland Utilities twice concerning the Plan of Service and they feel they have a good framework in place for the offsite utility extensions that will need to be made and the associated costs. Mayor Brooks asked if anyone would like to speak in opposition of the Plan of Service. No one spoke. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to annex about 238.03 acres, from the unincorporated County for property located on Stone Lake Road (Tax map 056 Parcels 083.00 and 87.00 and Tax Map 064 Parcels 001.04 and 002.00). Robert Varnell, Planning Director reported this was a requested annexation by the property owner. The Planning Commission did approve this request 9-0. Mayor Brooks asked if anyone would like to speak in favor of the

annexation. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the annexation. No one spoke. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone about 255.68 acres, from CH Commercial Highway and the unincorporated County FAR to PUD39 for property located on Stone Lake Road (Tax map 056 Parcels 083.00 and 87.00 and Tax Map 064 Parcels 001.04 and 002.00). Robert Varnell, Planning Director reported this is one of the more stringent and detailed PUD's staff has reviewed. There is specific language about stormwater, water quality, as well as how we deal with the amount of water. It allows up to a 20% threshold townhome attached units and the amenities that are required are significant. Staff is extremely pleased with their initial assessment and conversations with the applicant have been productive. The Planning Commission did approve this request 9-0 and he will be happy to answer to specific questions. Councilwoman McKenzie asked about the traffic concerns. Mr. Varnell stated there are a number of factors they are looking at. Through the design mechanism, they are going to create an emphasis for getting the traffic flow towards the Stone Lake exit, towards the new interchange. That infrastructure investment is substantial, and this is the type of thing they expected. The internal existing streets will be upgraded with curb and guttering, along with some widening with turn lanes will be required, mainly access to subdivisions. Mayor Brooks asked if anyone would like to speak in favor of the zoning. Michael Barille with Ragan Smith stated the applicant, Brian Bledsoe, is present for any questions. It has been a pleasure working with city staff throughout the process. We tried to bring a plan forward that allows the project to be phased over time, room for sidewalks, trees and pedestrian amenities that you'd like to see in a neighborhood of this scale. He is impressed with the infrastructure planning over the community. We are short on affordable housing inventory, and we are trying to, in a logical fashion, this can grow over time to address the needs of the community and bring families together. Councilwoman McKenzie stated she has been asked about construction noise and buffers. Mr. Barille stated they are meeting the buffer requirements for property boundaries. The units will not be constructed at once, it will be phased over time. This is a quality design and developer, and we will have construction mitigation controls and take into consideration the neighboring properties. As the site plans come forward, we will certainly address any buffer concerns. Councilman Cassada inquired if there are similar developments close by. Mr. Barille stated yes, near Nashville. Mr. Bledsoe stated he has done multiple projects in Hamilton County and with the size of this project they will likely bring on a larger partner to handle the building sites. Mayor Brooks asked if anyone would like to speak in opposition of the zoning. No one spoke. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning the FY2023 Budget. Mayor Brooks asked if anyone would like to speak in favor of the FY2023 Budget. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the approval of the FY2023 Budget. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2022-10** – heretofore passed on first reading May 23, 2022 and found in Minute Book 30, Page 668; rezoning 4.7 acres located on Ralph Buckner Blvd (Tax Map 050J A 014.00) from IL Light Industrial Zoning District to R2 Low Density Single and Multi-Family Residential Zoning District (Planning Commission: Approved 7-1; 1 absent).

- **Final Passage - Zoning Ordinance 2022-11** – heretofore passed on first reading May 23, 2022 and found in Minute Book 30, Page 669; rezoning 4.2 acres located on Ocoee Crossing (Tax Map 042H C 001.14 & 001.12 from CH Commercial Highway Zoning District to PUD38 Planning Unit Development Zoning District (Planning Commission: Approved 8-0; 1 absent).
- **Final Passage - Ordinance 2022-12** – heretofore passed on first reading May 23, 2022 and found in Minute Book 30, Page 674; Amending the FY2022 Budget.
- **Resolution 2022-44** – Authorizing the Mayor to sign the FY2023 TDOT State Highway Maintenance contract.

RESOLUTION 2022-44

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 13th day of June, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-45** – Accepting the donation of a 2004 Bluebird Bus from Cleveland City Schools to be used by the Cleveland Police Department.

RESOLUTION 2022-45

A RESOLUTION ACCEPTING A DONATION OF PROPERTY FROM CLEVELAND CITY SCHOOLS

WHEREAS, Cleveland City Schools is the owner of a 2004 Bluebird Bus which is more specifically identified by VIN # 1BAACCPA54F212921, and

WHEREAS, Cleveland City Schools no longer has a need for the bus and has offered to donate this bus to the City of Cleveland to be used by the Cleveland Police Department; and

WHEREAS, the proposed transfer documentation for the bus from Cleveland City Schools to the City is attached hereto and incorporated herein by reference; and

WHEREAS, the City of Cleveland desires to accept the donation of the bus from Cleveland City Schools.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Cleveland, Tennessee does hereby accept the donation of the bus described in the attached document to be used by the Cleveland Police Department, and the City Council hereby extends its appreciation to Cleveland City Schools for this donation.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached document on behalf of the City, plus and any other documents which may be necessary or appropriate, to accept the donation on behalf of the City and to transfer title of the bus from the Cleveland City Schools to the City of Cleveland.

This 13th day of June 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-46 –** Approving the FY2023 Appropriations

RESOLUTION 2022-46

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 2022-2023:

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

City of Cleveland, TN - Prod

NEXT YEAR BUDGET LEVELS REPORT

PROJECTION: 23001 FY2023 OPERATING BUDGET FOR PERIOD 99

General Fund			2021 REVISED BUD	2022 REVISED BUD	2023 DEPT HEAD	2023 FINANCE	2023 CITY MANAGER	2023 ADOPTED
110700	Appropriations							
5B	Operating							
110700	57000	Jntly Fund	.00	11,672.64	15,000.00	25,000.00	25,000.00	25,000.00
110700	57010	Museum	42,300.00	42,300.00	42,300.00	42,300.00	42,300.00	42,300.00
110700	57030	TML Dues	10,200.00	10,200.00	10,400.00	10,400.00	10,400.00	10,400.00
110700	57040	Econ Dev	45,000.00	45,000.00	45,000.00	45,000.00	45,000.00	45,000.00
110700	57050	SETDD Dues	8,670.00	9,944.76	9,000.00	9,500.00	10,000.00	10,000.00
110700	57060	Mainstreet	25,000.00	25,000.00	25,000.00	25,000.00	25,000.00	25,000.00
110700	57070	Cemetary	10,000.00	10,000.00	10,000.00	12,500.00	12,500.00	12,500.00
110700	57080	CrtCommSvc	59,400.00	60,000.00	60,000.00	60,000.00	60,000.00	60,000.00
110700	57090	KAB	28,200.00	28,200.00	28,200.00	28,200.00	28,200.00	28,200.00
110700	57100	Juve Crt	1,100.00	1,100.00	1,100.00	1,100.00	1,100.00	1,100.00
110700	57110	Unifiedway	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
110700	57120	STIPHAffran	135,000.00	135,000.00	135,000.00	135,000.00	135,000.00	135,000.00
110700	57130	911	650,000.00	650,000.00	650,000.00	650,000.00	650,000.00	650,000.00
110700	57140	EMA	108,000.00	108,382.60	108,000.00	110,000.00	110,000.00	110,000.00
110700	57150	MainStrProj	9,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00
110700	57160	SETDD Lgl	330.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
110700	57170	VetAffairs	31,500.00	31,500.00	31,500.00	31,500.00	31,500.00	31,500.00
110700	57180	Behav Rsch	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00
110700	57190	MuseumHVAC	12,000.00	20,000.00	.00	.00	.00	.00
110700	57200	Lifebridge	6,200.00	6,200.00	6,200.00	6,200.00	6,200.00	6,200.00
110700	57210	CommSvcs	97,000.00	97,000.00	97,000.00	97,000.00	97,000.00	97,000.00
110700	57240	MuseumRow	5,000.00	.00	.00	.00	.00	.00
110700	57250	CYFootball	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00
110700	57260	AquaTigers	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00
110700	57270	BG Club	13,000.00	15,000.00	13,000.00	13,000.00	13,000.00	13,000.00
110700	57280	Waterpogs	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00
110700	57290	YthSoftbl	.00	2,000.00	2,000.00	.00	.00	.00
110700	57310	Soccer	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
110700	57330	SoccerLand	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
110700	57340	CSA-BCCSA	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
110700	57350	July4th	.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
110700	57400	VocSchool	27,000.00	30,700.00	30,700.00	30,700.00	30,700.00	30,700.00
		TOTAL Operating	1,363,900.00	1,387,200.00	1,372,400.00	1,382,400.00	1,382,900.00	1,382,900.00
		TOTAL Appropriations	1,363,900.00	1,387,200.00	1,372,400.00	1,382,400.00	1,382,900.00	1,382,900.00

- **Resolution 2022-47 –** Directing the payment by the Cleveland Utilities Board to the City of Cleveland Tax Equivalent Payment for the Cleveland Utilities Board's Electric, Water and Wastewater Systems.

RESOLUTION 2022-47

A RESOLUTION DIRECTING THE PAYMENTS BY THE CLEVELAND UTILITIES BOARD TO THE CITY OF CLEVELAND TAX EQUIVALENT PAYMENTS FOR THE CLEVELAND UTILITIES BOARD'S ELECTRIC, WATER AND WASTEWATER SYSTEMS.

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, 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 and wastewater system; and

WHEREAS, the City Council of the City of Cleveland, through its City Manager and Assistant City Manager/CFO, has held such consultation with the supervisory body of the electric, water and wastewater systems 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 Sections 7-52-304 and 7-34-115;

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 $2,466,230 in tax equivalents for FY2023.

Section 2. The Cleveland Utilities Board water system is hereby directed to pay to the City of Cleveland $256,036 in tax equivalents for FY2023.

Section 3. The Cleveland Utilities Board wastewater system is hereby directed to pay to the City of Cleveland $240,051 in tax equivalents for FY2023.

Section 4. This resolution shall become effective July 1, 2022 the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-48 –** Regarding the Cleveland City Schools Federal Project Fund.

RESOLUTION 2022-48

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 27th day of June, 2022, 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.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-49 -** Annual Review of the City's Debt Management Policy.

RESOLUTION 2022-49

A RESOLUTION APPROVING 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 and Assistant City Manager/CFO 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. [On file in the City Clerk's Office.]

Approved the 13th day of June, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-50 –** Amending the Fire Permit and Inspection Fees.

RESOLUTION 2022-50

A RESOLUTION AMENDING THE FIRE PERMIT AND INSPECTION FEES

WHEREAS, the City Council has been presented with a recommendation from the City Manager to increase Fire Permit and Inspection Fees; and

WHEREAS, the Cleveland Municipal Code Title 7, Chapter 2, Section 7-211 provides that the City Council shall set by resolution a fee schedule to recover the cost of providing various services; and

WHEREAS, based on the recommendation of the City Manager and Fire Department staff, the City Council now desires to amend the Fire Permit and Inspection Fees.

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

Section 1. **BE IT RESOLVED** by the City Council of the City of Cleveland, Tennessee, that the following fire permit and inspection fees be established according to the following schedule beginning July 1, 2022.

Automatic Sprinkler Riser Permit	$50 per riser
Automatic Sprinkler System Underground Permit	$50
Automatic Sprinkler System Modification	$25

Fire Alarm Permit	$50
Commercial Kitchen Hood Suppression System	$50 per system
Fire Pump	$50 per pump
Batter System Installation w/liquid greater than 50 gallons	$50
Compressed Gases	$50
Cryogenic Fluids	$50
Emergency Responder Radio Coverage System	$50
Flammable Combustible Liquids	$50 per IFC 105.7.8
Re-inspection Fee of permitted fire protection systems	$25
Pyrotechnic Display Application Fee	$50

*Work without a permit will constitute a stop work order and double permit fees. Fines may be issued as well.

Section 2. This resolution shall become effective July 1, 2022, the public welfare requiring it.

Adopted this 13th day of June, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-51 –** Amending the Planning and Zoning Fees.

RESOLUTION 2022-51

A RESOLUTION AMENDING THE PLANNING AND ZONING FEES

WHEREAS, the City Council has been presented with a recommendation from the City Manager to amend the Planning and Zoning Fees; and

WHEREAS, the City Council adopted Resolution 2003-37 establishing Planning and Inspection Fees; and

WHEREAS, the City Manager and City staff have determined it necessary to amend said fees; and

WHEREAS, based on the recommendation of the City Manager and City staff, the City Council now desires to amend the Planning and Zoning Fees.

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

Section 1. **BE IT RESOLVED** by the City Council of the City of Cleveland, Tennessee, that the following Planning and Zoning fees be established or increased according to the following schedule beginning July 1, 2022.

Board of Zoning Appeals

Special Exception	$200
Variance	$200
Appeal	$200

Rezoning

Into a residential district (R-1, R-2, R-3, & R-4)	$500
Into a nonresidential district	$1,000
Planned Unit Development (PUD)	$1,500

PUD Amendments - Fee calculated based on affected area.

$300 Up to 5.0 acres; Plus, $15/acre for the next 95 acres (5.01 -100.0 acre);
Plus, $7.50/acre for the next 400 acres (100.01 -500.0 acre);
Plus, $3.75/acre for all acres thereafter
Plus an Administrative Advertising Fee of $50

Flood Hazard Area Development Review	$50
Zoning Letter	$50
Home Occupation Letter	$20

Telecommunication

New tower - Consultant review fee	$2,000
Colocation, additional antenna, and/or supporting cabinet	$50
Attachment Fee	$300

Planning

Administrative Review

Lot line adjustment	$25
Replat	$25
Lot combination	$25
Exempt plat	$25
Administrative subdivision	$25/lot

Planning Commission Review

Preliminary Plat

1-10 lots	$50
11-50 lots	$150
51+ lots	$400

Final Plat

1-10 lots	$25/lot
11-50 lots	$50 (Plus $10/lot)
51+ lots	$75 (Plus $5/lot)

Minor plat (combined preliminary and final, Total of Preliminary and Final fees not otherwise processed administratively)	
Variance	$25 (Plus any applicable platting fees).
Site Plan Submittals	
Site Plan Review	$100
Site Plan Resubmittal Review Fee	$50
Street Acceptance Review	$250
Other	
Pool Permit	$100

Section 2. This resolution shall become effective July 1, 2022, the public welfare requiring it.

Adopted this 13th day of June, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-54** – Authorizing the City Manager to sign the grant application for the TAEP Tree Planting Grant.

RESOLUTION 2022-54

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PARTICIPATE IN THE TENNESSEE AGRICULTURAL ENHANCEMENT PROGRAM (TAEP) GRANT FUND FOR THE "COMMUNITY TREE PLANTING PROGRAM"

WHEREAS, the Tennessee Agricultural Enhancement Program (TAEP) grant fund for community tree planting is provided by the Tennessee Department of Agriculture, Division of Forestry; and

WHEREAS, the community tree planting component of the Tennessee Agricultural Enhancement Program (TAEP) grant is a 50% matching grant and will be administered by the Department of Agriculture, Division of Forestry; and

WHEREAS, trees are a valuable resource base in cities across the state of Tennessee, providing shade, stormwater mitigation, rain interception, air quality improvement through filtration and absorption; and

WHEREAS, urban trees provide a multitude of benefits including but not limited to providing cooler temperatures, cleaner air, reduced flooding and erosion, improves human health and provides food and shelter for wildlife; and

WHEREAS, trees purchased through this grant in collaboration with funding by the Tennessee Agricultural Enhancement Program (TAEP) as provided by the Tennessee Department of Agriculture, Division of Forestry will be planted along the Candies Lane Greenway; and

WHEREAS, the City of Cleveland seeks to participate in this important program.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE the following:

Section 1: The City of Cleveland is hereby authorized to submit an application for the Tennessee Agricultural Enhancement Program (TAEP) through the Tennessee Department of Agriculture, Forestry Division.

Section 2: The City of Cleveland is further authorized to provide a 50% sum to serve as a match for any moneys provided by this grant.

Adopted this 13th day of June, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Motion** – Designating Depositories for the City of Cleveland.

ANDREW JOHNSON BANK
CAPSTAR BANK (ATHENS FEDERAL COMMUNITY BANK)
BANK OF CLEVELAND
BOWATER CREDIT UNION
CLEVELAND BRADLEY TEACHERS CREDIT UNION
FIRST CITIZENS NATIONAL BANK (SOUTHERN HERITAGE BANK)
FIRST HORIZON (FIRST TENNESSEE BANK)
SMART BANK (FSG BANK)
PINNACLE BANK
REGIONS BANK
SOUTHEAST BANK AND TRUST
TENNESSEE VALLEY FEDERAL CREDIT UNION
TRUIST BANK
UNITED COMMUNITY BANK

- **Bid Summary** – Rubber Mulch for Mosby Park Playground.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **June 13, 2022**
RE: **Bid Summary – Rubber Mulch**

SUMMARY:

The City advertised to accept sealed bids on May 24, 2022, for rubber mulch for Mosby Park playground. Bids are listed below:

- Ross Services Corporation Tullahoma, TN — **$104,531.25**
- IMC Outdoor Living Saint Louis, MO — **Late Bid (Unopened)**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
CDBG funded.

RECOMMENDATION:
Staff recommends award to Ross Services Corporation.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Webb inquired about the new street sweeper. Mr. Myers replied we are expecting delivery mid-July.

Vice Mayor Johnson thanked Public Works for their work on the crosswalk at his church. Also, he has been thinking about all the completed projects and what we have done. In the Second District, sidewalks on Gaut and Central, and upcoming paving on Central. He is pleased to see what we have accomplished and taking care of business. He complemented the City Manager and the rest of the Council for what they are doing. It looks really good heading into FY2023. Everyone is doing a great job.

Councilwoman McKenzie inquired about a schedule for grass cutting along the roadways. Mr. Myers stated that is done by Dan Hartman's crews and he will report any concerns. Councilwoman McKenzie stated she had received a call concerning on Mason Road and Wildwood and Dalton Pike. Mr. Myers stated he will make Mr. Hartman aware. Lastly, the new tire legislation goes into effect July 1. She thanked Mayor Brooks and City Manager Joe Fivas for helping write the resolution. Also, to her colleagues on the City Council for approving the resolution and sending it to the State Legislators. Representative Mark Hall who worked to get it heard and the State Legislators for passing it into law and thank you to Governor Lee for signing it into law on June 1. She then recognized Amanda Peels, Director of Keep America Beautiful, County Commissioner Milan Blake and Tim Mason who work diligently on the issue. This provides our law enforcement legal steps to arrest and fine those individuals who have, without concern for our city, to illegally dump tires on city streets and private property. Thank you to everyone who had a part in solving this blight in our city.

Councilman Estes stated over the weekend we had two swim teams in town, along with hundreds of people enjoying the parks. It is going very well. He thanked Patti Petitt and Parks and Recreation. Lastly, he reminded everyone of the Friday night events at First Street Square, which has created a nice buzz downtown.

Councilman Cassada echoed Councilman Estes' comments for the great events on Friday nights at First Street Square. He would like to see them continue and increase the number of bands. Next, at the last meeting we discussed the LeConte development bond. The company reached out to him directly about the fence and they were awaiting three bids. He has not heard back from them therefore he would like to add a motion to pull the bond so we can continue to service the residents who have had to live with this for a couple of years. He then asked about a plan for the Johnston Park renovation project and how soon we can get started. Mr. Fivas responded it is in our workplan and we do have a draft design. We will reach out to the people who will be removing the bandstand. Since there are only certain things, we can do there, our intent is to keep nearly all the trees and refresh the park. We agree it needs to be a priority. Councilman Cassada requested an irrigation system be installed. Lastly, do we have a plan for the State to come in and scan the Roy's Alternator site. Mr. Fivas stated hopefully in the next thirty days we will have something from the people with the RFP's. Before we start scanning, we would want to resolve, because our goal is to give it to someone as is and not touch the issue if one is even there. Councilman Cassada stated it doesn't cost the city anything and if it defers to another person what could be the revocation. Federal tax dollars could take care of it. Councilman Estes stated point of order, the Council already voted on this issue, which failed 3-3. He feels this is out of order, acting on a motion that has already failed. Mr. Kimball replied he is only asking a question; no motion has been made. He is asking if something has been done. Councilman Cassada stated it is free money to clean it up. Councilman Estes stated if Councilman Cassada wants action, then he needs to put it in a motion. Councilman Cassada stated he had nothing further.

Mayor Brooks stated he has forwarded an email earlier to Mr. Fivas concerning a violation with the developer at Spring Creek. Mr. Jobe stated staff has already been in contact with the developer. Mayor Brooks then stated over the last two weekends there was a very large charity horse show in our community at Tri-State Exhibition Center. He was invited to a social event and was very pleased to see hundreds of guests and attendees bring trailers, horses, stay in our hotels, eat in our restaurants, and use our fuel. All proceeds went to the Tri-State Therapeutic Riding Center, which raised over $50,000. He thanked Blythewood Farms for hosting the guests.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-13 –** Rezoning 3.12 acres from PUD20 to R2 for property located on Parker Avenue SW (Tax Map 057G Parcel 004.00) (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2022-13

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 PUD20 to R2 Low Density Single and Multi-family Residential Zoning District.

Approximately 3.12 acres, more or less, located 1410 Parker Avenue SW as shown on the attached map.

For reference, same property is being shown on Tax Map 057G Group K Parcel 004.00, 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

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Zoning Ordinance 2022-13 be approved on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-14 –** Rezoning 2.33 acres, from the CH/R2 to CH for property located on North Lee Hwy (Tax Map 034D Group D Parcel 012.00) (Planning Commission: Approved 8-0; 1 Recused).

ZONING ORDINANCE 2022-14

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

Approximately 2.34 acres, more or less, located 5555 North Lee Highway as shown on the attached map.

For reference, same property is being shown on Tax Map 034D Group D Parcel 012.00, 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman Webb moved that Zoning Ordinance 2022-14 be approved on first reading. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2022-15 –** Amending PUD8 which includes about 12.7 acres to include car washes as an allowable use (Tax Map 050A Group P Parcel 002.03) (Planning Commission: Approved 8-1).

ORDINANCE 2022-15

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 08 ZONING DISTRICT ESTABLISHED BY ORDINANCE 2011-08 AND AMENDED BY ORDINANCE 2011-30 AND AS FURTHER AMENDED HERE SO AS TO ALLOW A CAR WASH AS AN ALLOWABLE USE IN ALL AREAS WITH THE PUD08 PLANNED UNIT DEVELOMENT ZONING DISTRICT AND RETAINING ALL OTHER FEATURES IN FULL FORCE AND EFFECT WITH THE ADDITION OF SITE REQUIREMENTS FOR CAR WASH SITE LOCATION.

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 PUD08 by Ordinance 2011-30 which Ordinance is attached hereto and incorporated herein as Exhibit 1, which ordinance contains the PUD 08 zoning district and standards and conditions for the development, operation, and maintenance of the property; and

WHEREAS, at its meeting on May 17, 2022, the Cleveland Municipal Planning Commission recommended changes to Ordinance 2011-30; and

WHEREAS the current owner(s) has petitioned to allow carwashes throughout the boundaries of the PUD 08 Planned Unit Development Zoning District, 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:

Sections 5 of Ordinance Number 2011-30, which established the PUD 08 Zoning District, is hereby replaced with the following language:

Section 5. PERMITTED USES AND PROHIBITED USES

5.A. PERMITTED USES

This Section 5.A retains and updates the description of permitted and specifically prohibited uses found in Ordinance 2011-08 which are now applied in the respective residential and commercial areas described in this ordinance. PUD 8 allows single family and multi-family residential uses in the residential area of the development. Gross density of the residential area shall not exceed that necessary to construct 112 residential units and a clubhouse and accessory structures in the area identified for residential use in Exhibit A. The commercial and office uses specified below are allowed in the commercial area of the development. Open spaces, trails, community meeting rooms, and other amenities are allowed as are utilities and transportation features. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 8 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 following commercial and office uses, as described by the North American Industrial Classification (NAICS) code numbers, are allowed in the Commercial Area of PUD 8 with the exceptions as noted and to the extent that they are not otherwise among the prohibited uses:

4413 Automotive Parts, Accessories, and tire stores
442 Furniture and home furnishings stores
443 Electronics and appliance stores
444 Building material and garden equipment and supplies dealers
445 Food and beverage stores
446 Health and personal care stores
448 Clothing and accessories stores
451 Sporting goods, hobby, book, and music stores except adult bookstores or "sex outlets" as described in City of Cleveland zoning regulations.
452 General merchandise stores
453 Miscellaneous store retailers
491 Postal service
492 Couriers and messengers
51 Information (excluding manufacturing)
492 Couriers and messengers
51 Information (excluding manufacturing)
52 Finance and Insurance
53 Real estate and Rental and Leasing
54 Professional, scientific, and technical services
55 Management of companies and enterprises
561 Administrative support services
61 Educational services
62 Health care and social assistance
71 Arts, Entertainment, and Recreation (excluding racetracks, shooting ranges, go-kart tracks, and other outdoor recreation likely to impact surrounding property with noise, etc., and casinos and other gambling establishments, and adult/sex entertainment establishments referred to as "sex outlets11 in City of Cleveland zoning regulations)
72 Accommodation and food services (except casinos, RV parks, camps, and campgrounds)
811191 Automotive oil change and lubrication shops
8112 Electronic and precision equipment repair and maintenance 811430 Footware and leather goods repair
8121 Personal care services 81292 Photofinishing
813 Religious, Grantmaking, Civic, Professional, and Similar Organizations
92 Public Administration
811192 Car Wash (Must be oriented with exterior exit doors pointing away from any residential structures within 200', must be built to a standard or architectural detail to meet or exceed the existing development, and must provide cross access for outparcels connecting to the site)

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

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk



Councilman May moved that Ordinance 2022-15 be approved 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 2022-52 –** Approving a Plan of Service for about 238.03 acres, from the unincorporated County for property located on Stone Lake Road (Tax map 056 Parcels 083.00 and 87.00 and Tax Map 064 Parcels 001.04 and 002.00) (Planning Commission: Approved 9-0).

RESOLUTION 2022-52

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

BRYMER CREEK PROPERTIES

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 Monday, June 13, 2022 at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

TRACT 1

Beginning at an iron pin located at the northeastern corner of the lands of Thomas P {. Newman, as recorded in BCROD deed book 2198 page 147, said point being located in the western right of way of Brymer Creek Road; thence with and along the westernmost right of way of Brymer Creek Road, Radius=175.09 feet, Delta=18

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thence south 66 degrees 32 minutes 6 seconds east, 663.43 feet to an iron pin located at the southeast corner of the lands of David Newman, as recorded in BCROD deed book 213 page 729, said point being located in a western right of way of Johnston School Road; thence with the western right of way of Johnston School Road in a southerly direction 195 feet, more or less, to the northeast corner of the lands of Timothy Cranfield, as recorded in BCROD deed book 2332 page 901; thence with the northern line of the lands of Cranfield in a westerly direction, 150 feet to the northwest corner of the lands if Cranfield; thence with the western line of the lands of Cranfield in a southerly direction 195 feet to the southwest corner of the lands of Cranfield, said point being located in the northern right of way of Brymer Creek Road; thence with the norther right of way of Brymer Creek Road in a westerly direction 645 feet, more or less, to the point of beginning.

TRACT 2

Beginning at the northeast corner of the intersection of Johnston School Road and Brymer Creek Road, said point being a corner of the Newman Family Farm Partnership, LLC property, as recorded in BCROD deed book 1175 page 441; thence with the northern right of way of Brymer Creek Road in an easterly direction 716 feet, more or less, to the southwest corner of the lands of Barbara Southerland as recorded in BCROD deed book 288 page 869; thence with an eastern line of the lands of Newman Family Farm Partnership, LLC in a northerly direction 1534 feet, more or less, to the southeast corner of the lands of Sarah Dooly Newman Trustee, as recorded in BCROD deed book 2552 page 536; thence with the southern line of the lands of Sarah Dooly Newman Trustee in an easterly direction 790 feet, more or less, to the southwest corner of the lands of Sarah Dolly Newman Trustee, said point being located in the eastern right of way of Johnston School Road; thence with the eastern right of way of Johnston School Road in a southerly direction 1485 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 notices 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

MAY 17, 2022
BRYMER CREEK-ASSURANCE LAND DEVELOPMENT, LLC
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 238.03 acres located on Brymer Creek Rd. SW, Johnston School Rd. SW, and Mason Rd. SW 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 2022.

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.

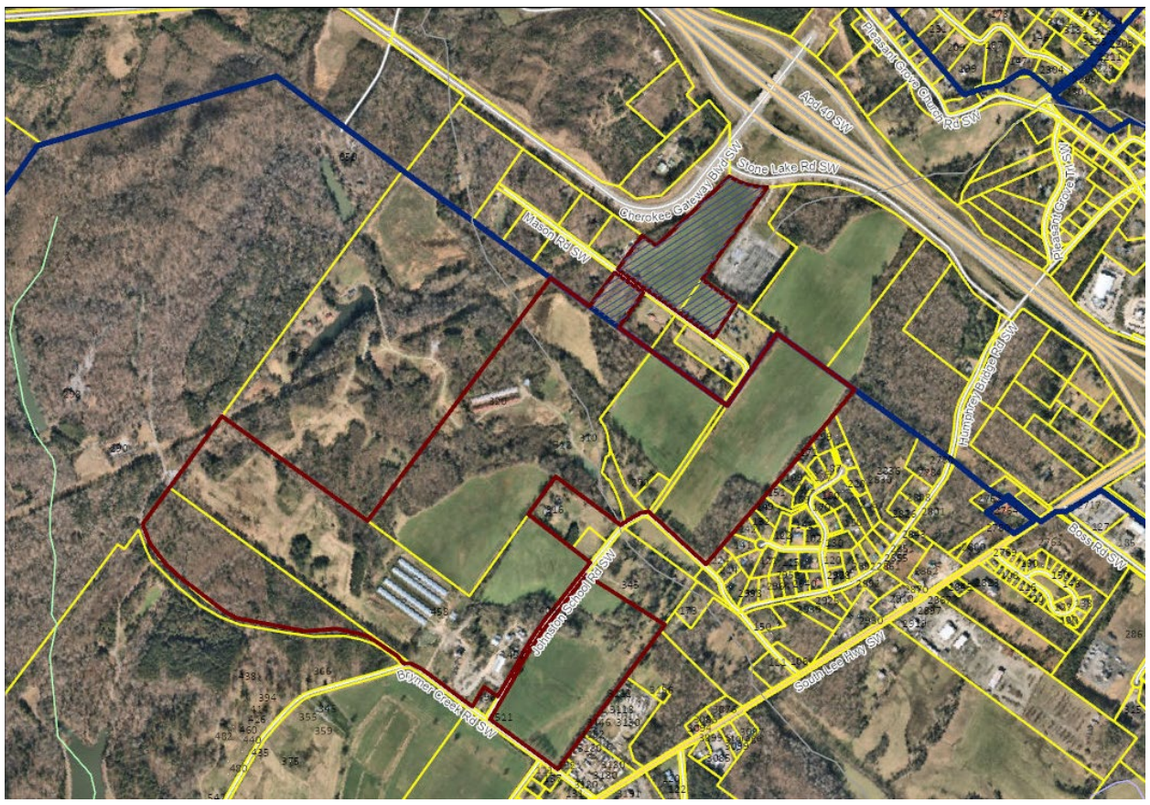
Introduction

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 property consists of multiple parcels which are contiguous with the existing limits of the City of Cleveland within the area of Cherokee Gateway Boulevard and Stone Lake Road. The annexation would zone the property as a Planned Unit Development with approximately 975 single family residential dwelling units. The property is described as of Tax Map 056 Parcels 083.00 & 087.00 and Tax Map 083 Parcels 001.04 & 002.00.

BRYMER CREEK PROPERTY
MAP



Legal Description

Johnston School Road- May 2022

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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 can provide services to this area with very little impact using existing Station 6 as the first due company and Station 1 as the second due company.

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

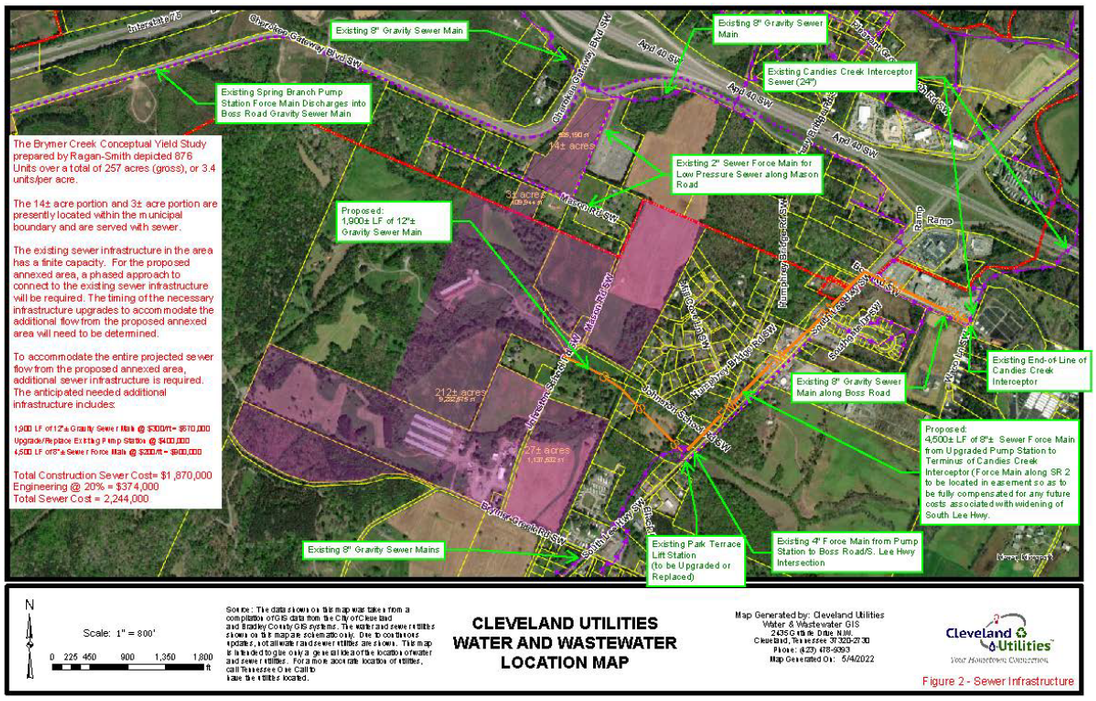
A. Domestic Water--- water service is available to this parcel via 12" water main along Stone Lake Road and 6" water mains along Mason Road and Johnson School Road. See Figure 1. As part of the distribution network within the proposed development, it is desired for an 8" water main to extend through the development from Johnson School Road to Stone Lake Road. All water mains within the development shall be ductile iron pipe.

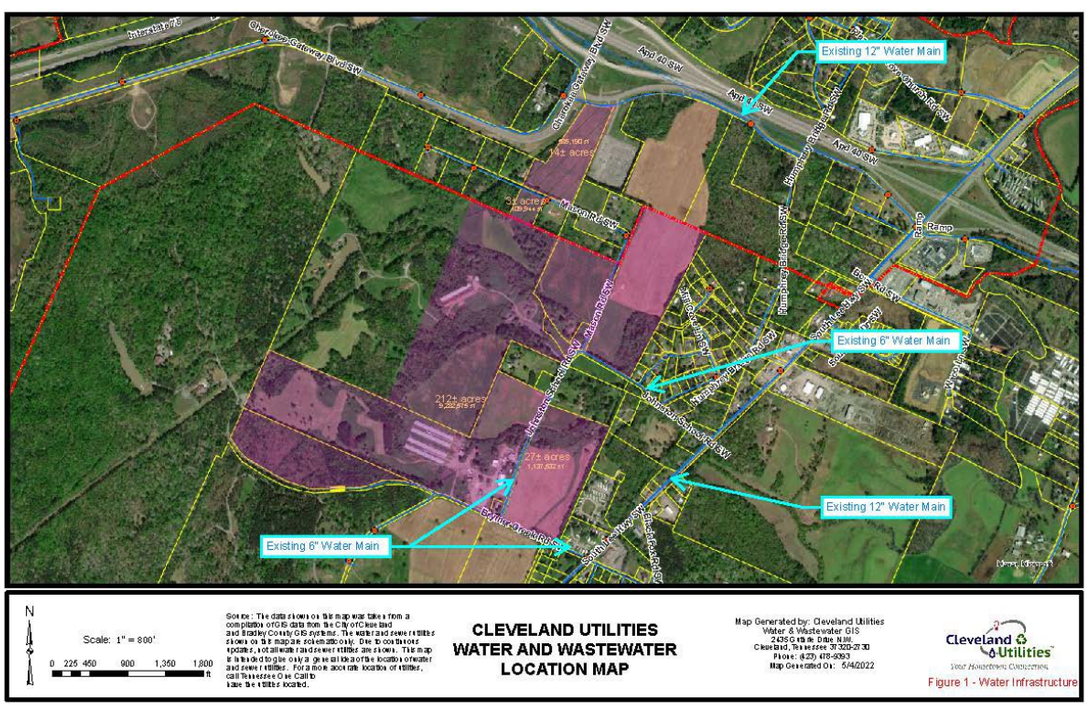
B. Sanitary Sewer--- The proposed annexed area is not presently served with sewer service. A portion of the proposed annexed area can be served by existing infrastructure in the area. For the ultimate buildout of the proposed annexed areas, a phased approach for constructing additional infrastructure will be required. The anticipated infrastructure for the entire build out includes gravity mains, upgraded pump station and new force main to Candies Creek Interceptor located at the intersection of Boss Road and Waco Lane. This offsite sewer infrastructure is estimated to cost $2,244,000 and can be completed within eight (8) years of annexation depending on funding sources expediting the timeline. See Figure 2.

C. Fire Protection--- An Existing fire hydrant are in the vicinity including at Stone Lake Road and Cherokee Gateway Blvd, Mason Road, and Brymer Creek Road. Fire hydrants within any future development will be by others.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Near Mason Road & Johnston School Road	$0	$2,244,000	$0	





4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

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

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

It is estimated the Brymer Creek PUD annexation would cost the city $328,535.00 per year and add 336 students to enrollment.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 2,438 residents to the 1st City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue

The total income from annexation without any improvements would result in approximately **$1,434.06** in property tax revenue.

With approximately 975 homes developed on the site with an estimated value of $325,000 each, property tax revenue would increase to approximately **$1,398,208.50 for the City of Cleveland and $1,353,378 for Bradley County**.

With an estimated 2,438 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$282,198.50.**

The annual stormwater fee for all homes on this site is estimated at **$32,760**.

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$1,713,167.**

Councilman May moved that Resolution 2022-52 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-53 –** Annexing about 238.03 acres, from the unincorporated County for property located on Stone Lake Road (Tax map 056 Parcels 083.00 and 87.00 and Tax Map 064 Parcels 001.04 and 002.00) (Planning Commission: Approved 9-0).

RESOLUTION 2022-53

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

BRYMER CREEK PROPERTIES

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 13, 2022.

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:

TRACT 1

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423.65 feet to an iron pin; thence along a left handed curve D=88 degrees 25 minutes 18 seconds, R=100.00', A=154.32', BS=69 degrees 8 minutes 0 seconds West, C=139.46 to an iron pin, said pin being located in the existing City Limits; thence with the existing City Limits in a south easterly direction 233 feet, more or less, to an iron pin; thence south 66 degrees 39 minutes 21 seconds east, 300.84 feet to a pinch top, said point being the southwest corner of the lands of Luke Brogdon, as recorded in BCROD deed book 240 page 537; thence with the southern line of the lands of Brogdon South 65 degrees 4 minutes west, 761.47 feet to the south east corner of the lands of Brogdon, said point being located in the western right of way of Mason Road; thence crossing Mason Road South 65 degrees 4 minutes west, 50 feet, more or less, to a point in the eastern right of way of Mason Road; thence in a northeasterly direction with the western right of way of Mason Road 310 feet, more or less, to the southeast corner of the lands of Ronald Harris, as recorded in BCROD deed book 1857 page 777; thence continuing in a northeasterly direction with the eastern line of the lands of Harris 435 feet, more or less, to the northeastern corner of the lands of Harris, said point also being a corner of the lands of Newman Family Farm Partnership, LLC; thence in a southeasterly direction with the line of the lands of Newman Family Farm Partnership, LLC 820 feet, more or less, to a corner on the lands of Newman Family Farm Partnership, LLC, said point also being the northwest corner of the lands of Leonard Dooley, as recorded in BCROD deed book 308 page 28; thence leaving the existing City Limits and following an eastern boundary of the lands of Newman Family Farm Partnership, LLC in a southwesterly direction 1960 feet, more or less, to a corner in the lands of Newman Family Farm Partnership, LLC, said point being located I the northern right of way of Johnston School Road; thence following the northern right of way of Johnston School Road 927 feet, more or less, to a railroad spike at the northeast corner of the lands of David Newman, as recorded in BCROD deed book 2132 page 855; thence with the northern line of the lands of David Newman north 66 degrees 36 minutes 30 seconds west, 689.01 feet to an iron pin; thence south 23 degrees 34 minutes 14 seconds west, 401.01 feet to an iron pin; thence south 66 degrees 32 minutes 6 seconds east, 663.43 feet to an iron pin located at the southeast corner of the lands of David Newman, as recorded in BCROD deed book 213 page 729, said point being located in a western right of way of Johnston School Road; thence with the western right of way of Johnston School Road in a southerly direction 195 feet, more or less, to the northeast corner of the lands of Timothy Cranfield, as recorded in BCROD deed book 2332 page 901; thence with the northern line of the lands of Cranfield in a westerly direction, 150 feet to the northwest corner of the lands if Cranfield; thence with the western line of the lands of Cranfield in a southerly direction 195 feet to the southwest corner of the lands of Cranfield, said point being located in the northern right of way of Brymer Creek Road; thence with the norther right of way of Brymer Creek Road in a westerly direction 645 feet, more or less, to the point of beginning.

TRACT 2

Beginning at the northeast corner of the intersection of Johnston School Road and Brymer Creek Road, said point being a corner of the Newman Family Farm Partnership, LLC property, as recorded in BCROD deed book 1175 page 441; thence with the northern right of way of Brymer Creek Road in an easterly direction 716 feet, more or less, to the southwest corner of the lands of Barbara Southerland as recorded in BCROD deed book 288 page 869; thence with an eastern line of the lands of Newman Family Farm Partnership, LLC in a northerly direction 1534 feet, more or less, to the southeast corner of the lands of Sarah Dooly Newman Trustee, as recorded in BCROD deed book 2552 page 536; thence with the southern line of the lands of Sarah Dooly Newman Trustee in an easterly direction 790 feet, more or less, to the southwest corner of the lands of Sarah Dolly Newman Trustee, said point being located in the eastern right of way of Johnston School Road; thence with the eastern right of way of Johnston School Road in a southerly direction 1485 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.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

MAY 17, 2022
BRYMER CREEK-ASSURANCE LAND DEVELOPMENT, LLC
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 238.03 acres located on Brymer Creek Rd. SW, Johnston School Rd. SW, and Mason Rd. SW 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 2022.

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

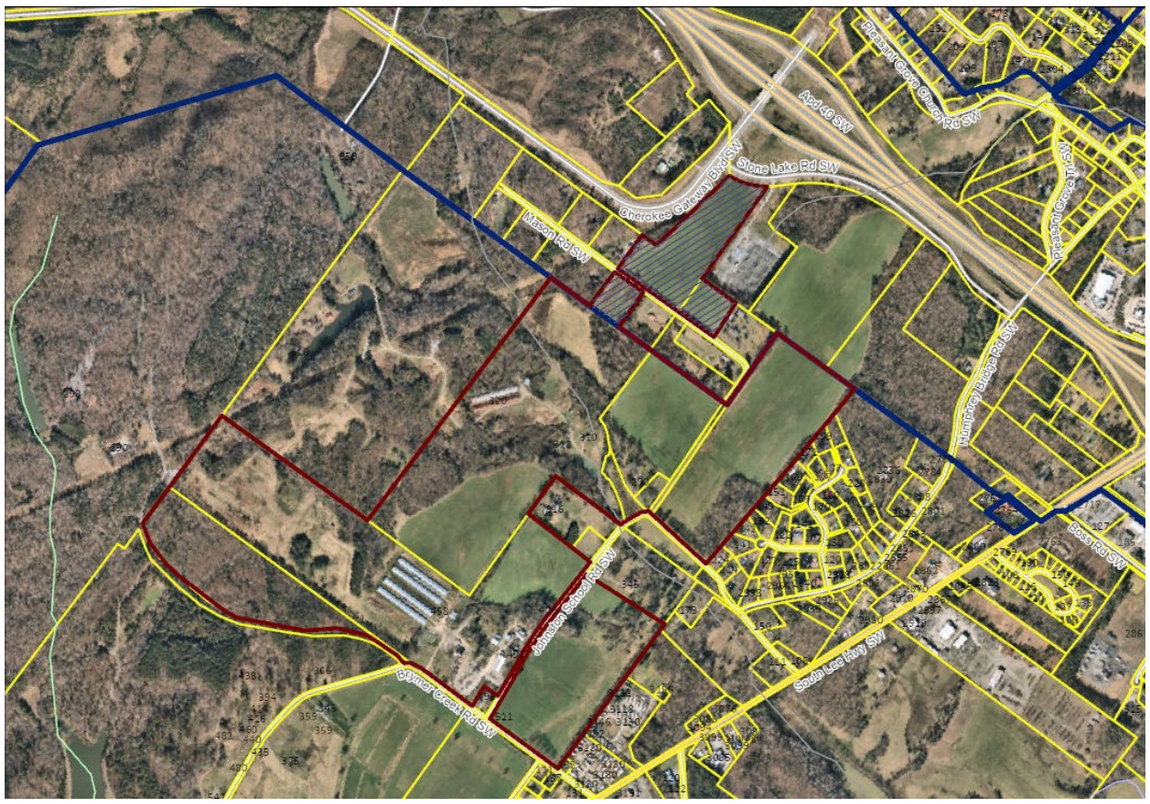
Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization

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 property consists of multiple parcels which are contiguous with the existing limits of the City of Cleveland within the area of Cherokee Gateway Boulevard and Stone Lake Road. The annexation would zone the property as a Planned Unit Development with approximately 975 single family residential dwelling units. The property is described as of Tax Map 056 Parcels 083.00 & 087.00 and Tax Map 083 Parcels 001.04 & 002.00.

BRYMER CREEK PROPERTY
MAP



Legal Description

Johnston School Road- May 2022

TRACT 1

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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 can provide services to this area with very little impact using existing Station 6 as the first due company and Station 1 as the second due company.

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

A. Domestic Water--- water service is available to this parcel via 12" water main along Stone Lake Road and 6" water mains along Mason Road and Johnson School Road. See Figure 1. As part of the distribution network

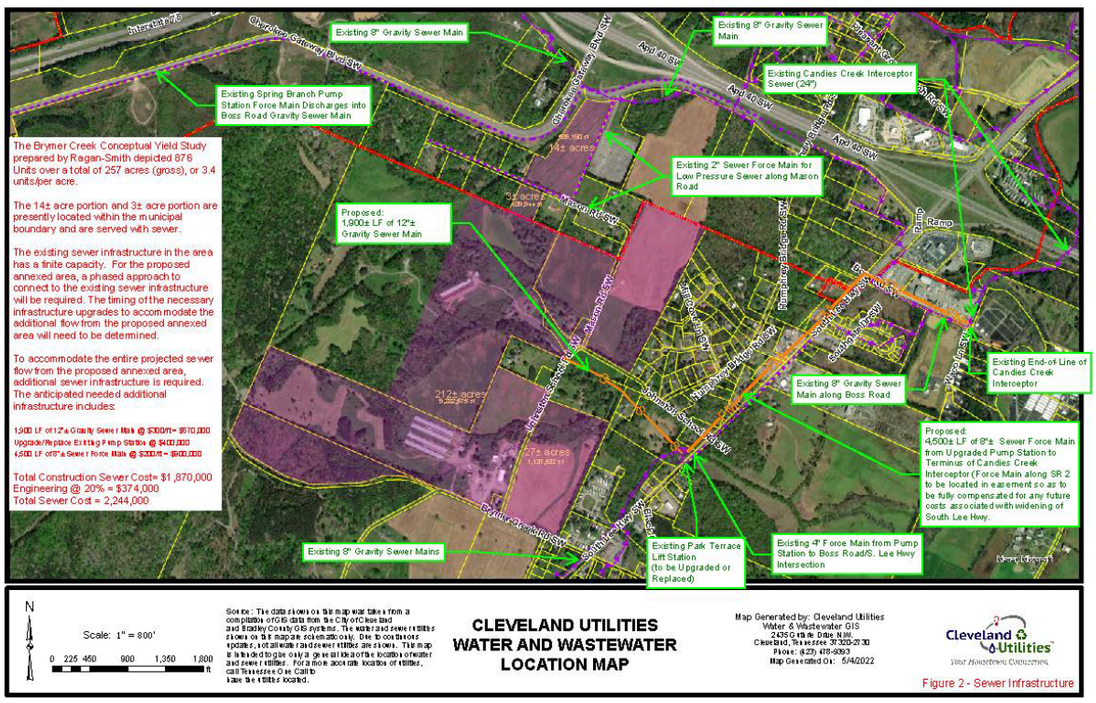
within the proposed development, it is desired for an 8" water main to extend through the development from Johnson School Road to Stone Lake Road. All water mains within the development shall be ductile iron pipe.

B. Sanitary Sewer--- The proposed annexed area is not presently served with sewer service. A portion of the proposed annexed area can be served by existing infrastructure in the area. For the ultimate buildout of the proposed annexed areas, a phased approach for constructing additional infrastructure will be required. The anticipated infrastructure for the entire build out includes gravity mains, upgraded pump station and new force main to Candies Creek Interceptor located at the intersection of Boss Road and Waco Lane. This offsite sewer infrastructure is estimated to cost $2,244,000 and can be completed within eight (8) years of annexation depending on funding sources expediting the timeline. See Figure 2.

C. Fire Protection--- An Existing fire hydrant are in the vicinity including at Stone Lake Road and Cherokee Gateway Blvd, Mason Road, and Brymer Creek Road. Fire hydrants within any future development will be by others.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Near Mason Road & Johnston School Road	$0	$2,244,000	$0	



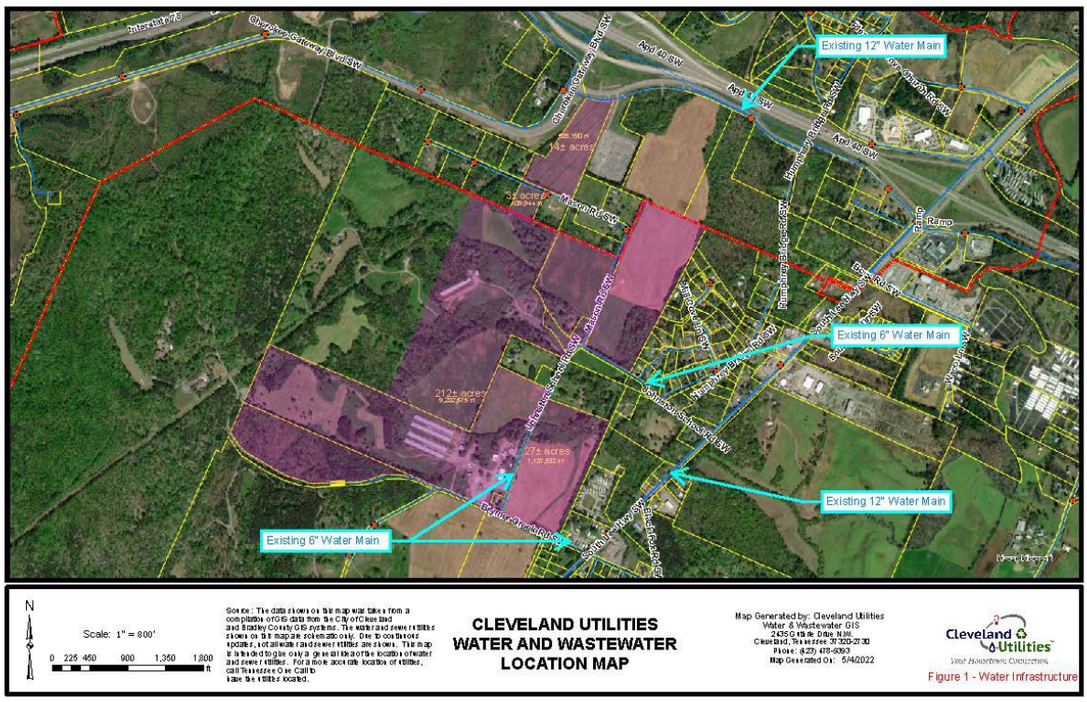


Figure 1 - Water Infrastructure

4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

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.

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

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

It is estimated the Brymer Creek PUD annexation would cost the city $328,535.00 per year and add 336 students to enrollment.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 2,438 residents to the 1st City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue
The total income from annexation without any improvements would result in approximately **$1,434.06** in property tax revenue.

With approximately 975 homes developed on the site with an estimated value of $325,000 each, property tax revenue would increase to approximately **$1,398,208.50 for the City of Cleveland and $1,353,378 for Bradley County**.

With an estimated 2,438 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$282,198.50.**

The annual stormwater fee for all homes on this site is estimated at **$32,760**.

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$1,713,167.**

Councilman Estes moved that Resolution 2022-53 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-18 –** Rezoning about 255.68 acres, from CH Commercial Highway and the unincorporated County FAR to PUD39 for property located on Stone Lake Road (Tax map 056 Parcels 083.00 and 87.00 and Tax Map 064 Parcels 001.04 and -002.00) (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2022-18

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISHA PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS BRYMER CREEK "PUD 39" ON PROPERTY DESCRIBED AS TAX MAP 56 PARCELS 097.00, 097.01, 087.00, 083.00, 083.01, AND 084.00, AND TAX MAP 64 002.00 AND 002.02 AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 39; 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 inSection 3 herein as "PUD 39" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 39 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 39 district are 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 theterms 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 39, Brymer Creek Townhome Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning), includes property generally identified as follows:

- A Portion of Parcel No. 006056 08700 (176.11 Acres) – 312 Johnston School Road SW

- Parcel No. 006064 001.04 (21.14 Acres) – Brymer Creek Road SW
- Parcel No. 006064 00200 (96.29 Acres) – 408 Johnston School Road SW
- Parcel No. 006056 08415 (2.88 Acres) – Mason Drive
- Parcel No. 006056 08300 (50.54 Acres) – 290 Mason Road SW
- Parcel No. 006056 08400 (1.05 Acres) – Mason Road SW

Exhibit C illustrates the overall Brymer Creek Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.
This section is intended to provide a general description of the Brymer Creek PUD. The applicant, Assurance Land Development LLC is committed to developing a residential neighborhood to the City of Cleveland and providing a place where local families and employees can raise their families taking advantage of the best attributes Cleveland has to offer. The project will provide up to 975 units of new housing in a mix of sizes and unit types including detached single-family homes and attached single-family townhomes. The attached townhome units will constitute no more than 20 percent of the overall units within the greater development. Exhibit C depicts a likely distribution of unit types, location of proposed infrastructure and common areas. In terms of total allowable density across the site, the project shall not exceed one unit per 5000 square feet portions of the site containing single family detached homes or three units per 7500 square feet for portions containing multi-unit townhome structures. The developer shall include common open space with a Clubhouse for the neighborhood HOA to have a centralized place to hold meeting, events, or other functions. These open spaces may also include uses such as a neighborhood parks / playgrounds, Pools, tennis courts, and walking trails. Developers shall also include permanent retention or detention pond areas, and landscaped entry / common areas. The typical street section will include sidewalks and landscape area with street trees.

Section 5. PERMITTED USES AND PROHIBITED USES.
The PUD 39 Subdivision allows for the construction of up to 975 dwelling units in detached single-family houses and single family attached townhome structures. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 39 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 residential uses within the Brymer Creek PUD development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit C unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by Developer covenants and restrictions. The developer reserves the right to propose commercial use on the portion of the property currently zoned Commercial Highway (CH) within the City of Cleveland as depicted on Exabit B. Uses other than those described as permitted or allowed herein are prohibited. Billboards are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibit C) for PUD39, The Brymer Creek PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on May 17th, 2022. The conceptual plan consists of a site plan for the overall development. However additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD 39 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. Plats for any multi-family residential units must be reviewed by the Planning Commission. However, any modification may not increase the total number of dwelling units beyond 975 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 site plans for the Brymer Creek PUD development may reflect some alteration in the conceptual plan such as the exact location of each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets within the PUD 39 Brymer Creek development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting. Where existing Right of Way along Johnston School Road, Mason Road, and Stone Lake is narrow adjacent to PUD 39 and the intention is that the Johnston School Road, Mason Road, and Stone Lake Road 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 along the entire property. The entire distance of both existing Johnston School Road and Mason Road that fall within the boundary of the Subdivision shall include curb and gutter.

6.B. PLATS.

One or more plats will be prepared for the PUD39 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. These plats shall be consistent in general layout with the conceptual site plan.

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 39 as envisioned herein. It is a requirement of this ordinance that such documents are in placeand enforced by the Developer (or Developer's heirs, successors, or assigns) to the extent necessary for PUD 39 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.

Section 7. DEVELOPMENT STANDARDS
The development standards for PUD39 shall be those established in this ordinance. 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. If the front acreage is developed as Commercial it shall follow the CH Commercial Highway zoning standards, including uses allowed.

For Single Family Detached 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. The front façade of all structures shall contain a minimum of at least 30% of either brick or stone materials. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick on stone. No blank walls along street elevations are allowed. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.

A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area. For Townhomes the tree shall be placed in between each structure. The driveways and parking areas for each Townhome shall be separated by a minimum of 2-foot planted landscape strip, therefore allowing for placement of trees or other landscaping. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize ponds sizes where possible.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff walking trail, as depicted on exhibit C, shall connect throughout the subdivision to each potential phase as it develops. Other site amenities shall include clubhouse for HOA functions which can include attached uses such as a pool, tennis court, playground, pocket parks, as well as open spaces. These uses will be finalized as the neighborhood develops depending on current conditions.

A monument style ground sign shall be installed at the primary entrance(s) to the site. A landscaped berm no smaller than 4’ in height shall be installed at the primary entrance(s) to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. Open space shall be maintained at proportion no less than 15% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% the buildable lots in the development are established or under construction. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner’s association. Once established the Homeowners

Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal service, and shall include a minimum of 2 off-street parking spaces per 50 lots. These may be combined with site amenities as provided. 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. All stormwater detention/retention areas will be screened from the public ROW. Each lot must provide a minimum of 4 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 46 feet for up to 80% of the overall development. The remaining 20% of single-Family Homes shall have a minimum lot width of 55 feet. Townhome sites shall comply with existing city townhome regulations for lot width. The front setback requirements are 20 feet, side setback requirements are 3’ on one side and 10’ on the remaining side. Each 3’ side setback must be joined by a 10’ setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. Townhomes must follow the City's established process requiring a site plan for construction and a final plat after 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. Retaining walls as needed for the grading of building pads are expressly allowed within the setbacks. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address, with the exception of the 18 acres along Stone Lake Road only if they are developed as commercial uses at which time, they would adhere to CG General Commercial standards.

The developer shall dedicate right-of-way adequate to serve a deceleration lane as well as a center turn lane from Johnston School Road, Brymer Creek Road, and Stone Lake Road. Build out of the center turn lane and deceleration lane shall be required before acceptance of any new street within the subdivision. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements. The deceleration lane shall be curbed to City standards.

Public Utilities shall be designed outside of the curb-to-curb area, except for reasonable crossings where necessary. The Director of Planning and Community Development, or their assigns, may allow deviations to utility locations when given a reasonable explanation for the deviation.

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 PUD39 Brymer Creek Townhome Development. 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 thisordinance 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 THEPUD.
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 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 PUD39, an amendment tothis 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit C, then a revised conceptualplan must be reviewed by the Cleveland Municipal Planning Commission.

Section 10. BINDING UPON OTHERS. This ordinance is a law and not a contract, andas such it is generally binding upon all development and use of property in the PUD39 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 [11]Developer'' is intended to encompass Morgan Lane Development 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 establishedfor 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 forceand effect. This ordinance shall take effect upon after passage and upon the executionof the development order as described above, the public convenience and necessity requiring it.

Approved this ___ day of _____, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit "A" Legal Description

TRACT 1
Beginning at an iron pin located at the northeastern corner of the lands of Thomas P {. Newman, as recorded in BCROD deed book 2198 page 147, said point being located in the western right of way of Brymer Creek Road; thence with and along the westernmost right of way of Brymer Creek Road, Radius=175.09 feet, Delta=18 degrees 7 minutes 1 second, Arc Distance= 55.36 feet to a point; thence South 61 degrees 56 minutes 00 seconds West, 17 feet to an iron pin; thence leaving the westernmost right of way of Brymer Creek Road, North 67 degrees 8 minutes 0 seconds West, 417.72 feet to an iron pin; thence North 89 degrees 46 minutes 00 seconds West, 150.88 feet to an iron pin; thence Radius= 310.96 feet, Delta= 23 degrees 42 minutes 00 seconds, Arc Distance= 128.63 feet to an iron pin; thence South 66 degrees 32 minutes 00 seconds West, 82.22 feet to an iron pin; thence Radius=489.9 feet, Delta=31 degrees 55 minutes 00 seconds, Arc Distance= 272.90 feet to an iron pin; thence North 81 degrees 33 minutes 00 seconds West, 59.05 feet to an iron pin; thence Radius=447.47 feet, Delta=20 degrees 8 minutes 00 seconds, Arc Distance=157.24 feet to an iron pin; thence South 78 degrees 19 minutes 00 seconds West, 92 feet to an iron pin; thence Radius= 377.57 feet, Delta=27 degrees 54 minutes00 seconds, Arc Distance=183.86 feet to an iron pin; thence North 73 degrees 47 minutes 00 seconds West, 199.80 feet to an iron pin; thence Radius=780.71 feet, Delta=14 degrees 9 minutes 00 seconds, Arc Distance=192.81 feet to an iron pin; thence North 59 degrees 38 minutes 00 seconds West, 409.40 feet to an iron pin; thence Radius 300.46 feet, Delta=25 degrees 7 minutes 00 seconds, Arc Distance=131.71 feet to an iron pin; thence North 34 degrees 31 minutes 00 seconds West, 158.34 feet to an iron pin, said point being located in the eastern line of the lands of Broad Street United Methodist Church, as recorded in BCROD deed book 80 page 542, said point also being the south westernmost corner of the lands of Newman Family Farm Partnership, L.P., as recorded in BCROD deed book 1175 page 441; thence with the eastern line of the lands of Broad Street United Methodist Church in a northeasterly direction 755 feet, more or less, to a 1 5/8" rebar located at the southwest corner of a boundary survey by Brown Surveying Company, as recorded in BCROD plat book 39 page 70; thence South 66 degrees 39 minutes 21 seconds east, 1500 feet to an iron pin; thence North 23 degrees 46 minutes 35 seconds west, 2573.30 feet to an iron pin; thence South 66 degrees 39 minutes 21 seconds East, 423.65 feet to an iron pin; thence along a left handed curve D=88 degrees 25 minutes 18 seconds, R=100.00', A=154.32', BS=69 degrees 8 minutes 0 seconds West, C=139.46 to an iron pin, said pin being located in the existing City Limits; thence with the existing City Limits in a south easterly direction 233 feet, more or less, to an iron pin; thence south 66 degrees 39 minutes 21 seconds east, 300.84 feet to a pinch top, said point being the southwest corner of the lands of Luke Brogdon, as recorded in

BCROD deed book 240 page 537; thence with the southern line of the lands of Brogdon South 65 degrees 4 minutes west, 761.47 feet to the south east corner of the lands of Brogdon, said point being located in the western right of way of Mason Road; thence crossing Mason Road South 65 degrees 4 minutes west, 50 feet, more or less, to a point in the eastern right of way of Mason Road; thence in a northeasterly direction with the western right of way of Mason Road 310 feet, more or less, to the southeast corner of the lands of Ronald Harris, as recorded in BCROD deed book 1857 page 777; thence continuing in a northeasterly direction with the eastern line of the lands of Harris 435 feet, more or less, to the northeastern corner of the lands of Harris, said point also being a corner of the lands of Newman Family Farm Partnership, LLC; thence in a southeasterly direction with the line of the lands of Newman Family Farm Partnership, LLC 820 feet, more or less, to a corner on the lands of Newman Family Farm Partnership, LLC, said point also being the northwest corner of the lands of Leonard Dooley, as recorded in BCROD deed book 308 page 28; thence leaving the existing City Limits and following an eastern boundary of the lands of Newman Family Farm Partnership, LLC in a southwesterly direction 1960 feet, more or less, to a corner in the lands of Newman Family Farm Partnership, LLC, said point being located I the northern right of way of Johnston School Road; thence following the northern right of way of Johnston School Road 927 feet, more or less, to a railroad spike at the northeast corner of the lands of David Newman, as recorded in BCROD deed book 2132 page 855; thence with the northern line of the lands of David Newman north 66 degrees 36 minutes 30 seconds west, 689.01 feet to an iron pin; thence south 23 degrees 34 minutes 14 seconds west, 401.01 feet to an iron pin; thence south 66 degrees 32 minutes 6 seconds east, 663.43 feet to an iron pin located at the southeast corner of the lands of David Newman, as recorded in BCROD deed book 213 page 729, said point being located in a western right of way of Johnston School Road; thence with the western right of way of Johnston School Road in a southerly direction 195 feet, more or less, to the northeast corner of the lands of Timothy Cranfield, as recorded in BCROD deed book 2332 page 901; thence with the northern line of the lands of Cranfield in a westerly direction, 150 feet to the northwest corner of the lands if Cranfield; thence with the western line of the lands of Cranfield in a southerly direction 195 feet to the southwest corner of the lands of Cranfield, said point being located in the northern right of way of Brymer Creek Road; thence with the norther right of way of Brymer Creek Road in a westerly direction 645 feet, more or less, to the point of beginning.

TRACT 2
Beginning at the northeast corner of the intersection of Johnston School Road and Brymer Creek Road, said point being a corner of the Newman Family Farm Partnership, LLC property, as recorded in BCROD deed book 1175 page 441; thence with the northern right of way of Brymer Creek Road in an easterly direction 716 feet, more or less, to the southwest corner of the lands of Barbara Southerland as recorded in BCROD deed book 288 page 869; thence with an eastern line of the lands of Newman Family Farm Partnership, LLC in a northerly direction 1534 feet, more or less, to the southeast corner of the lands of Sarah Dooly Newman Trustee, as recorded in BCROD deed book 2552 page 536; thence with the southern line of the lands of Sarah Dooly Newman Trustee in an easterly direction 790 feet, more or less, to the southwest corner of the lands of Sarah Dolly Newman Trustee, said point being located in the eastern right of way of Johnston School Road; thence with the eastern right of way of Johnston School Road in a southerly direction 1485 feet, more or less, to the point of beginning.

Exhibit "B" Site Location

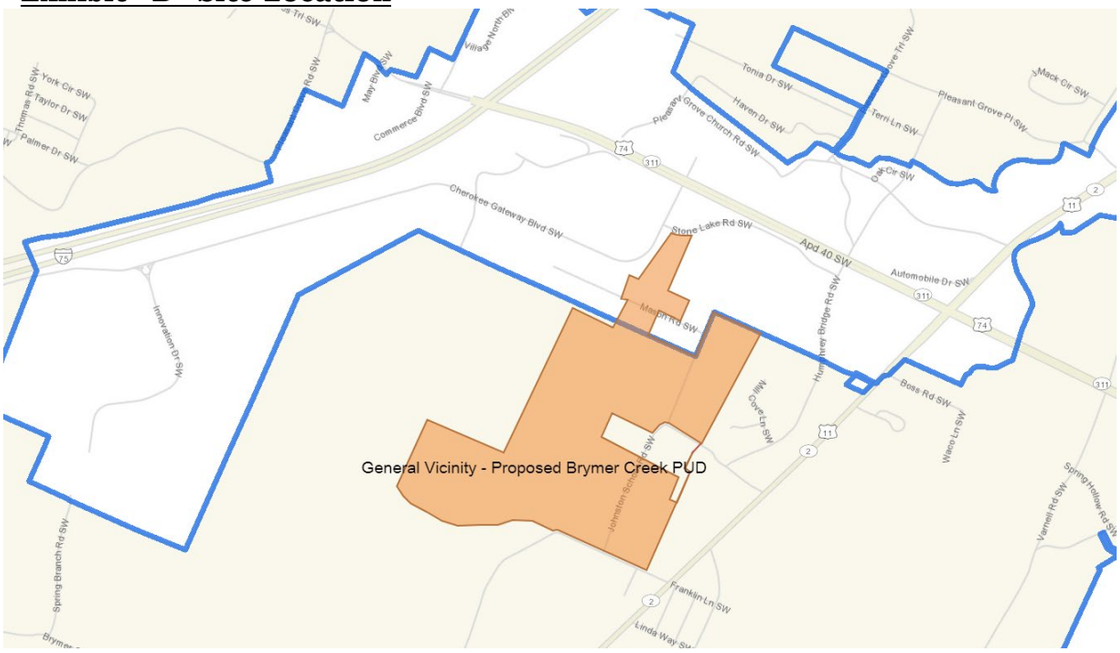


Exhibit "C" Conceptual Plan



Councilman May moved that Zoning Ordinance 2022-18 be approved 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 2022-19 -** Adopting the 2022 Tax Rate ($1.7130).

ORDINANCE 2022-19

TAX ORDINANCE – YEAR 2022

AN ORDINANCE TO PROVIDE AND FIX FOR THE CITY OF CLEVELAND, TENNESSEE, FOR THE YEAR 2022, 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 2022, and each subsequent year thereafter be, and is, $1.7130 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 $1.7130 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:

_____
Councilwoman McKenzie

_____
Kevin Brooks, Mayor

_____
Councilman Estes

ATTEST:

_____
Councilman Cassada

_____
Shawn McKay, City Clerk

_____
Councilman May

APPROVED AS TO FORM:

_____
Councilman Hughes

_____
John F. Kimball, City Attorney

_____
Councilman Webb

_____
Vice Mayor Johnson

Councilman Webb moved that Ordinance 2022-19 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:

- **Ordinance 2022-20 –** Amending Title 17, Section 17-107 of the Municipal Code pertaining to the sanitation user fees for Solid Waste and Refuse Collection.

ORDINANCE 2022-20

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, AMENDING THE VARIOUS RATES FOR SOLID WASTE AND REFUSE COLLECTION WITH THE NEW RATES TO BECOME EFFECTIVE AUGUST 1, 2022

WHEREAS, the City's sanitation user fee, the commercial fee for commercial establishments, and the commercial recycling user fee are established in Title 17 of the Cleveland Municipal Code relating to refuse and trash disposal; and

WHEREAS, Section 17-105 of the Cleveland Municipal Code provides that the sanitation user fee shall be set by an ordinance of the City Council; and

WHEREAS, Section 17-107 of the Cleveland Municipal Code provides that the commercial fee charged for commercial establishments shall also be established by ordinance after the City Council receives the recommendation of the Public Works Director; and

WHEREAS, Section 17-107 of the Cleveland Municipal Code further provides that the commercial recycling user fee shall be set by an ordinance adopted by the City Council; and

WHEREAS, the current rates previously established by ordinance are:

Residential	$8.95 monthly per unit
Commercial	$2.35 per cubic yard
Commercial Recycle	$2.06 per cubic yard
Commercial Residential Accounts (small business, picked up like a residence)	$8.95 monthly per unit; and

WHEREAS, after considering the input and recommendation of the City Manager and the Public Works Director, the City Council desires to revise the rates as described herein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee:

Section 1.

A. The sanitation user fee referenced in Section 17-105 of the Cleveland Municipal Code is hereby set at $10.95 monthly per unit effective August 1, 2022.

B. The commercial rate referenced in Section 17-107 of the Cleveland Municipal Code is hereby set at $2.88 per cubic yard effective August 1, 2022.

C. The commercial recycling rate referenced in Section 17-107 of the Cleveland Municipal Code is hereby set at $2.52 per cubic yard effective August 1, 2022.

D. The commercial/residential rate for small businesses which are picked up like a residence is hereby set at $10.95 monthly per unit effective August 1, 2022.

Section 2. That this Ordinance shall become effective upon final reading, the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Ordinance 2022-20 be approved 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 2022-21 -** Amending Title 18, Chapter 4, Section 18-409 of the Municipal Code relating to the Stormwater User Fee.

ORDINANCE 2022-21

AN ORDINANCE TO AMEND TITLE 18, CHAPTER 4, SECTION 18-409 through 18-410 OF THE CLEVELAND MUNICIPAL CODE, TO AMEND THE STORMWATER USER FEES

WHEREAS, the City of Cleveland has previously adopted a Stormwater Utility which is currently codified in the Cleveland Municipal Code in Title 18, Chapter 4, Sections 18-401 through 18-414; and

WHEREAS, Section 18-409 of the Cleveland Municipal Code provides that the stormwater user's fee be set by an ordinance of the City Council; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CLEVELAND, AS FOLLOWS:

SECTION I. NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled, that Title 18, Chapter 4, Sections 18-409 through 18-410 of the Cleveland Municipal Code are hereby deleted in their entirety, and replaced with the following:

Section 18-409. Base rate. The City Council shall, by ordinance, establish the base rate for the stormwater user's fees. The base rate will be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the acquisition, operation, maintenance, rehabilitation and capital improvements of the stormwater utility in the city. The base rate is set forth in this Ordinance as $3.65 per SFU per month.

Section 18-410. Property classification for stormwater user's fee.

(a) For purposes of determining the stormwater user's fee, all property in the city is classified into one of the following classes:

(1) Single-family residential property fee. The City Council finds that the monthly stormwater management fees for single-family residential property will be based on the mean amount of impervious surface on a single-family residential lot in the city, which is known as an SFU. There will be a tier system for single-family residential properties based on the amount of impervious surface of single-family residential property. Each property will be placed into one of the following tiers and charged according to the values in the table below:

Description	**Monthly Fee**
Rate - Single Family Residential Property	**Charge per Dwelling Unit**
Tier (square foot)	
0 to 1,775	50% of base rate or $1.83 per month
1,776 to 5,900	100% of base rate or $3.65 per month
5,901 and beyond	150% of base rate or $5.48 per month

(2) Non-single-family residential property fee. For non-single-family residential property, each property will be classified into four sub-classifications to determine the monthly stormwater management fees. The charge for each dwelling unit for these property types are defined in the table below:

Description	**Monthly Fee**
Rate – Non-Single-Family Residential Property	**Charge per Dwelling Unit**
Subcategory	
Duplex/Triplex/Quadplex	50% of base rate or $1.83 per month
Apartments (5+ units)	40% of base rate or $1.46 per month
Town Homes	40% of base rate or $1.46 per month
Mobile Homes	70% of base rate or $2.56 per month

SECTION II: BE IT FURTHER ORDAINED that this ordinance shall become effective upon final reading, the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Ordinance 2022-21 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:

- **Ordinance 2022-22** – Amending Title 7 Chapter 2, Section 7-211 of the Municipal Code relating to the Fire Permit and Inspection Fee Schedule.

ORDINANCE 2022-22

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, AMENDING TITLE 7, CHAPTER 2, SECTION 7-211 OF THE CLEVELAND MUNICIPAL CODE RELATING TO THE FIRE PERMIT AND INSPECTION FEE SCHEDULE

WHEREAS, the City Council desires to amend the fire permit and inspection fee schedule; and

WHEREAS, Section 7-211 of the Cleveland Municipal Code needs to be amended and updated to reflect the updated fee schedule adopted by Resolution 2022-50 on June 13, 2022.

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, Section 7-211 of the Cleveland Municipal Code be amended to read as follows:

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 2022-50, and those fees or 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.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Ordinance 2022-22 be approved on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2022-23** – Amending Title 16, Chapter 2, Section 16-203(1) of the Municipal Code pertaining to Street Cut Fees.

ORDINANCE 2022-23

AN ORDINANCE OF THE CITY OF CLEVELAND AMENDING TITLE 16, CHAPTER 2, SECTION 16-203(1) OF THE CLEVELAND MUNICIPAL CODE PERTAINING TO STREET CUT FEES

WHEREAS, the City Council has been presented with a recommendation from the City Manager to raise the cost of a street cut permit fee from $350 to $450 so that the fee will cover the actual costs of installing the patch; and

WHEREAS, based on the recommendation of City Manager and City staff, the City Council now desires to amend Section 16-203 (1) of the Cleveland Municipal Code to raise this street cut fee.

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

Section 1: Title 16, Chapter 2, Section 16-203 (1) of the Cleveland Municipal Code is amended by changing the first sentence under Section 16-203(1) to now read as follows:

"The fee for such permits shall be four hundred and fifty dollars ($450.00).

Section 2: BE IT FURTHER ORDAINED that this ordinance shall become effective upon passage on final reading, the public welfare requiring it, however the increase in the street cut fee will not take effect until July 1, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Vice Mayor Johnson moved that Ordinance 2022-23 be approved on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2022-24 –** Adopting the FY2023 Budget.

ORDINANCE 2022-24

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 $285,820,758. All of these sources are available for appropriation.

Anticipated Revenues	2020-2021 (ACTUAL)	2021-2022 (ESTIMATED)	2022-2023 PROPOSED
Revenues:			
General Fund	$54,524,700	$56,237,429	$56,069,000
Special Revenue Funds:			
Solid Waste Management	3,058,215	3,321,274	4,235,100
State Street Aid	1,496,666	1,477,000	1,451,000
General Purpose School	48,825,016	48,265,224	49,287,773
Schools Food Service	3,378,423	3,235,712	3,800,333
Cleveland Public Library	734,821	850,975	795,500
Drug Enforcement	54,929	28,112	23,700
Byrne Memorial Justice Asst. Grant	0	38,036	0
Community Dev. Block Grant	711,130	1,088,621	375,000
E-Ticketing	2,735	0	0
Recycling Grant	0	0	0
Schools Federal Projects	7,856,596	0	0
Metropolitan Planning Organization	146,796	198,000	198,000
Debt Service	121,086	151,450	151,250

Anticipated Revenues, cont'd:	2020-2021 (ACTUAL)	2021-2022 (ESTIMATED)	2022-2023 PROPOSED
Revenues:			
Capital Projects Funds:			
ARPA Projects Fund	0	4,656,500	0
THDA Home Grant	41,912	53,972	0
Blythe Sidewalks Diabetes Grant	117,962	182,000	0
Capital Improvements Program	3,070,339	9,390,235	625,000
Sales Tax Capital Projects Fund	4,952,390	4,661,000	4,757,000
Cleveland City Schools - CIP	5,805,294	7,400	0
Enterprise Funds:			
Stormwater Management	1,566,759	1,813,319	1,893,300
Cleveland Utilities Electric Division	100,084,282	96,089,059	99,291,253
Cleveland Utilities Water/Wastewater Division	33,335,352	33,210,653	36,897,348
Trust Funds:			
Meiler Trust Fund	4,535	300	500
Internal Service Fund:			
Health Insurance Trust Fund	4,690,877	5,214,309	5,854,160
Total Revenues	274,580,815	270,170,580	265,705,217
Other financial sources			
Operating transfers in:			
General Fund:	2,973,022	3,034,767	2,962,317
Special Revenue Funds:			
Solid Waste Management	950,000	850,000	150,000
State Street Aid	0	0	0
General Purpose School	5,432,806	5,605,300	5,801,500
Cleveland Public Library	673,600	679,900	684,000
Community Dev. Block Grant	30,000	30,000	30,000
Recycling Grant	0	0	0
Metropolitan Planning Organization	44,500	89,000	151,500
Debt Service	6,841,322	7,735,603	7,371,224
Capital Projects Funds:			
Capital Improvement Program	1,638,973	2,044,718	2,965,000
Blythe Sidewalks Diabetes Grant	0	0	0
Internal Service Fund			
Health Insurance Trust Fund	450,000	0	0
Total Operating Transfer In:	$19,034,223	$20,069,288	$20,115,541

Anticipated Revenues	2020-2021 (ACTUAL)	2021-2022 (ESTIMATED)	2022-2023 PROPOSED
Other financial sources:			
Operating transfers in, cont'd:			
Capital Contributions			
Enterprise Funds:			
Stormwater Management	0	0	0
Cleveland Utilities Electric Division	402,873	0	0
Cleveland Utilities Water/Wastewater Division	1,332,427	0	0
Internal Service Funds:			
Health Insurance Trust	0	0	0
Total Capital Contributions:	1,735,300	0	0
Bond & Note Proceeds and Capital Lease			
General Fund	0	455,575	0
General Purpose School Fund	0	0	0
Capital Improvement Program	1,514,178	20,151,828	0
Cleveland City Schools -CIP	0	0	0
Debt Service	31,363,381	0	0
Total Bond & Note Proceeds:	$32,877,559	$20,151,828	$0
Total Other Financing Sources	$53,647,082	$40,221,116	$20,115,541
Total Revenues and Other Financing Sources	$328,227,897	$310,391,696	$285,820,758

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	2020-2021 (ACTUAL)	2021-2022 (ESTIMATED)	2022-2023 PROPOSED
General Fund	$35,931,128	$42,171,198	$42,856,942
Special Revenue Funds:			
Solid Waste Management	3,889,705	4,170,833	4,353,600
State Street Aid	667,473	1,000,341	1,006,825
General Purpose School	51,083,359	53,311,336	54,473,723
Schools Food Service	3,115,050	3,235,712	3,800,333
Cleveland Public Library	1,391,828	1,527,211	1,478,700
Drug Enforcement	34,144	33,870	23,600
Byrne Memorial. Justice Asst. Grant	0	38,036	0
Community Dev. Block Grant	793,860	1,098,578	404,999
E Ticketing	703	28,508	0
Recycling Grant	0	0	0
Schools Federal Project	7,840,534	0	0
Metropolitan Planning Organization	216,897	354,600	339,200
Debt Service	8,100,005	7,882,053	8,367,154
Capital Projects Funds:			
ARPA Projects Fund	0	2,266,249	950,000
THDA Home Grant	41,912	53,972	0
Blythe Sidewalks Diabetes Grant	117,962	182,000	0
Capital Improvements Program	4,762,075	36,376,198	3,585,000
Sales Tax Capital Projects Fund	3,795,058	7,947,970	4,750,299
Cleveland City Schools - CIP	682,272	5,123,022	0
Enterprise Funds:			
Stormwater Management	606,165	2,181,456	1,619,050
Cleveland Utilities Electric Division	89,059,729	89,751,263	92,031,818
Cleveland Utilities Water/Wastewater Division	27,080,311	28,698,530	31,557,795
Trust Funds:			
Meiler Estate Trust Fund	0	0	0
Internal Service Fund:			
Health Insurance Trust Fund	5,118,830	5,213,000	5,188,017
Total Expenditures	244,329,000	292,645,936	256,787,055

Nonoperating Revenues (Expenses)	2020-2021 (ACTUAL)	2021-2022 (ESTIMATED)	2022-2023 PROPOSED
Enterprise Funds:			
Stormwater Management	0	0	0
Cleveland Utilities Electric Division	(684,289)	(401,730)	(491,596)
Cleveland Utilities Water/Wastewater Division	(1,404,940)	(1,494,048)	(1,550,688)
Debt Service	(30,747,239)	(5,000)	(5,000)
Internal Service Fund:			
Health Insurance Trust Fund	0	0	0
Total Nonoperating Revenues (Expenses)	(32,836,468)	(1,900,778)	(2,047,284)

Other Financing Uses	2020-2021 (ACTUAL)	2021-2022 (ESTIMATED)	2022-2023 PROPOSED
Operating Transfers Out			
General Fund	14,929,298	15,987,497	15,767,000
Special Revenue Funds:			
Solid Waste Management	0	0	0
State Street Aid	449,878	447,836	444,042
General Purpose School	681,219	559,188	831,932
Recycling Grant	0		
Schools Federal Project	806	0	0
Capital Projects Funds:			
Capital Improvements Program	0	0	0
Cleveland City Schools - CIP	0	0	0
Blythe Sidewalks Diabetes Grant	0	0	0
Enterprise Funds:			
Stormwater Management	0	40,000	110,250
Cleveland Utilities Electric Division	2,498,439	2,548,407	2,466,230
Cleveland Utilities Water/Wastewater Division	474,583	486,360	496,087
Internal Service Fund:			
Health Insurance Trust	0	0	0
Nonexpendable Trust Funds:			
Meiler Estate Trust Fund	0	0	0
Total Operating Transfers Out	19,034,223	20,069,288	20,115,541
Total Other Financing Uses	51,870,691	21,970,066	22,162,825
Total Expenditures and Other Financing Uses	296,199,691	314,616,002	278,949,880

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	2020-2021 (ACTUAL)	2021-2022 (ESTIMATED)	2022-2023 PROPOSED
General Fund	6,637,296	1,569,076	407,375
Special Revenue Funds:			
Solid Waste Management	118,510	441	31,500
State Street Aid	379,315	28,823	133
General Purpose School	2,493,244	0	(216,382)
Schools Food Service	263,373	0	0
Cleveland Public Library	16,593	3,664	800
Drug Enforcement	20,785	(5,758)	100
Byrne Memorial Justice Asst. Grant	0	0	0

Increase (Use) of Fund Balance or Net Assets	2020-2021 (ACTUAL)	2021-2022 (ESTIMATED)	2022-2023 PROPOSED
Special Revenue Funds cont'd:			
Community Development Block Grant	(52,730)	20,043	1
E Ticketing	2,032	(28,508)	0
Recycling Grant	0	0	0
Schools Federal Project	15,256	0	0
Metro. Planning Organization (MPO)	(25,601)	(67,600)	10,300
Debt Service	(521,455)	0	(849,680)
Capital Projects Funds:			
ARPA Projects Fund	0	2,390,251	(950,000)
Capital Improvements Program	1,461,415	(4,789,417)	5,000
THDA Home Grant	0	0	0
Blythe Sidewalks Diabetes Grant	0	0	0
Sales Tax Capital Projects Fund	1,157,332	(3,286,970)	6,701
Cleveland City Schools - CIP	5,123,022	(5,115,622)	0
Enterprise Funds:			
Stormwater Management	960,594	(408,137)	164,000
Cleveland Utilities Electric Division	8,244,698	3,387,659	4,301,609
Cleveland Utilities Water/Wastewater Division	5,707,945	2,531,715	3,292,778
Trust Funds:			
Meiler Estate Trust Fund	4,535	300	500
Internal Service Fund:			
Health Insurance Trust Fund	22,047	1,309	666,143
Total Incr. (Use) of Fund Balance or Net Assets	32,028,206	(3,768,731)	6,870,878

SECTION 3: **STATEMENT OF BALANCE/DEFICIT**. At end of the current fiscal year, the City of Cleveland estimates that it will use none of its $29,058,269 General Fund fund balance and $849,680 of the $5,986,879 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 captial 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: June 13, 2022
Final Reading: June 27, 2022

APPROVED AS TO FORM:

City Attorney

Mayor

City Clerk

Councilman Estes moved that Ordinance 2022-24 be approved on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed. Councilman Webb disclosed he is a member of Life Bridges and a retiree from Cleveland Utilities, which does not affect his vote.

The following Resolution was then presented in full:

CITY OF CLEVELAND
DWF 2022-247
AUTHORIZING RESOLUTION 2022-55

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 (Bradley County) , 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 2022-247 (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 funds 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 eight hundred twenty-five thousand dollars ($825,000) 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 eight hundred twenty-five thousand dollars ($825,000), for the purpose of funding all or a portion of the total estimated cost of the Project, which is eight hundred twenty-five thousand dollars ($825,000), by Tim Henderson, the President/CEO of Cleveland Utilities Board 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/CEO of Cleveland Utilities Board 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 are 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 _____, 2022.

I certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision. The submitted information is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. As specified in Tenn. Code Ann. § 39-16-702(a)(4), this declaration is made under penalty of perjury.

_____
Kevin Brooks, Mayor

Councilman May moved that Resolution 2022-55 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

CITY OF CLEVELAND
SRF 2022-473
AUTHORIZING RESOLUTION 2022-56

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 (Bradley County), 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 wastewater facilities project, Department of Environment and Conservation Number SRF 2022-473 (the "Project"), in and for the Local Government; and

WHEREAS, Tennessee Code Annotated, Section 68-221-1001 et. seq., provide for the lending of funds in the wastewater 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 million six hundred fifty thousand dollars ($4,650,000) 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 million six hundred fifty thousand dollars ($4,650,000), for the purpose of funding all or a portion of the total estimated cost of the Project, which is four million six hundred fifty thousand dollars ($4,650,000), by Tim Henderson, the President/CEO of Cleveland Utilities Board 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/CEO of Cleveland Utilities Board 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 are 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 _____, 2022.

I certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision. The submitted information is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. As specified in Tenn. Code Ann. § 39-16-702(a)(4), this declaration is made under penalty of perjury.

_____
Kevin Brooks, Mayor

Councilman Webb moved that Resolution 2022-56 be accepted as presented. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Vice Mayor Johnson moved to grant Juneteenth, June 19, 2022 to be observed as a city holiday for city employees on Monday, June 20, 2022. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

Councilman Cassada moved to pull the bond on the Paul Huff development with LeConte. The motion was seconded by Councilman Estes. Councilman Webb stated in a previous meeting it was discussed staff would attempt to make contact with the developer. Mr. Fivas stated yes, they have responded it will be done in July. Mr. Jobe stated they are currently obtaining quotes. Councilman Cassada stated this has been two years, but we can kick it down the road. Councilman Webb stated he was not sure a fence contractor could have been in there in two weeks. We have discussed it with them, and they have proposed a solution. What would be the process if we pull the bond? Mr. Jobe stated we have to go to the bank, and it will take time. It could speed the process, until it is time for us to do the work. We'd have to go through the bid process, which will take at least two months. Councilman Webb stated since we have a commitment from the developer, as a result of our meeting two weeks ago, he would offer a

substitute motion to allow the developer until August 1 to have the project completed or then we move forward with calling the bond. The motion was seconded by Councilman Estes. Upon roll call, Councilmen Webb, Estes, May, Vice Mayor Johnson, and Councilwoman McKenzie vote aye. Councilman Cassada voted no. The motion passed 5:1.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, June 27, 2022.

There being no future business the meeting was adjourned at 4:11 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
JUNE 27, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JUNE 27, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, David May, Tom Cassada, Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Dustin Roberts, IT Technician; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Doug Berry with the Chamber of Commerce; Dawn Robinson; Tony and Joyce Stapek; Cathy Andrews, CDBG Coordinator and Tim Siniard 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 June 13, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

No hearing petitions and communications.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2022-13 –** heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 692; Rezoning 3.12 acres from PUD20 to R2 for property located on Parker Avenue SW (Tax Map 057G Parcel 004.00) (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance 2022-14 –** heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 693; Rezoning 2.33 acres, from the CH/R2 to CH for property located on North Lee Hwy (Tax Map 034D Group D Parcel 012.00) (Planning Commission: Approved 8-0; 1 Recused).
- **Final Passage - Ordinance 2022-15 –** heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 694; Amending PUD8 which includes about 12.7 acres to include car washes as an allowable use (Tax Map 050A Group P Parcel 002.03) (Planning Commission: Approved 8-1).
- **Final Passage - Ordinance 2022-19 –** heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 726; Adopting the 2022 Tax Rate ($1.7130).
- **Final Passage - Ordinance 2022-20 –** heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 727; Amending Title 17, Section 17-107 of the Municipal Code pertaining to the sanitation user fees for Solid Waste and Refuse Collection.

- **Final Passage - Ordinance 2022-22** – heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 730; Amending Title 7 Chapter 2, Section 7-211 of the Municipal Code relating to the Fire Permit and Inspection Fee Schedule.
- **Final Passage - Ordinance 2022-23** – heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 730; Amending Title 16, Chapter 2, Section 16-203(1) of the Municipal Code pertaining to Street Cut Fees.
- **Surplus Property** – Declaring certain Kenwood radios as surplus property and to be traded for credit for new radios.

City Council

190 Church St., NE
Cleveland, TN 37311
www.clevelandtn.gov

AGENDA ITEM MEMORANDUM

TO: Mayor and City Council

FROM: Kristi Powers, Budget/Purchasing Coordinator

DATE: June 27, 2022

RE: Surplus Property

SUMMARY:

The Police Department has requested the City Council declare the following Kenwood radios as surplus property to be traded in for credit:

Serial #'s:	21100648	50701006	70900611	41100088
21100647	70900587	70900590	10600278	10600288
01100565	10800115	50701008	01100569	21100644
10600282	60801905	50701008	90901388	01100563
10800349	10600276	50701007	80501714	01101041
01100566	60801962	10600273	60801904	10800119
70900589	10800131	10800138	10800342	10800139
10600284	50800360	50201455	10800276	11200112
70900599	10600132	10800112	41100089	10600289
60801898	10600137	6080189	60302503	21100642
10600274	10600279	50701009	10600283	1080034
10800113	70900598	60801896	80100092	

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

- **Bid Summary** – Electrical Service/Maintenance.

TO: Mayor and City Council
FROM: Kristi Powers, Budget/Purchasing Coordinator
DATE: June 27, 2022
RE: Bid Summary – Electrical Service/Maintenance

SUMMARY:
Sealed bids were received on June 21, 2022, for Electrical Service/ Maintenance. One bid was received and is listed below:

- Conley Electric
  Cleveland, TN **$49.00/hr**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funds are available.

RECOMMENDATION:
Staff recommends award to Conley Electric. The initial term of the contract will be for a one-year period beginning August 1, 2022.

- **Bid Summary** – Plumbing Service/Maintenance.

TO: Mayor and City Council
FROM: Kristi Powers, Budget/Purchasing Coordinator
DATE: June 27, 2022
RE: Bid Summary – Plumbing Service/Maintenance

SUMMARY:
Sealed bids were received on June 21, 2022, for Plumbing Service /Maintenance. One bid was received and is listed below:

- Goodaker Plumbing
  Cleveland, TN **$55.00/hr**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funds are available.

RECOMMENDATION:
Staff recommends award to Goodaker Plumbing. The initial term of this contract will be for a one-year period beginning August 1, 2022.

- **Bid Report** – Automotive Paint and Body Repairs.

TO: Mayor and City Council
FROM: Kristi Powers, Purchasing Coordinator
DATE: June 27, 2022
RE: Bid Report – Automotive Paint and Body Repairs

SUMMARY:
The City of Cleveland received sealed bids on June 22, 2022, for Automotive Paint and Body Repairs. Bids are listed below:

- Advanced Collision, Inc.
  Cleveland, TN **$18,600.00**
- Champion Collision dba
  Cleveland Collision Center
  Cleveland, TN **$17,200.00**

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
Staff recommends award to Champion Collision dba Cleveland Collision Center. The initial term of the contract will be for a one-year period beginning August 1, 2022.

- **Reappointment** – *Beer Board* – Mark Smith for an additional two-year term to expire July, 2024.
- **Reappointment** – *Beer Board* – Tina Turner for an additional two-year term to expire July, 2024.
- **Reappointment** – *Beer Board* – Gerald Lillard for an additional two-year term to expire July, 2024.
- **Appointment** – *Historic Commission* - Candy Scoggins for a 4-year term to expire June, 2026 (currently serving as alternate).
- **Resolution 2022-57 –** Authorizing the Mayor to sign an easement with Chattanooga Gas Company for replacement of an existing underground Regulator Station at 3661 Georgetown Rd NW.

RESOLUTION 2022-57

WHEREAS, the City of Cleveland is the owner of a parcel of real property located at 3661 Georgetown Road NW in the City of Cleveland and generally identified as Tax Map 033 112.00 and further described as one of the parcels conveyed to the City in the deed recorded on January 13, 1999, in Book 6, Page 182 in the Register of Deeds office of Bradley County, Tennessee; and

WHEREAS, this property is the location of Cleveland Middle School, and the property is titled in the name of the City of Cleveland for the use and benefit of the Cleveland Board of Education; and

WHEREAS, Chattanooga Gas Company contacted Hal Taylor, Director of Operations for the Cleveland City Schools, about obtaining an easement across this parcel of land to locate a new Gas Regulator Station; and

WHEREAS, a proposed easement and accompanying offer letter from Chattanooga Gas Company are attached to this Resolution; and

WHEREAS, the Board of Education approved of this request from Chattanooga Gas Company at its school board meeting held on June 2, 2022, and

WHEREAS, Chattanooga Gas Company is requesting approval by the City Council since the property is titled to the City of Cleveland for the use and benefit of the Cleveland Board of Education; and

WHEREAS, City staff have reviewed the proposed easement and requested changes to the easement which would allow the City to place a sidewalk within the easement area, and to provide for additional compensation of $500, for a total of $10,500; and

WHEREAS, representatives of Chattanooga Gas Company have agreed to the requests made by City staff; and

WHEREAS, the City Council desires to accept the offer of additional compensation and to approve an easement which meets the conditions described in the attached memo from David Sheely; and

WHEREAS, the City Council also desires to authorize the Mayor to sign the easement from Chattanooga Gas once the easement has been revised to include the additional conditions requested by City staff as set forth in the memo from David Sheely.

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 an easement from the City to Chattanooga Gas Company across the parcel described herein provided it meets all of the conditions requested by City staff.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute this easement on behalf of the City of Cleveland once the easement has been reviewed and approved by City staff to make sure the easement includes the conditions requested by City staff as set forth in the memo prepared by David Sheely.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

UNFINISHED BUSINESS

Councilman Cassada moved to reduce the stormwater user fee in Ordinance 2022-21 back to $3.25 and in order to balance the fund, that $200,000 of the $20 million bond money be used. The motion failed for lack of a second. [On July 11, 2022 Regular Session Meeting the minutes were amended by Councilman Cassada; approved unanimously to read as follows: Councilman Cassada moved to defer the stormwater user fee in Ordinance 2022-21 back to $3.25 and in order to balance the fund, that $200,000 of the $20 million bond money or $6 million of the ARPA money be used.]

Councilman Webb moved that Ordinance 2022-21 be voted for passage on final reading; heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 728; Amending Title 18, Chapter 4, Section 18-409 of the Municipal Code relating to the Stormwater User Fee. The motion was seconded by Councilman May. Upon roll call, Councilman Webb, Councilman May, Councilman Hughes, Vice Mayor Johnson, Councilwoman McKenzie and Councilman Estes voted aye. Councilman Cassada voted no. The motion passes 6:1.

Councilman Estes moved that Ordinance 2022-24 be voted for passage on final reading; heretofore passed on first reading June 13, 2022 and found in Minute Book 30, Page 731; Adopting the FY2023 Budget. The motion was seconded by Councilman May. Upon roll call, Councilman Estes, Councilman May, Councilman Hughes, Councilman Webb, Vice Mayor Johnson and Councilwoman McKenzie voted aye. Councilman Cassada voted no. The motion passes 6:1.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Hughes stated it was good to be back after missing three meetings. He then shared his story of a heart attack on May 10 in case someone experiences the same shortness of breath.

Councilman Webb welcomed Councilman Hughes back.

Vice Mayor Johnson welcomed Councilman Hughes back and prayers work.

Councilwoman McKenzie welcomed Councilman Hughes back.

Councilman Estes welcomed Councilman Hughes back as well.

Councilman May welcomed Councilman Hughes back. He then asked about the construction issues at Spring Creek. Mr. Jobe stated we are making headway.

NEW BUSINESS AND ORDINANCES

The following memo was then presented in full:

TO: **Mayor and City Council**
FROM: **David Sheely, PE**
DATE: **June 22, 2022**
RE: **Inman Street Road Diet Project Signalization Upgrades**

SUMMARY:
Currently, our signalization equipment along Inman Street does not have the capacity or meet the requirements in terms of features needed to adequately facilitate the functionally of the proposed Road Diet as proposed to and approved by TDOT. As part of the Inman Street Road Diet Project, various traffic infrastructure items must be upgraded. Staff seeks authorization from the council for Cleveland Utilities and the City of Cleveland Public Works to purchase new ATC traffic cabinets (with associated internal hardware), video detection hardware, battery backups, pedestrian poles, APS pedestrian equipment, mast arm strain poles and other equipment as needed for the following intersections:

- **Inman @ Broad**
- **Inman @ Ocoee**
- **Inman @ Church**
- **Inman @ Parker**
- **Inman @ Edwards**
- **Inman @ Linden**
- **Inman @ Wildwood**

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
No fiscal impact to the City.

RECOMMENDATION:
City staff recommends approval.

Councilman May moved that the memo concerning the Inman Street Road Diet Project Signalization Upgrades be approved and Cleveland Utilities to move forward with starting the bid process. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following memo was then presented in full:

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **June 27, 2022**
RE: **Truck Signage for Stuart Avenue**

SUMMARY:
City staff has received complaints about the possibility of increased commercial vehicles on Stuart Avenue from 20th Street to 14th Street. Recently, the City has replaced a culvert on this street and we are concerned about any truck traffic on this street. City staff recommends to post 'No Trucks Allowed' on this street. This would still allow exceptions for school buses, emergency vehicles, garbage trucks, commercial vehicles with less than 3 axles, and City-owned street construction vehicles.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City Staff recommends to the City Council approval for City staff erect 'No Trucks Allowed' signs on Stuart Avenue from 20th Street to 14th Street.

Councilman May moved the memo concerning truck signage for Stuart Avenue be approved as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- City Offices will be closed on Monday, July 4 in observance of Independence Day.
- The next City Council meeting will be held on Monday, July 11, 2022.

There being no future business the meeting was adjourned at 3:19 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
JULY 11, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JULY 11, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen David May, Tom Cassada, Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Councilman Bill Estes was absent from the meeting. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Corey Divel, Assistant to the City Manager; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Doug Berry with the Chamber of Commerce; Tony and Joyce Stapek; Cathy Andrews, CDBG Coordinator; Jerry Bohannon; Ed Lay; Paul Dillinger; Sharon Marr with Mainstreet Cleveland; Alex Staup; Dustin Tommey; Rufus Triplett and Tim Siniard 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 June 27, 2022 and approve them as amended [amendment requested by Councilman Cassada]. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Danny Britt, who lives in the Chestnut Grove Subdivision which is north of Old Powerline Ln NE stated he is not opposed to the development but is concerned about the condition of the roads. With the three proposed new large developments in the area and the current traffic on Minnis Rd and Michigan Ave it is a dangerous situation. He has not seen or heard of any plans to improve the area. Councilman May responded we are in the process of design work on Michigan Ave and the intersection at 20th Street and hopefully soon we will have construction. He then asked Mr. Fivas for a timetable. Mr. Fivas stated we have proposed a project to widen and redo the intersection at 20th and Michigan Avenue to the Minnis Road intersection. Also, the hill there will be taken down to help with the site issues. Our current goal right, we have acquired some needed right-of-way on Minnis and currently engineering the stormwater design. We hope to have a full set of plans in September. We will then bid the project and our hope would be to begin construction next spring-early summer. Councilman May stated he and the Council agrees work needs to be done in the area.

Barbara Thompson, who also lives in the Chestnut Grove Subdivision stated the concern she hears from neighbors is no one seems to know exactly going to be developed. It is a heavily congested road and residents would like to know the plan for the property. Mayor Brooks stated during the public hearing we should hear additional information. Ms. Thompson stated any additional information would be welcomed. Mr. Fivas stated this is single family housing and the lots are 40-foot lots. During the public hearing, Ben Berry can give additional details and answer questions.

Chris Townsend, with Brighthouse Properties addressed the Council concerning two items (items H and I) under Hearing Petitions and Communications. To the best of his knowledge, during the Planning Commission process, proper public notice was not given. Regarding specifically the billboard placement and adjustments to the sign ordinance. It is most likely due to no one from the outdoor advertising community showed up to the Planning Commission or the City Council to discuss the proposed changes. In his opinion, being in the industry, we have an effort to change a billboard ordinance with a very broad brush and there are several new technologies since the billboard and sign ordinances were written and adopted, that could greatly improve the sign ordinance. He requested that the ordinances be sent back to the Planning Commission for a proper

public hearing and addressed from that point forward. Councilman Cassada stated he read through the proposed billboard ordinance amendment, and it was a little confusing about billboards in PUD's. He then asked for clarification if billboards were allowed in a PUD zoning or not. He feels offering exceptions could be misconstrued depending on who the person is, if we allow or not. Mayor Brooks stated item h concerning the billboard, the ordinance has been pulled from the agenda. We will still hold the public hearing since it was advertised. Mr. Townsend stated his request is the process be started over so that Planning Commission can have feedback from billboard operators. There are at least eight independent local operators and two large operators. The city has had no dialog with operators. Mr. Fivas asked if that was the process concern, that we haven't talked with the billboard industry. Mr. Townsend stated the process concern is proper public notice was not given so people were aware of the proposed changes to the sign ordinance. Mr. Fivas asked what specifically about the notice was not followed. Mr. Townsend replied there was no summary of changes, as required by TCA. This was for the Planning Commission and the first public hearing before the Council, it lacked the information as well. Mr. Fivas stated we probably disagree about that point but in order to have a further conversation we are not saying it is correct or not. We will hold off on the billboard amendment today but move forward with the other amendment regarding the definition of nightclubs. Mr. Townsend stated if he is understanding currently, you are open to sending the entire topic back to the Planning Commission for discussion. Mr. Fivas stated we can discuss our options, to remedy the concerns, but today we will hold off. Mr. Townsend thanked Mr. Fivas and again asked the City Council to send the ordinance back to the Planning Commission.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 4.42 acres, more or less, from CG to IL for property located on Michigan Avenue Road (also described as Tax Map 043 Parcel 036.01). Robert Varnell, Planning Director reported there is an existing buffer to the east, which will not be removed. There will be enhanced buffering along the south and north of the property, fence and landscaping. Staff supports the proposed use of property, as an RV storage/rental space. TVA has given permission for what the applicant proposes, and staff supports this as it is the highest and best use of the property, as the lot is unbuildable. We are still awaiting the site plan. The fencing will be a fully screen type fencing and will fit into the area nicely. The Planning Commission did approve this request 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the rezoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning. No one spoke. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning approval of Plan of Service for about 31.73 acres, more or less, from the unincorporated County for property located on Old Powerline Lane (also described as Tax Map 058 Parcels 024.05 and 025.02). Robert Varnell, Planning Director reported the total development site is 54 acres. The proposed development and site plan shows a total of 124 lots, all single family detached homes. They will have open space set aside for flood relating issues. There will be two access points, due to the open space. The Planning Commission did approve this request 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the rezoning. Ben Berry with Berry Engineering stated one the south side will be 28 homes on a cul-de-sac that will access Old Powerline. At the intersection of Old Powerline and Minnis Road, the existing home will be renovated to sell. There will be 90 lots that access onto Minnis Road. In the PUD, there will be sidewalks, buffers, and open spaces. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning. Danny Britt stated he is not speaking in opposition, just wondering if the open space is in perpetuity. It is a nice feature. Mr. Varnell replied yes, it will be deed restricted as preserved open space. Ms. Thompson expressed her concerns about traffic [comments were inaudible]. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to annex about 31.73 acres, more or less, from the unincorporated County for property located on Old Powerline Lane (also described as Tax Map 058 Parcels 024.05 and 025.02). Robert Varnell, Planning Director had no additional comments. The Planning Commission did approve this request 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the annexation. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the annexation. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 54.67 acres, more or less, from R1 and the unincorporated County to PUD41 for property located on Minnis Road and Old Powerline Lane (also described as Tax Map 058 Parcels 24.00, 024.05, and 025.02) (Planning Commission: Approved 7-0; 2 members absent). Mayor Brooks asked if anyone would like to speak in favor of the zoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the zoning. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning approval of Plan of Service for about 2.08 acres, more or less, from the unincorporated County for property located on Frontage Rd. (also described as Tax Map 033 Parcels 008.01). Robert Varnell, Planning Director stated this annexation is for the back portion of the property that is already inside the city. The City is requiring that the 50' buffer next to Benjamin Crest subdivision be preserved. The developer has agreed. The Planning Commission did approve this request 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the Plan of Service. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the Plan of Service. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to annex about 2.08 acres, more or less, from the unincorporated County for property located on Frontage Rd (also described as Tax Map 033 Parcels 008.01). Robert Varnell, Planning Director had no additional comments. The Planning Commission did approve this request 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the annexation. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the annexation. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 2.08 acres, more or less, from the unincorporated County to CG General Commercial for property located on Frontage Rd. (also described as Tax Map 033 Parcels 008.01) (Planning Commission: Approved 7-0; 2 members absent). Mayor Brooks asked if anyone would like to speak in favor of the zoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the zoning. No one spoke. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments to amend an ordinance of the City of Cleveland, Tennessee, providing that the Cleveland Municipal Code, Title 14, Chapter 2 Zoning Regulations, by revising sections 5.6, subsections 5.6.1, 5.6.2, and 5.6.3 as to amend the regulations of regulating Billboard Placement and distance requirements (Planning Commission: Approved 9-0). Mayor Brooks asked if anyone would like to speak in favor of the amendment. Ben Berry stated PUD is a zoning district but each one is individual, so each one has different rules. The language presented to the Planning Commission was billboards are not allowed in PUD unless otherwise stated. Councilman Cassada stated he would like additional clarity. Mr. Kimball stated they are not allowed currently, unless the ordinance specifically allows them. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. Chris Townsend stated he is in opposition to the changes for several reasons but most notably because to the best of his knowledge no operators were contacted, had no input, or influence to the sign ordinance changes. Also, to the

best of his knowledge no input from the public was suggested that these ordinance changes are needed or are in the best interest of the public. He asked the Council to remove the item from the agenda and to allow it to go back to the Planning Commission with proper public notice and to the City Council, with proper public hearing notice. Mayor Brooks then declared the public hearing to be closed. Mayor Brooks reminded there would be no vote today on the Ordinance.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend The Cleveland Municipal Code, Title 14, Chapter 2 Zoning Regulations, by revising sections 1.6 Definitions and 2.11.1 Conditional Uses so as to define nightclubs and designate them as conditional uses within the CH Commercial Highway Zoning District (Planning Commission: Approved 9-0). Robert Varnell, Planning Director stated staff is finding things not defined in the zoning ordinance. Based on the type of use, it needs to be defined and regulated as we grow as a city. Councilman Cassada inquired about the language later than normal operating hours. What is the definition or meaning? Mr. Varnell stated after the noise ordinance takes effect at 10 p.m. Councilman Cassada asked if that could be included to be cut and dry. Mr. Kimball replied this is to designate them as a conditional use and to restrict their locations. Being a conditional use, the BZA will look at the conditions and any unique circumstances. This provides clarity, so staff has eyes on these types of establishments. Mayor Brooks asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend an ordinance of the City of Cleveland, Tennessee, providing that the Cleveland Municipal Code, Title 14, Section 2 Zoning Regulations, by revising sections 2.10.1 "A" allowed uses and 2.11.1 "A" allowed uses so as to remove residential uses from CG General Commercial and CH Highway Commercial Districts (Planning Commission: Approved 6-1; 2 members absent). Robert Varnell, Planning Director stated currently in commercial zoning allows R3 by right, which means any residential structure can go into commercial zone. Staff intent with this amendment is to give the Council and the Planning Commission to look at the zones independently. Mayor Brooks asked if anyone would like to speak in favor of the amendment. Ben Berry stated long term this makes sense, to be able to distinguish between zones. He suggested staff figure which projects will be grandfathered in or delay this between readings, to give the developers time to contact the city. He is aware of several projects this could affect. This is a big change. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend an ordinance of the City of Cleveland, Tennessee, providing that the Cleveland Municipal Code, Title 14, Section 1 Zoning Regulations, by revising section 1.6 definitions so as to define and regulate retaining walls and swimming pool locations (Planning Commission: Approved 7-0; 2 members absent). Robert Varnell, Planning Director stated this was a request from the Building Department due to situations they have seen in the field. This will require certain setbacks and safety requirements with this change. Councilman Cassada asked if there are any pools in the city that do not have fences. Mr. Varnell replied he is not sure, but possibly. That would be a building code issues and to get a permit, it requires a fence. Mayor Brooks asked if anyone would like to speak in favor of the amendment. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend an ordinance of the City of Cleveland, Tennessee, providing that the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3 Zoning Regulations, by revising section 3.1.A Table 2 so as to amend the RA Residential Agriculture minimum lot area and required road frontage (Planning Commission: Approved 7-0; 2 members absent). Robert Varnell, Planning Director stated staff feels when you have an agriculture use in place, more square footage is required. Therefore, we would like

update this to a minimum of 1 acre. Mayor Brooks asked if anyone would like to speak in favor of the amendment. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing be closed.

CONSENT AGENDA

Councilman May moved to approve the following items from the Consent Agenda. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

- **Resolution 2022-57 –** Authorizing the Mayor to sign a Software and Service Agreement with DataDriven to continue to receive computer software licensing and support for the Cleveland Police Department.

RESOLUTION 2022-57

WHEREAS, the City Council has considered the attached License Agreement with DataDriven, LLC under which the City will continue to receive a computer software license to be utilized by the Cleveland Police Department in connection with the issuance of electronic citations; and

WHEREAS, the City Council desires to enter into the attached License Agreement with DataDriven, LLC, 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 License Agreement with DataDriven, LLC, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 11th day of July, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-58** – Authorizing the Mayor to sign an agreement with Lee University for traffic calming on Parker Street NE between 11th Street NE and Central Avenue.

RESOLUTION 2022-58

WHEREAS, City representatives have been in discussions with representatives of Lee University about a plan to provide safety improvements and traffic calming on 13th Street NE between Paul Conn Parkway NE and Peoples Street; and

WHEREAS, Lee University will provide the City Council and City staff with a preliminary conceptual plan between 13th Street NE between Paul Conn Parkway NE and Peoples Street; and

WHEREAS, Lee University will submit proposed construction documents to the City's development and engineering staff for this project; and

WHEREAS, upon receipt of the preliminary conceptual plan and the proposed construction documents from Lee University, City development and engineering staff shall review the preliminary conceptual plan and the proposed construction documents and provide notes and comments which shall be incorporated in the approved final plan for said project; and

WHEREAS, the City Council now desires to approve of the attached agreement between Lee University and the City of Cleveland relating to this project.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves of the attached agreement with Lee University for this project, and the Council hereby authorizes the Mayor sign the Agreement on behalf of the City.

Approved this 11th day of July 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-63** – Authorizing the Cleveland Housing Authority to negotiate and accept a payment-in-lieu-of-taxes (PILOT) with respect to the low-income housing development known as Cleveland Forward in the City.

RESOLUTION 2022-63

A RESOLUTION CONSENTING TO THE CLEVELAND HOUSING AUTHORITY NEGOTIATING AND ACCEPTING PAYMENTS IN LIEU OF AD VALOREM TAX WITH RESPECT TO A CERTAIN PROJECT IN CLEVELAND, BRADLEY COUNTY, TENNESSEE, AND FINDING THAT SUCH PAYMENTS ARE DEEMED TO BE IN FURTHERANCE OF THE PUBLIC PURPOSES OF THE CLEVELAND HOUSING AUTHORITY AS DEFINED IN TENNESSEE CODE ANNOTATED SECTION 13-20-104(f)(2).

WHEREAS, the City Council (the "Governing Body") of Cleveland, Tennessee (the "City") has met pursuant to proper notice; and

WHEREAS, the City has previously authorized the incorporation of the Cleveland Housing Authority (the "Authority"), as a housing and redevelopment authority of the City of Cleveland, Tennessee organized under the Tennessee Housing Authorities Law, Tenn. Code Ann.§§ 13-20-101, et seq.; and

WHEREAS, to further the rehabilitation of an approximately 293 unit low-income housing development known as Cleveland Forward in the City (the "Project") and to utilize low-income housing tax credits ("LIHTC") available pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, for said Property, the Authority desires to lease the Project to Cleveland Forward Phase One, LLC and/or Cleveland Forward Phase Two, LLC (collectively, the "Lessees"), the managing members of which are instrumentalities of the Authority; and

WHEREAS, there has been submitted to the Governing Body forms of such leases that the Authority proposes to execute to carry out the transaction described above (the "Leases"), copies of which Leases shall be filed with the records of the Governing Body and pursuant to which the Lessees will make payments in lieu of taxes with respect to the Project equal to the amounts set forth in that certain Amended and Restated Cooperation Agreement dated January 11, 2021 between the Authority and the City;

WHEREAS, Tenn. Code Ann. § 13-20-104(f)(2) authorizes the City to delegate to the Authority the authority to negotiate and accept from the lessees of the Authority payments in lieu of ad valorem tax for LIHTC properties upon the finding that such payments are deemed to be in furtherance of the public purposes of the Authority.

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

1. The Governing Body hereby finds that the negotiation and acceptance by the Authority of payments in lieu of ad valorem taxes consistent with this resolution are deemed to be in furtherance of the public purposes of the Authority as set forth in Tenn. Code Ann. § 13-20-104(f)(2), and the Governing Body hereby consents and delegates to the Authority the right to negotiate and accept such payments from the Lessees.

2. The Governing Body hereby approves the Leases for purposes of Tenn. Code Ann. § 13-20-104(f)(2). The Leases shall be in substantially the forms submitted, with such completions, omissions, insertions and changes (that are not inconsistent with this resolution) as the Authority deems appropriate.

3. All other resolutions and orders, or parts thereof, in conflict with the provisions of this resolution are, to the extent of such conflict, hereby repealed, and this resolution shall be in immediate effect from and after its adoption.

Adopted this the 11th day of July, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-64** – Authorizing participation in the Public Entities Partners Safety Partners matching grant program.

RESOLUTION 2022-64

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PARTICIPATE IN THE PUBLIC ENTITY PARTNERS "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, Public Entity Partners 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, the Mayor is hereby authorized to submit an application for a "Safety Partners" Matching Grant program through the Public Entity Partners;

BE IT FURTHER RESOLVED the City of Cleveland agrees to provide a matching sum of $4,000 to serve as a 50% match for any monies provided by this grant.
Adopted this 11th day of July 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Reappointment -** *Library Board* – Amy Moore for an additional 3-year term to expire June 2025.
- **Appointment** - *Library Board* – Rebecca McIntire for a 3-year term to expire June 2025
- **Appointment** - *Library Board* – Cheryl Dunson for a 3-year term to expire June 2025.
- **Reappointment** - *Health Education Board and Industrial Bond Board* – Lee Stewart for an additional 6-year term to expire July, 2028.
- **Reappointment –** *Health Education Board and Industrial Bond Board* – Rufus Triplett for an additional 6-year term to expire July, 2028.
- **Reappointment –** *Health Education Board and Industrial Bond Board* – Scott Taylor for an additional 6-year term to expire July, 2028.
- **Reappointment –** *Utility Board* – Joe Cate for an additional 4-year term to expire July 2026.
- **Surplus Property** – Declaring several filing cabinets as surplus and to be donated or disposed.
- **Motion** – Adjusting the Crime Scene Technician position level on the pay plan schedule.

Councilman Estes entered the meeting at 3:58.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Webb recognized First Cumberland Church. Their improvements, particularly the newly installed Cross is a great addition to downtown. Mayor Brooks stated he concurs. It is well suited for the property.

Vice Mayor Johnson asked about the Central/Gaut sidewalk project. Mr. Jobe stated we have been asked by TDOT to resubmit the plans and we are waiting for a notice to proceed. Hopefully we will receive it in the next thirty days. Vice Mayor Johnson then inquired about Adkisson Drive. Mr. Fivas stated the engineers are working on the design. The first phase is building the sidewalk from where the roundabout will be to the edge of campus. Second, is sidewalk from there to Paul Huff. The third phase is with TDOT for the roundabout and pave the entire roadway. He anticipates in the next couple of months we will have engineering designs for phase one and more than likely, it will begin in the fall. The state will pay for the paving and the roundabout. Vice Mayor Johnson asked Mr. Fivas to speak with the residents of 3530 Adkisson Drive about the upcoming project.

Councilwoman McKenzie stated she received a call from a resident requesting a sign at the intersection of Teakwood Court SW and Sunhill Road SW for a Slow/School Bus Stop sign. Secondly, she has received a call concerning 1003 Gary Street, heavy traffic and speeding. She asked if it was possible for additional traffic patrol and signage in the area.

Councilman Estes thanked Vice Mayor Johnson for brining up Gaut Street sidewalk project. It was on his list. Secondly, he wished his colleagues had heard the Bradley County Road Subcommittee who sang our praises. Corey Divel and Joe Fivas were present at the meeting. The subcommittee gave some specific examples of when the city has helped them and the city was represented very well. Lastly, he thanked Beverley Lindsey for her work organizing the Blythe-to-Blythe celebration this morning.

Councilman Cassada asked for an update on Jim Sharp Park. Ms. Petitt stated the contract is currently under the TDEC review phase. It should take approximately 60 days and then it will move into the design phase. Councilman Cassada asked if the park could be open by next fall. Mr. Fivas stated it is possible if the State cooperates. The construction timelines and any delay in materials could push things out but staff will work as fast as possible. Councilman Cassada then asked if the City is leasing the property at 70 Inman Street to the current tenants. Mr. Fivas stated yes, month-to-month. Councilman Cassada asked if there was a plan to cleanup the site. Mr. Fivas stated yes, a letter was sent last week which instructed the tenants to clean the site. We have expressed we would like them out in the next several months. They are a business of the city, and we want them to relocate to another site. They have been told they have some cars that need to be removed, specifically the trailer, immediately. Councilman Cassada asked if we know what the use for the property will be. Mr. Fivas stated we are still having conversations with the two bidders, and it will depend on what they would like to do. Councilman Cassada asked if the State had been contacted about the tanks and ground cleanup. Mr. Fivas replied our goal is to give the property as is and let someone else worry about any issues. Councilman Cassada stated it is no cost to the residents if the State cleans the site with federal money. It is good for the environment to clean up the site. He then asked Mr. Fivas to reach out to the State concerning the property. Mr. Fivas stated yes however we don't know if there is an issue. Councilman Cassada stated if not, then we have the peace of mind knowing it doesn't. Lastly, he ask about the Raider Drive building. Mr. Fivas stated we are waiting for the documents to be signed by the owner. Mayor Brooks added there are ongoing conversations about the property.

Councilman May stated he understands the section of the 20th Street sidewalk from Church to Ocoee Street wasn't in the contract and will be done locally. Mr. Fivas stated yes. Councilman May stated next, the design work on Michigan Avenue Road, we are not doing it in house, correct? Mr. Fivas replied absolutely not. We have the capacity but eliminating that hump there is some intricacies on the stormwater and elevation that has to be just right. We will put out a request for qualifications for an engineering firm to bring onboard for design work.

Councilman Hughes inquired about the overgrown creek bed at 25th/Keith Street intersection and if staff could clean up the area. Mr. Fivas stated that is a state right-of-way, but will ask staff to take care of what we can immediately. Councilman Hughes stated on a personal note, he had discussed having surgery. He appreciates the article Tim Siniard wrote but something was missing. In this Chamber, Vice Mayor Johnson had prayer and asked for a successful operation. He believes in healing. The one who made us, can repair us. He failed to mention it for the article, but he does believe in healing. He had an opportunity to share with people and he didn't take advantage of it.

Mayor Brooks stated he echoes Councilman Hughes' comments as yesterday was his two-year anniversary of walking out of Tennova after being healed and restored from his covid battle. He then congratulated and thanked Chief Gaylor for the amazing new recruitment ceremony, with Councilmen Estes and Webb also attended, to welcome the new nine firefighter recruits to the Cleveland Fire Department. It was a professional, well-done ceremony.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

- **Zoning Ordinance 2022-25** – Rezoning 4.42 acres, more or less, from CG to IL for property located on Michigan Avenue Road (also described as Tax Map 043 Parcel 036.01) (Planning Commission: Approved 7-0; 2 members absent).

ZONING ORDINANCE 2022-25

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the portion of property described herein be, and the same is hereby, re-zoned from CG General Commercial District to IL Light Industrial.

Approximately 4.42 acres, more or less, located at 3686 Michigan Avenue Road as shown on the attached map.

For reference, same property is being shown on Tax Map 043 Parcel 036.01, 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Vice Mayor Johnson moved that Zoning Ordinance 2022-25 be approved 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 2022-59** – Approving a Plan of Service for about 31.73 acres, more or less, from the unincorporated County for property located on Old Powerline Lane (also described as Tax Map 058 Parcels 024.05 and 025.02) (Planning Commission: Approved 7-0; 2 members absent).

RESOLUTION 2022-59

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

PUD-41 MINNIS_OLD POWERLINE

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 11, 2022, 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 Lot 1 Minnis Rd Fire station Plat, as recorded in BCROD plat book 31 page 62; thence with the southern line of tract one of B&J Properties, as recorded in BCROD deed book 2776 page 316, north 66 degrees 3 minutes 13 seconds west, 400.58 feet to an iron pin, said pin being located in the eastern line of tract three of the lands of B&J Properties; thence with the eastern line of tract three of the lands of B&J Properties in s southwesterly direction 235 feet, more or less, to the southeast corner of tract three of B&J Properties, said point also being a corner of the existing City Limits; thence with the existing City Limits and the southern line of tract three of B&J Properties in a northwesterly direction 655 feet, more or less, to the southwest corner of tract three of the lands of B&J Properties; thence with the western line of tract three of the lands of B&J Properties in a northeasterly direction 1300 feet, more or less, to the northwest corner of tract three of the lands of B&J Properties, said point being located in the southern right of way of Old Powerline Road; thence with the southern right of way of Old Powerline Road and the northern line of tract three of B&J Properties in a southeasterly direction 645 feet, more or less, to the northeast corner of tract three of B&J Properties, said point also being the northwest corner of tract one of B&J Properties; thence with and along the borders of tract one of B&J Properties south 65 degrees 40 minutes 42 seconds 608.23 feet to the corner of the western right of way of Minnis Road and Old Powerline Road; thence along said western right of way along a curve to the right Arc Length=128.52 feet, Radius=1424.66 feet, Chord Bearing= south 26 degrees 34 minutes 18 seconds west, Chord Distance=128.48 feet to a point in said western right of way; thence south 29 degrees 9 minutes 22 seconds west, 229.47 feet to a point; thence continuing with the right of way along a curve to the left Arc Length 413.17 feet, Radius=924.23 feet, Chord Bearing= south 24 degrees 43 minutes 7 seconds west, Chord Distance= 143.02 feet to an iron pin; thence along the northern line of Lot 1 Minnis Road Fire Station, north 68 degrees 3 minutes 13 seconds west, 221.77 feet to an iron pin; thence south 18 degrees 43 minutes 31 seconds west, 490 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

JUNE 21, 2022
MINNIS RD_OLD POWERLINE LN-B&J PROPERTIES LP
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 54.67 acres located on Minnis Rd. and Old Power Line Ln. 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 2022.

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

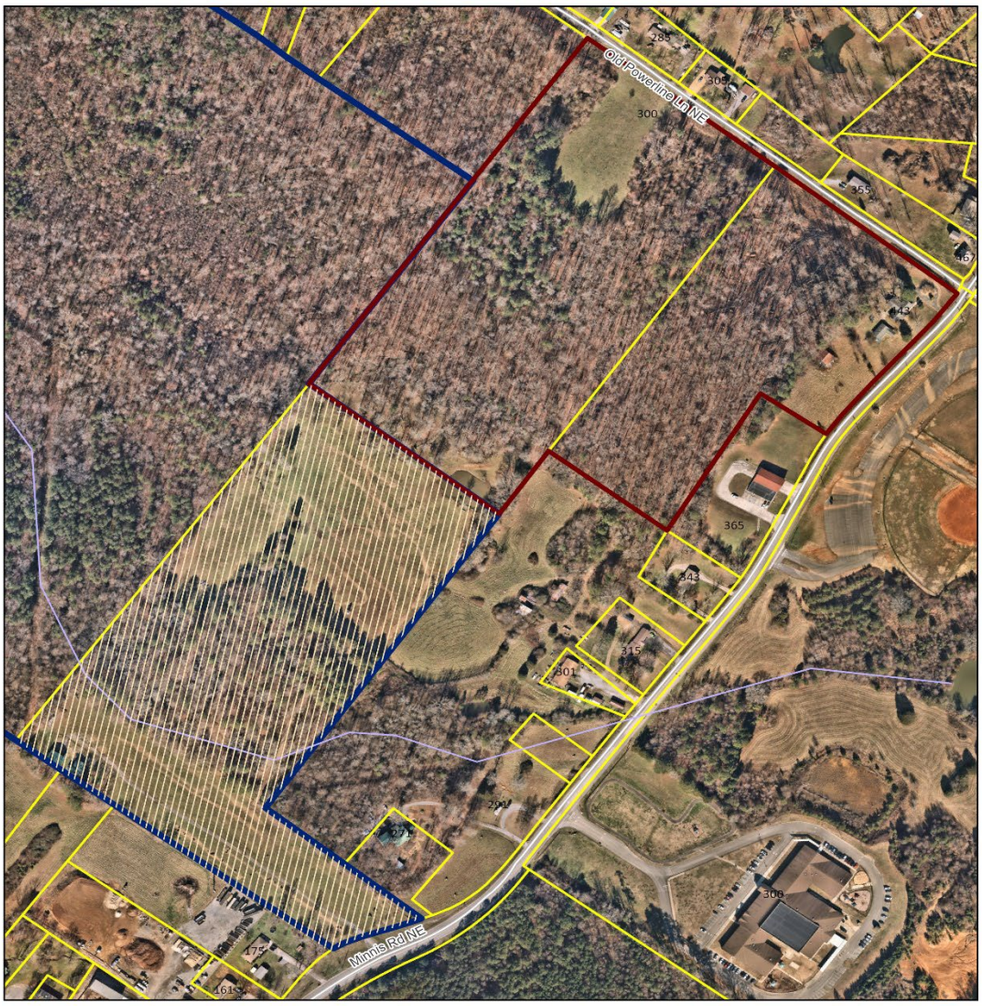
Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service 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 property consists of multiple parcels which are contiguous with the existing limits of the City of Cleveland within the area of Minnis Road and Old Powerline Lane. The annexation would zone the property as a Planned Unit Development with approximately 124 detached single family residential

dwelling units. The property is described as of Tax Map 058 Parcels 024.00, 024.05, and 025.02.

MINNIS RD_OLD POWERLINE LN
MAP



Legend

Proposed Annexation

Current City Limits

Legal Description

Beginning at an iron pin located at the southwest corner of Lot 1 Minnis Rd Fire station Plat, as recorded in BCROD plat book 31 page 62; thence with the southern line of tract one of B&J Properties, as recorded in BCROD deed book 2776 page 316, north 66 degrees 3 minutes 13 seconds west, 400.58 feet to an iron pin, said pin being located in the eastern line of tract three of the lands of B&J Properties; thence with the eastern line of tract three of the lands of B&J Properties in s southwesterly direction 235 feet, more or less, to the southeast corner of tract three of B&J Properties, said point also being a corner of the existing City Limits; thence with the existing City Limits and the southern line of tract three of B&J Properties in a northwesterly direction 655 feet, more or less, to the southwest corner of tract three of the lands of B&J Properties; thence with the western line of tract three of the lands of B&J Properties in a northeasterly direction 1300 feet, more or less, to the northwest corner of tract

three of the lands of B&J Properties, said point being located in the southern right of way of Old Powerline Road; thence with the southern right of way of Old Powerline Road and the northern line of tract three of B&J Properties in a southeasterly direction 645 feet, more or less, to the northeast corner of tract three of B&J Properties, said point also being the northwest corner of tract one of B&J Properties; thence with and along the borders of tract one of B&J Properties south 65 degrees 40 minutes 42 seconds 608.23 feet to the corner of the western right of way of Minnis Road and Old Powerline Road; thence along said western right of way along a curve to the right Arc Length=128.52 feet, Radius=1424.66 feet, Chord Bearing= south 26 degrees 34 minutes 18 seconds west, Chord Distance=128.48 feet to a point in said western right of way; thence south 29 degrees 9 minutes 22 seconds west, 229.47 feet to a point; thence continuing with the right of way along a curve to the left Arc Length 413.17 feet, Radius=924.23 feet, Chord Bearing= south 24 degrees 43 minutes 7 seconds west, Chord Distance= 143.02 feet to an iron pin; thence along the northern line of Lot 1 Minnis Road Fire Station, north 68 degrees 3 minutes 13 seconds west, 221.77 feet to an iron pin; thence south 18 degrees 43 minutes 31 seconds west, 490 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**
   The Cleveland Fire Department can provide services to this area with very little impact using existing Station 3 as the first due company.

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

A. Domestic Water--- Domestic water service is presently available to these parcels. See Figure 1.

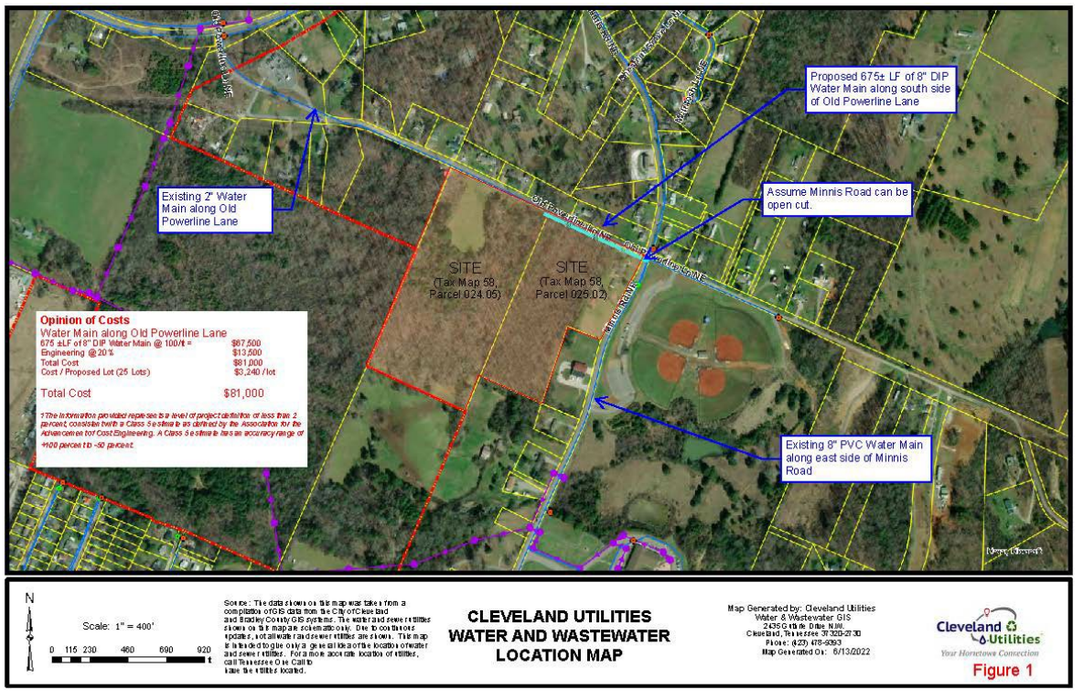
B. Sanitary Sewer--- Sewer service is presently not available to these tax parcels. See Figure 2. To serve these tax parcels, two gravity sewer mains are needed.

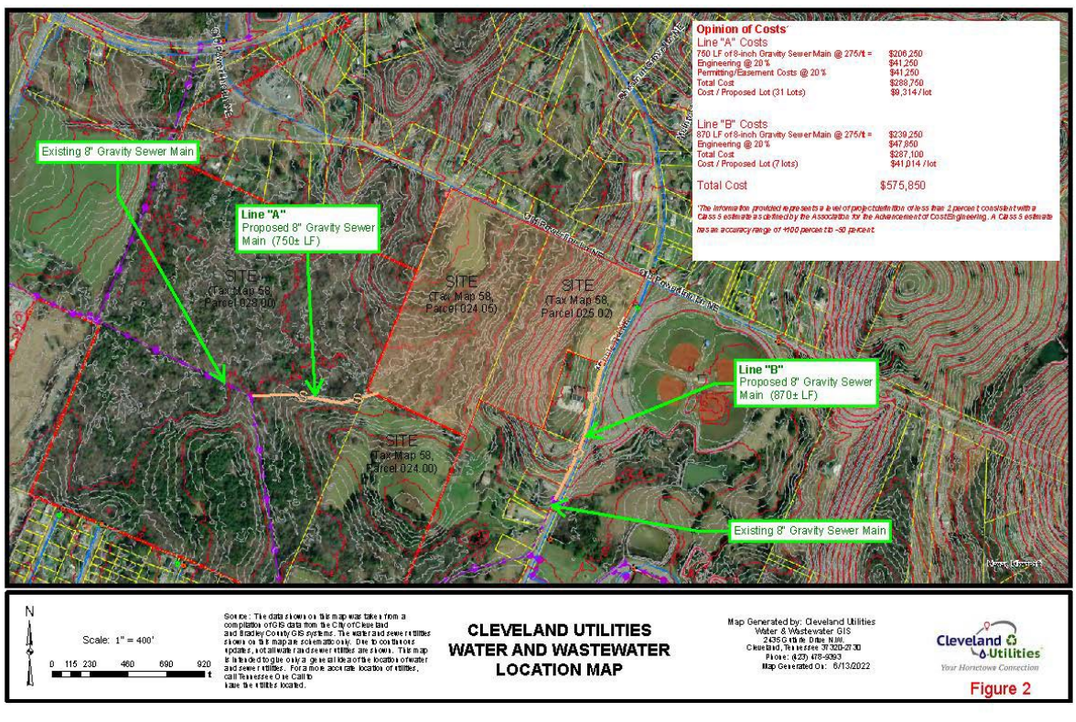
a. Line "A" would include approximately 750 linear feet of 8" gravity sewer main to serve the proposed 26 lots depicted off Old Powerline Lane and approximately 5 lots accessed from the south from Tax Parcel 058 024.00 (See Conceptual Site Layout Plan, Sheet #SP-1, prepared by Berry Engineer's LLC). Line "A" would traverse a currently planned development (Tax Parcel 058 028.00). The exact route, easement costs, permitting constraints are unknown. To construct Line "A", it is estimated to cost $288,750 and can be completed within 8 years.
b. Line "B" would include approximately 870 linear feet of 8" gravity sewer main along Minnis Road to serve the proposed 6 lots and existing house for total of 7 residences. See Conceptual Site Layout Plan, Sheet #SP-1, prepared by Berry Engineer's LLC).

To construct Line "B", it is estimated to cost $287,100 and can be completed within 8 years.
Total cost for sewer mains is $575,850 ($288,750 + $287,100)

C. Fire Protection--- The Tax Parcel 058 024.05 does not have fire protection. To have fire protection, approximately 675 LF of 8" DIP water main is needed from the intersection of Old Powerline Lane and Minnis Road west to the northeast corner of the Tax Parcel. To construct the water main, it is estimated to cost $81,000 and can be completed in 8 years.

SUMMARY OF COSTS				
Location	**Domestic Water**	**Sanitary Sewer**	**Fire Protection**	**Total**
Minnis Road @ Powerline Road, Tax Parcels 58 024.05 & 58 025.02	$0	$575,850	$81,000	$656,850
1The information provided represents a level of project definition of less than 2 percent, consistent with a Class 5 estimate as defined by the Association for the Advancement of Cost Engineering. A Class 5 estimate has an accuracy range of +100 percent to -50 percent.				





4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

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

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

It is estimated the Minnis Rd Old Powerline Ln. annexation would cost the city $45,900 per year and add 47 students to enrollment.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 2,438 residents to the 1st City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue

With approximately 124 homes developed on the site with an estimated value of $250,000 each, property tax revenue would increase to approximately **$136,786.88.**

With an estimated 310 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$35,882.50.**

The annual stormwater fee for all homes on this site is estimated at **$4,836**.

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$177,505.38.**

Councilman Estes moved that Resolution 2022-59 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-60** – Annexing about 31.73 acres, more or less, from the unincorporated County for property located on Old Powerline Lane (also described as Tax Map 058 Parcels 024.05 and 025.02) (Planning Commission: Approved 7-0; 2 members absent).

RESOLUTION 2022-60

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

PUD 41 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 April 11, 2022.

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 Lot 1 Minnis Rd Fire station Plat, as recorded in BCROD plat book 31 page 62; thence with the southern line of tract one of B&J Properties, as recorded in BCROD deed book 2776 page 316, north 66 degrees 3 minutes 13 seconds west, 400.58 feet to an iron pin, said pin being located in the eastern line of tract three of the lands of B&J Properties; thence with the eastern line of tract three of the lands of B&J Properties in s southwesterly direction 235 feet, more or less, to the southeast corner of tract three of B&J Properties, said point also being a corner of the existing City Limits; thence with the existing City Limits and the southern line of tract three of B&J Properties in a northwesterly direction 655 feet, more or less, to the southwest corner of tract three of the lands of B&J Properties; thence with the western line of tract three of the lands of B&J Properties in a northeasterly direction 1300 feet, more or less, to the northwest corner of tract three of the lands of B&J Properties, said point being located in the southern right of way of Old Powerline Road; thence with the southern right of way of Old Powerline Road and the northern line of tract three of B&J Properties in a southeasterly direction 645 feet, more or less, to the northeast corner of tract three of B&J Properties, said point also being the northwest corner of tract one of B&J Properties; thence with and along the borders of tract one of B&J Properties south 65 degrees 40 minutes 42 seconds 608.23 feet to the corner of the western right of way of Minnis Road and Old Powerline Road; thence along said western right of way along a curve to the right Arc Length=128.52 feet, Radius=1424.66 feet, Chord Bearing= south 26 degrees 34 minutes 18 seconds west, Chord Distance=128.48 feet to a point in said western right of way; thence south 29 degrees 9 minutes 22 seconds west, 229.47 feet to a point; thence continuing with the right of way along a curve to the left Arc Length 413.17 feet, Radius=924.23 feet, Chord Bearing= south 24 degrees 43 minutes 7 seconds west, Chord Distance= 143.02 feet to an iron pin; thence along the northern line of Lot 1 Minnis Road Fire Station, north 68 degrees 3 minutes 13 seconds west, 221.77 feet to an iron pin; thence south 18 degrees 43 minutes 31 seconds west, 490 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 for the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2022-60 be accepted as presented. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance 2022-26** – Zoning 54.67 acres, more or less, from R1 and the unincorporated County to PUD41 for property located on Minnis Road and Old Powerline Lane (also described as Tax Map 058 Parcels 24.00, 024.05, and 025.02) (Planning Commission: Approved 7-0; 2 members absent).

ZONING ORDINANCE 2022-26

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 MINNIS_OLD POWERLINE "PUD 41" ON PROPERTY DESCRIBED AS TAX MAP 058 PARCELS 024.00, 024.05, AND 025.02, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 41; 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 41" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 41 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 41 district are 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 41, Minnis_Old Powerline Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 058 Parcels 024.00, 024.05, and 025.02. Exhibit A illustrates the overall Minnis_Old Powerline Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.
This section is intended to provide a general description of the Minnis_Old Powerline development. The project consists of single family detached residential units. The developer shall include any permanent retention or detention pond areas, or landscaped common areas.

Section 5. PERMITTED USES AND PROHIBITED USES.
The PUD 41 Subdivision allows for the construction of up to 124 dwelling units in detached single-family houses. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 41 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 residential uses within the PUD will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit C unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by Developer covenants and restrictions. Billboards are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.
6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibit A) for PUD 41, The Minnis_Old Powerline Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on June 21, 2022. The conceptual plan consists of a site plan for the overall development. However additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within

PUD 41 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. However, any modification may not increase the total number of dwelling units beyond 124 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 site plans for the PUD development may reflect some alteration in the conceptual plan such as the exact location of each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets within the PUD 41 development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting. Where existing Right of Way along Old Powerline Road and Minnis Road is narrow adjacent to PUD 41 and the intention is that the 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 along the entire property.

6.B. PLATS.

One or more plats will be prepared for the PUD41 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. These plats shall be consistent in general layout with the conceptual site plan.

6.C. PRIVATE DEVELOPMENT DOCUMENTS.

The Developer shall prepare and implement such master covenants, restrictions, homeowner association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 41 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 41 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.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD41 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R1 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. Structures must include articulation, change in materials or texture, windows, or other architectural features. The front façade of all structures shall contain, on average, a minimum of at least 50% of either brick or stone materials. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick on stone. No blank walls along street elevations are allowed.

A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff, flooding, and poor water quality.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff. Site amenities shall include uses such as pocket parks, trails as well as undeveloped and protected open spaces. These uses will be finalized as the neighborhood develops depending on current conditions.

A monument style ground sign shall be installed at the primary entrance(s) to the site. A landscaped berm no smaller than 2.5’ in height shall be installed at the primary entrance(s) to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. Open space shall be maintained at proportion no less than 20% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% the buildable lots in the development are established or under construction. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner’s association. Once established the Homeowners Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal service, and shall include a minimum of 2 off-street parking spaces per 50 lots. These may be combined with site amenities as provided. 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. All stormwater detention/retention areas will be screened from the public ROW. Each lot must provide a minimum of 4 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 50 feet for up to 80% of the overall development. At no time can a lot have a minimum frontage of less than 46’. The front setback requirements are 25 feet, side setback requirements are 3’ on one side and 10’ on the remaining side. Each 3’ side setback must be joined by a 10’ setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. 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. Retaining walls as needed for the grading of building pads should maintain a 5-foot setback. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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. The development standards for the R1 Low Density Single Residential Zoning District shall apply for any standards this ordinance does not address.

The developer shall dedicate right-of-way and construct a deceleration lane on Minnis Road and deceleration lane shall be required before acceptance of any new street within the subdivision. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements. The deceleration lane shall be curbed to City standards.

Public Utilities shall be designed outside of the curb-to-curb area, except for reasonable crossings where necessary. The Director of Planning and Community Development, or their assigns, may allow deviations to utility locations when given a reasonable explanation for the deviation.

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 PUD41 Minnis_Old Powerline Development. 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 thisordinance 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 THEPUD.
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 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 PUD41, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit A then a revised conceptualplan must be reviewed by the Cleveland Municipal Planning Commission.

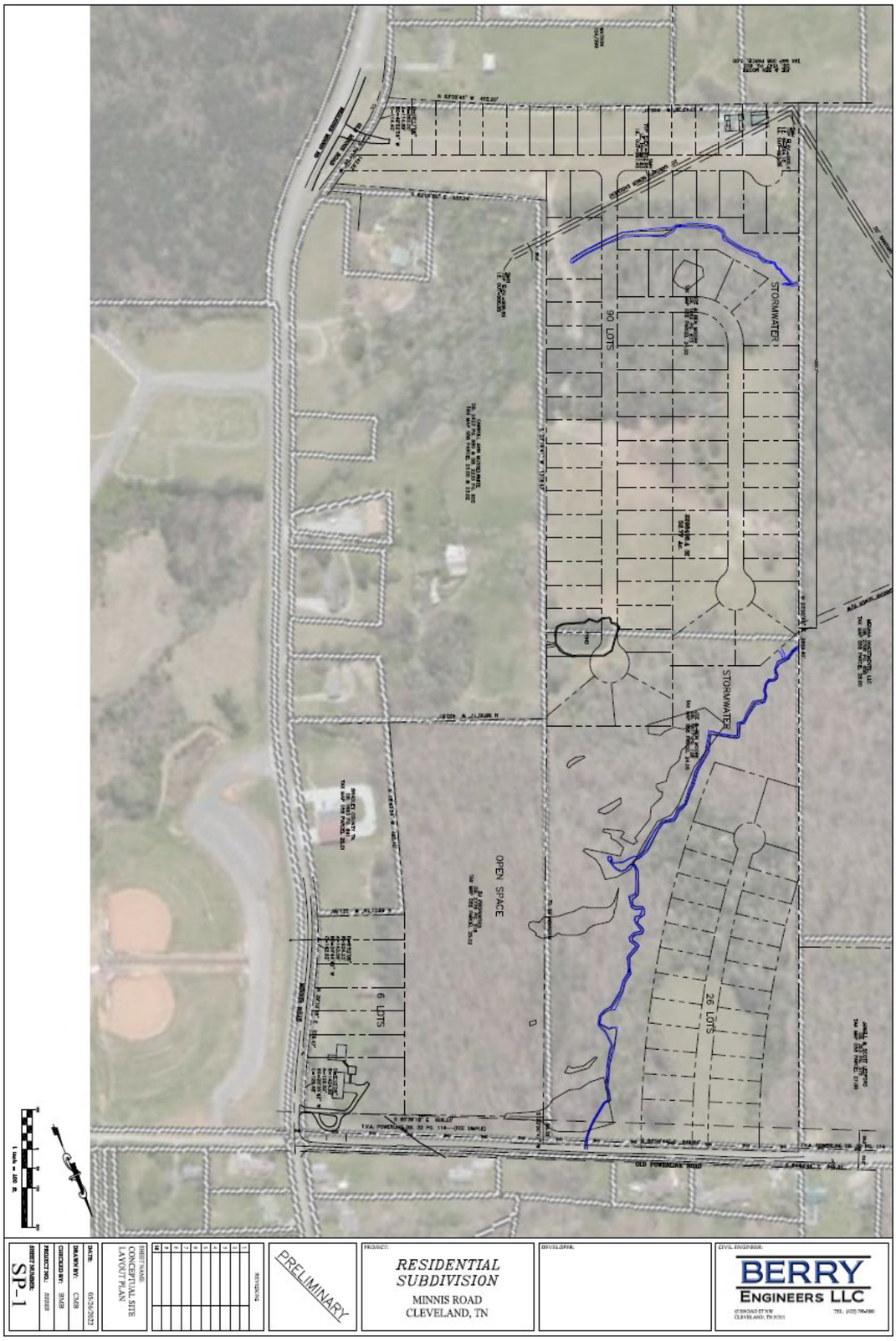
Section 10. BINDING UPON OTHERS. This ordinance is a law and not a contract, andas such it is generally binding upon all development and use of property in the PUD41 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the Developer 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 Morgan Lane Development 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 establishedfor 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 forceand effect. This ordinance shall take effect upon after passage and upon the executionof the development order as described above, the public convenience and necessity requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk



Councilman Webb moved that Zoning Ordinance 2022-26 be approved 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 2022-61** – Approving a Plan of Service for about 2.08 acres, more or less, from the unincorporated County for property located on Frontage Rd (also described as Tax Map 033 Parcels 008.01) (Planning Commission: Approved 7-0; 2 members absent).

RESOLUTION 2022-61

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

FRONTAGE ROAD ANNEXATION 2.03 ACRES

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 11, 2022, 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 northwest corner of the lands of Paul Wagner, as recorded in BCROD Plat book 30 page 100; thence with the northern line of the lands of Wagner in an easterly direction South 67 degrees 40 minutes 8 seconds East, 362 feet, more or less, to a point where the northern line of Wagner intersects the existing City Limits; thence in a southwesterly direction 252 feet, more or less, to an iron pin where the existing City Limits intersects the southern line of the lands of Wagner; thence with the southern line of the lands of Wagner in a westerly direction North 67 degrees 7 minutes 18 seconds West, 364 feet, more or less, to an iron pin located at the southwest corner of the lands of Wagner; thence North 22 degrees 52 minutes 42 seconds East, 251.1 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

FEBRUARY 15, 2022
MICHIGAN AVENUE - CT PROPERTIES
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 5.7 acres located on Michigan Avenue 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 2022.

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 property consists of one parcel of which is partially inside the current city limit of the City of Cleveland. The annexation would zone the property as a Planned Unit Development with approximately 48 single family residential dwelling units. The property is described as of Tax Map 50 Parcel 014.01.

MICHIGAN AVENUE PROPERTY
MAP



Legal Description

Beginning at and iron pin located at the northwest corner of lot 1 of Meadow View subdivision, as recorded in BCRD plat book 39 page 67, thence with the northern line of Meadow View Subdivision south 66 degrees 16 minutes 38 seconds east, 200 feet, more or less, to a point where the northern line of Meadow View Subdivision intersects the existing City Limits, said point being the true point of beginning; thence with the northern line of Meadow View Subdivision and the existing City Limits south 66 degrees 16 minutes 38 seconds east, 780 feet, more or less, to an iron pin located at the south west corner of lot 78 of Magnolia Lea, as recorded in BCROD plat book 16 page 41; thence leaving the existing City Limits north 9 degrees 17 minutes 7 seconds east, 334.9 feet to an iron pin located at the northeast corner of the lands herein described; thence north 66 degrees 59 minutes 46 seconds west, 48.66 feet to an iron pin; thence north 66 degrees 22 minutes 33 seconds west, 506.74 feet to an iron pin; thence north 66 degrees 22 minutes 33 seconds west, 197 feet, more or less, to a point where the northern line of the lands herein described intersects the existing City Limits; thence with the existing City Limits in a southwesterly direction 336 feet, more or less, to the point of true 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 could provide immediate service to this parcel from our current Station 3 located on APD40. Providing service to this parcel would have no budgetary impact on the Fire Department.

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

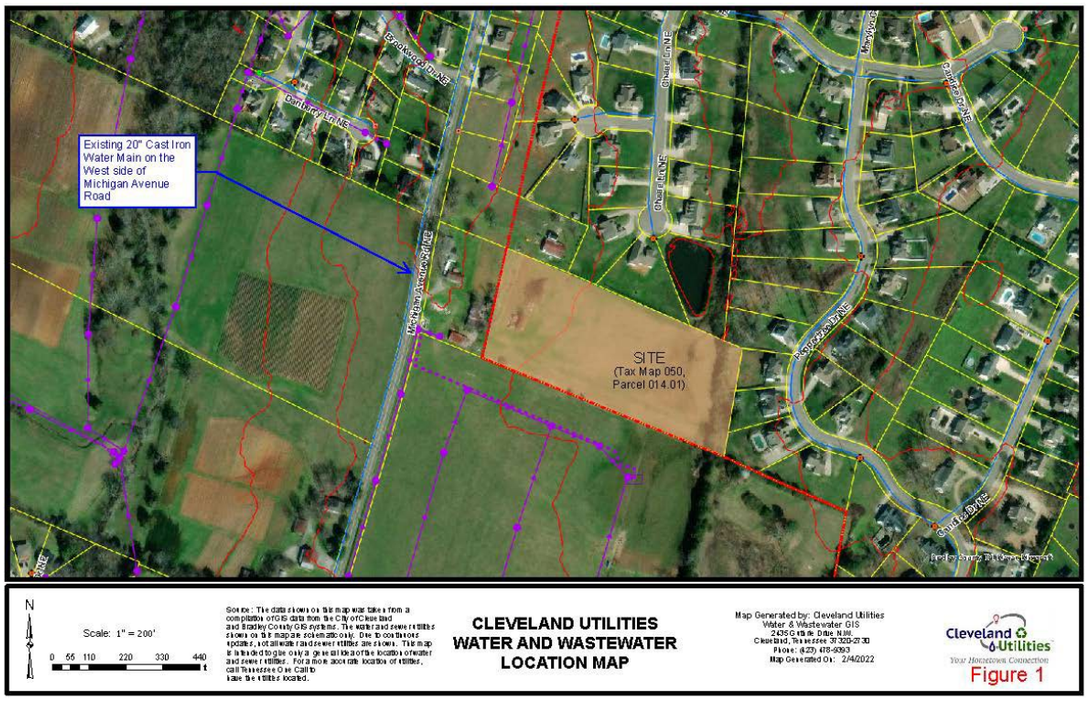
A. Domestic Water--- Domestic water service is available to this parcel.

B. Sanitary Sewer---This parcel is presently served with sanitary sewer service via a gravity main at the southwest corner of the parcel. Alternatively, the parcel may also be served via a pump station (currently under construction) on the parcel to the south.

C. Fire Protection--- An existing fire hydrant is located at the intersection of 31st Street and Michigan Avenue Road. A new fire hydrant may be needed closer to the parcel, which would be installed at the time of development.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Michigan Avenue Road (Tax Map 50, Parcel 014.01)	$0	$0	$0	$0



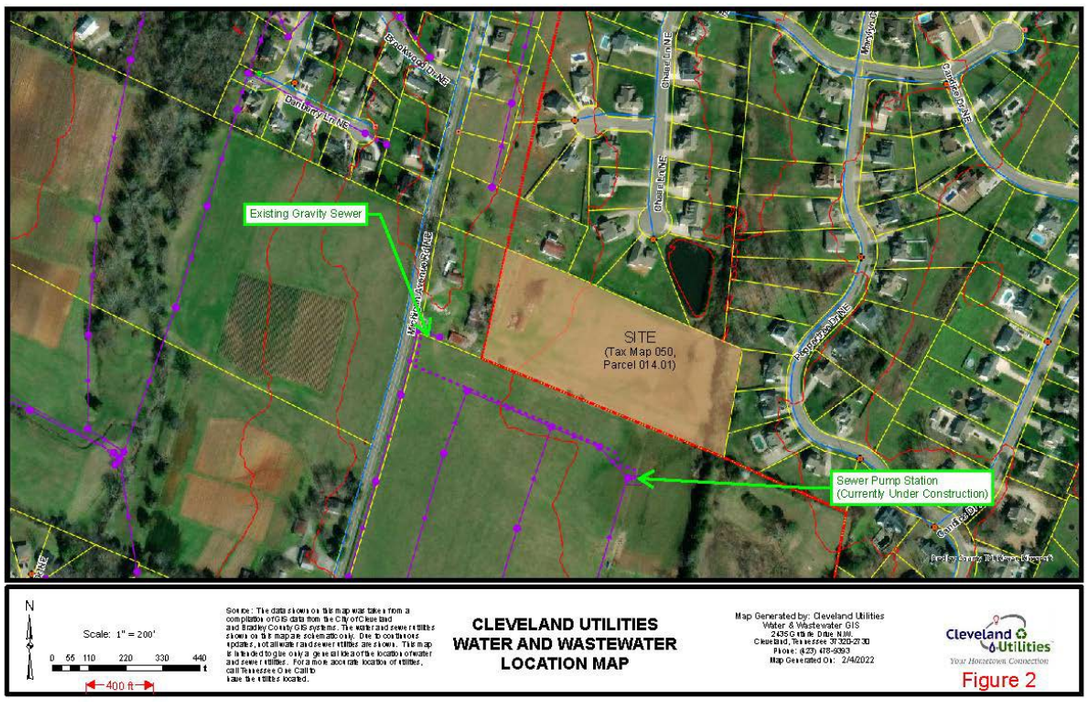


Figure 2

4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

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.

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

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 current cost to the school system is $976.59 per student per year. Using this formula, it is estimated the Michigan Avenue annexation would cost the city $46,872.32 per year and add 48 students to enrollment.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 121 residents to the 4th City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue

The total income from annexation without any improvements would result in approximately **$710.85** in property tax revenue.

With approximately 48 homes developed on the site with an estimated value of 260,000 each, property tax revenue would increase to approximately **$55,068**.

With an estimated 121 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$14,005.75.**

The annual stormwater fee for all homes on this site is estimated at **$748.80**.

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$69,822.55.**

Councilman May moved that Resolution 2022-61 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-62** – Annexing about 2.08 acres, more or less, from the unincorporated County for property located on Frontage Rd (also described as Tax Map 033 Parcels 008.01) (Planning Commission: Approved 7-0; 2 members absent).

RESOLUTION 2022-62

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

FRONTAGE ROAD ANNEXATION 2.03 ACRES

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 11, 2022.

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 northwest corner of the lands of Paul Wagner, as recorded in BCROD Plat book 30 page 100; thence with the northern line of the lands of Wagner in an easterly direction South 67 degrees 40 minutes 8 seconds East, 362 feet, more or less, to a point where the northern line of Wagner intersects the existing City Limits; thence in a southwesterly direction 252 feet, more or less, to an iron pin where the existing City Limits intersects the southern line of the lands of Wagner; thence with the southern line of the lands of Wagner in a

westerly direction North 67 degrees 7 minutes 18 seconds West, 364 feet, more or less, to an iron pin located at the southwest corner of the lands of Wagner; thence North 22 degrees 52 minutes 42 seconds East, 251.1 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 for the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Vice Mayor Johnson moved that Resolution 2022-62 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 2022-27** – Zoning 2.08 acres, more or less, from the unincorporated County to CG General Commercial for property located on Frontage Rd. (also described as Tax Map 033 Parcels 008.01) (Planning Commission: Approved 7-0; 2 members absent).

Zoning Ordinance 2022-27

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the portion of property described herein be, and the same is hereby, re-zoned from FAR County Zoning designation to CG General Commercial.

Approximately 3.63 acres, more or less, located on Frontage Road as shown on the attached map.

For reference, same property is being shown on Tax Map 033 Group Parcel 008.01, 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman Hughes moved that Zoning Ordinance 2022-27 be approved on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2022-29** – Amending the Cleveland Municipal Code, Title 14, Chapter 2 Zoning Regulations, by revising sections 1.6 Definitions and 2.11.1 Conditional Uses so as to define nightclubs and designate them as conditional uses within the CH Commercial Highway Zoning District (Planning Commission: Approved 9-0).

ORDINANCE 2022-29

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTIONS 1.6 DEFINITIONS AND 2.11.2 CONDITIONAL USES SO AS TO DEFINE NIGHTCLUBS AND DESIGNATE THEM AS CONDITIONAL USES WITHIN THE CH HIGHWAY COMMERCIAL ZONING DISTRICTS: 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 intent of

the language in the existing zoning resolution concerning the definition of Nightclub and designating them as Condition uses in CH Highway Commercial Zoning Districts; and

WHEREAS, the current specific use is now referenced within the zoning ordinance; and

WHEREAS the City Council has determined that the existing ordinance should be revised to clarify that the use shall be defined and designated; 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 the addition of Nightclub as a Definition in Section 1.6:

1.6.43 Nightclub includes occupancies in which people congregate in high densities for social entertainment, including drinking and dancing (e.g., nightclubs, banquet halls, cabarets) and food and drink consumption (e.g., restaurants). The uniqueness of these occupancies is characterized by some or all of the following: Low lighting levels, entertainment by a live band or recorded music or other act, later-than-average operating hours, tables, and seating arranged or positioned so as to create ill-defined aisles, specific dancing area, service facilities for alcoholic beverages and food, high occupancy loads

Section 2. Chapter 2, Section 2.11.1 Conditional Uses Be Amended to include

G. Nightclubs

Section 3. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

Section 4. 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 5. 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Ordinance 2022-29 be approved on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2022-30** – Amending the Cleveland Municipal Code, Title 14, Section 2 Zoning Regulations, by revising sections 2.10.1 “A” allowed uses and 2.11.1 “A” allowed uses so as to remove residential uses from CG General Commercial and CH Highway Commercial Districts (Planning Commission: Approved 6-1; 2 members absent).

ORDINANCE 2022-30

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14, CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTIONS 2.10.1 "A" USES ALLOWED AND 2.11.1 "A" USES ALLOWED TO REMOVE MULTI-FAMILY DWELLINGS ALLOWED BY RIGHT IN THE R-3 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 intent of the language in the existing zoning ordinance concerning uses allowed by right in the CG General Commercial and CH Highway Commercial Zoning Districts; and

WHEREAS, the current specific use is now referenced within the zoning ordinance; and

WHEREAS the City Council has determined that the existing ordinance should be revised to clarify that the uses allowed by right be amended; 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, Section 2.10.1, subsection "A" be amended by removing multi-family dwellings allowed by right in R-3:

2.10.1

A. All uses allowed by right in the CN and PI districts;

Section 2. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, Section 2.11.1, subsection "A" be amended by removing multi-family dwellings allowed by right in R-3:

2.11.1

A. All uses allowed by right in the CN and PI districts;

Section 3. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Vice Mayor Johnson moved that Ordinance 2022-30 be approved 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 2022-31** -– Amending the Cleveland Municipal Code, Title 14, Section 1 Zoning Regulations, by revising section 1.6 definitions so as to define and regulate retaining walls and swimming pool locations (Planning Commission: Approved 7-0; 2 members absent).

ORDINANCE 2022-31

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTIONS 1.6 DEFINITIONS TO DEFINE SWIMMING POOLS AND RETAINING WALLS AND ASSCOCIATE THEM AS ACCESSORY USES: 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 intent of the language in the existing zoning resolution concerning the definition of Swimming Pools and Retaining Walls and designating them as accessory uses; and

WHEREAS, the current specific use is now referenced within the zoning ordinance; and

WHEREAS the City Council has determined that the existing ordinance should be revised to clarify that the use shall be defined and designated; 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 the addition of Swimming Pool and Retaining Wall as a Definition in Section 1.6:

1.6.51.A Retaining Wall. A wall designed to resist earth and/or fluid pressure, including any surcharge in accordance with acceptable engineering practices which is an accessory structure to the primary purpose on any lot.

1.6.68.A Swimming pool or spa means any outdoor or indoor structure intended for swimming or recreational bathing, including in-ground and above-ground structures, and includes hot tubs, spas, portable spas, and non-portable wading pools which is an accessory structure to the primary purpose on any lot

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. 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Ordinance 2022-31 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:

- **Ordinance 2022-32** – Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3 Zoning Regulations, by revising section 3.1.A Table 2 so as to amend the RA Residential Agriculture minimum lot area and required road frontage (Planning Commission: Approved 7-0; 2 members absent).

ORDINANCE 2022-32

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTIONS 3.1.A ASSOCIATED TABLE 2 IN REFERANCE TO AMENDING THE MINIMIM LOT AREA: 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 intent of the language in the existing zoning ordinance concerning the minimum lot area required for R-A Residential Agriculture Zoning District; and

WHEREAS, the current required minimum land area is now referenced within the zoning ordinance; and

WHEREAS the City Council has determined that the existing ordinance should be revised to amend the minimum required land area; 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, Section 3.1.A. and associated “Table 2” be amended by changing the minimum lot area:

3.1.A.

Table 2 Lot Area & Width Requirements		
Zoning District	**Lot Area[2] (Square Feet)**	**Lot Width (Feet) at the Building Setback Line**
R-A Residential Agriculture*	43,560 sf	100 feet

*Cannot be lowered for use in a Cluster Neighborhood Development as described in Section 3.10 of City of Cleveland Subdivision Regulations.

Section 3. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Ordinance 2022-32 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

Councilman Cassada moved that Ordinance 2022-28; Amending the Cleveland Municipal Code, Title 14, Chapter 2 Zoning Regulations, by revising sections 5.6, subsections 5.6.1, 5.6.2, and 5.6.3 as to amend the regulations of regulating Billboard Placement and distance requirements (Planning Commission: Approved 9-0), be sent back to the Planning Commission for additional review and further clarification. The motion was seconded by Councilman Hughes. Upon roll call, Councilmen Cassada, Hughes, Estes and Vice Mayor Johnson voted aye. Councilmen May, Webb and Councilwoman McKenzie voted no. The motion carried 4:3.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The July 25, 2022 City Council meeting has been cancelled.
- The next City Council meeting will be held on Monday, August 8, 2022.

There being no future business the meeting was adjourned at 4:36 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
JULY 25, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MET IN A REGULAR SESSION THIS MONDAY, JULY 25, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

_____ _____

Mayor City Clerk

REGULAR SESSION
AUGUST 8, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, AUGUST 8, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks and Mayor of the Day Carey Robertson. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, David May, Tom Cassada, Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Mike Griffin with the Chamber of Commerce; Cathy Andrews, CDBG Coordinator; Sharon Marr with Mainstreet Cleveland; Tad Bacon with Cleveland Utilities; David Sheely, Transportation Director; David Elliott with LeConte Cleveland, LLC and Tim Siniard with the *Cleveland Daily Banner*.

Mayor Brooks introduced Carey Robertson, Mayor of the Day. He then thanked her for her many civic contributions throughout the community. He then asked for a moment of silence for Larry Wallace, who passed away. Mr. Wallace contributed greatly to our community, the Cleveland Police Department, and the Bradley County Sheriff's Office. The service will be held on Thursday, August 11 at First Baptist in Athens, TN.

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 July 11, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations or public comments.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held to hear public comments concerning approval of Plan of Service for about 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 078.00). Robert Varnell stated to get this development moving through the process, we will hold public hearings again on August 22 for the Plan of Service, annexation and zoning. This development has double frontage on Freewill and New Murraytown Road, with 124 total units. Planning Commission approved this item 5-0; with 3 absent and 1 recused. Mayor Brooks asked if anyone would like to speak in favor of the Plan of Service. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the Plan of Service. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held to hear public comments concerning a request by the property owner to annex about 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 040 078.00). Robert Varnell stated staff is happy to have worked out the annexation plan with Bradley County. The Planning Commission approved this item 5-0; with 3 absent and 1 recused. Mayor Brooks asked if anyone would like to speak in favor of the annexation. No one spoke. Mayor Brooks asked if anyone would like to speak in

opposition of the annexation. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held to hear public comments concerning a request by the property owner to rezone 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County to PUD34 for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 078.00). Robert Varnell stated the site includes 124 homes, half and half of single-family homes and townhomes. There will be two entrances and will be distinguished two neighborhoods. The development will have sidewalks and many other components. The Planning Commission approved this item 5-0; with 3 absent and 1 recused. Mayor Robertson asked if anyone would like to speak in favor of the zoning request. No one spoke. Mayor Robertson asked if anyone would like to speak in opposition of the zoning request. No one spoke. Mayor Robertson declared the public hearing to be closed.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2022-25** – heretofore passed on first reading July 11, 2022 and found in Minute Book 30, Page 754; Rezoning 4.42 acres, more or less, from CG to IL for property located on Michigan Avenue Road (also described as Tax Map 043 Parcel 036.01) (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Zoning Ordinance 2022-26** – heretofore passed on first reading July 11, 2022 and found in Minute Book 30, Page 765; Zoning 54.67 acres, more or less, from R1 and the unincorporated County to PUD41 for property located on Minnis Road and Old Powerline Lane (also described as Tax Map 058 Parcels 24.00, 024.05, and 025.02) (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Zoning Ordinance 2022-27** – heretofore passed on first reading July 11, 2022 and found in Minute Book 30, Page 780; Zoning 2.08 acres, more or less, from the unincorporated County to CG General Commercial for property located on Frontage Rd. (also described as Tax Map 033 Parcels 008.01) (Planning Commission: Approved 7-0; 2 members absent).
- **Final Passage - Ordinance 2022-29** – heretofore passed on first reading July 11, 2022 and found in Minute Book 30, Page 781; Amending the Cleveland Municipal Code, Title 14, Chapter 2 Zoning Regulations, by revising sections 1.6 Definitions and 2.11.1 Conditional Uses so as to define nightclubs and designate them as conditional uses within the CH Commercial Highway Zoning District (Planning Commission: Approved 9-0).
- **Final Passage - Ordinance 2022-30** – heretofore passed on first reading July 11, 2022 and found in Minute Book 30, Page 782; Amending the Cleveland Municipal Code, Title 14, Section 2 Zoning Regulations, by revising sections 2.10.1 "A" allowed uses and 2.11.1 "A" allowed uses so as to remove residential uses from CG General Commercial and CH Highway Commercial Districts (Planning Commission: Approved 6-1; 2 members absent).
- **Final Passage - Ordinance 2022-31** – heretofore passed on first reading July 11, 2022 and found in Minute Book 30, Page 783; Amending the Cleveland Municipal Code, Title 14, Section 1 Zoning Regulations, by revising section 1.6 definitions so as to define and regulate retaining walls and swimming pool locations (Planning Commission: Approved 7-0; 2 members absent).

- **Final Passage - Ordinance 2022-32** – heretofore passed on first reading July 11, 2022 and found in Minute Book 30, Page 784; Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3 Zoning Regulations, by revising section 3.1.A Table 2 so as to amend the RA Residential Agriculture minimum lot area and required road frontage (Planning Commission: Approved 7-0; 2 members absent).
- **Resolution 2022-65** – Authorizing the Mayor to sign a Subordination Agreement relating to the down payment assistance Deed of Trust for 1223 Franitza Way.

RESOLUTION 2022-65

WHEREAS, the City of Cleveland, through its Community Development Department, participates in the CDBG Down Payment Assistance Program (hereafter "the Program") and provides community development block grant funds to a person or family of low or very-low income as defined in the Program regulations to be used for down payment assistance; and

WHEREAS, the City of Cleveland has previously provided funding through the Program for down payment assistance to Kerea Westfield at 1223 Franitza Way SW (hereafter "the property"); and

WHEREAS, this down payment assistance loan is secured by a Deed of Trust on the property in favor of the City of Cleveland recorded in the Register of Deeds office of Bradley County, Tennessee, which Deed of Trust should be subordinate to a Deed of Trust on the property in favor of Habitat for Humanity; and

WHEREAS, because of a typographical error in the deed of trust in favor of Habitat for Humanity, that deed of trust had to be re-recorded a second time, which caused the intended priority of these deeds of trust to be in the incorrect order; and

WHEREAS, Attorney George McCoin has contacted the City Attorney about this issue and requested that the City of Cleveland execute the attached subordination agreement so that the deeds of trust will then be in the correct order and the correct priority; and

WHEREAS, the City Attorney has attached a memo to the City Council recommending that the City Council approve of the subordination agreement; and

WHEREAS, the City Council desires to approve the attached subordination 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 subordination agreement, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [Agreement on file in the City Clerk's Office].

This 8th day of August 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-67 –** Authorizing the Mayor to sign the Local Parks and Recreation grant contract for the Jim Sharp Pak Development Project.

RESOLUTION 2022-67

WHEREAS, the City has received the attached grant contract from the Tennessee Department of Environment and Conservation, (hereafter "TDEC") for the Jim Sharp Park Development Project; and

WHEREAS, the City Council desires to enter into the attached grant contract with TDEC for the project described, and to further authorize the Mayor to execute this contract 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 grant contract with TDEC for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [Agreement on file in the City Clerk's Office].

This 8th day of August, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-70** – Authorizing the Mayor to sign a Memorandum of Understanding with the Cleveland City Schools for the School Resource Officer Program.

RESOLUTION 2022-70

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 [Agreement on file in the City Clerk's Office].

This 8th day of August, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-71** – Authorizing the Chief of Police to sign a Memorandum of Understanding and a Cost Reimbursement Agreement with the Federal Bureau of Investigation to participate in the FBI's Chattanooga Safe Streets Task Force.

RESOLUTION 2022-71

WHEREAS, the Cleveland Police Department has been contacted by the Federal Bureau of Investigation (FBI) and the FBI has requested that the Cleveland Police Department participate in the FBI's Chattanooga Safe Streets Task Force; and

WHEREAS, the Chief of Police is recommending to the City Council that the Cleveland Police Department participate in this program in cooperation with the FBI; and

WHEREAS, in connection with said program, a Memorandum of Understanding and a Cost Reimbursement Agreement will need to be executed by the City of Cleveland and/or the Cleveland Police Department; and

WHEREAS, the City Council desires to approve of the Cleveland Police Department's participation in this program in cooperation with the FBI and to approve of the Memorandum of Understanding and Cost Reimbursement Agreement with the FBI for this program once these documents have been reviewed and approved by the Chief of Police; and

WHEREAS, the City Council further desires to authorize the Chief of Police to execute the Memorandum of Understanding and Cost Reimbursement 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 Cleveland Police Department's participation in this program in cooperation with the FBI.

BE IT FURTHER RESOLVED that the Chief of Police is hereby authorized to execute the attached Memorandum of Understanding and Cost Reimbursement Agreement with the FBI for this program. [Agreement on file in the City Clerk's Office].

This 8th day of August, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Vice Mayor Johnson stated he received a call from Octivia Blair concerning a street light outage near 528 15th Street.

Councilwoman McKenzie stated she received a call concerning 200 Nancy Drive off Blue Springs Road. The homeowner is requesting a guardrail be installed there along Blue Springs Road, as cars have left the roadway into her yard. Also, she asked that the ditch be looked at by Public Works and possibly clean it out.

Councilman Estes reported he has received several positive comments concerning the downtown concert series which was held in June. Next, he appreciated the back-to-school bash at College Hill and thanked all those involved. He then thanked the Cleveland Police Department for patrolling the school zones. Also, a reminder that over 4,000 Lee students will be arriving next weekend, so traffic patterns will be changing. Lee sports is now in Division 2 and out of all

the Division 2 teams, athletic wise, Lee came in 11th place in the Directors Cup, which is all sports added together. They also had their very first National Championship with men's golf. He thanked members and staff of the Cleveland Country Club for working with the Lee University team. He suggested the team be recognized next month by the Council. Lastly and personally, Larry Wallace was very kind to him. Behind the scenes, he worked with incredible concern for the people who work for the City. We could never repay him for being so gracious to all of us and his incredible set of people skills.

Councilman Cassada stated he enjoyed the summer concert series held downtown. It was a great thing for the community. He would like to see if something could be worked out to try another concert series in September. It is great support for downtown businesses. Next, he congratulated Mayor Brooks, Councilwoman McKenzie, Councilman Estes, and Councilman Webb on their re-election. We have good things happening and he looks forward to continuing to move the city forward. Lastly, the two turns lanes at Cleveland Middle School seem to work well and asked if they would be permanent. Mr. Jobe stated he understands it is temporary but maybe it could become permanent. Councilman Cassada thanked TDOT for the quick work to get the road ready for school and helping traffic flow a little better. He then asked about the slope of the road into the subdivisions, based on the size of the drainage tiles. Mr. Jobe stated there will be a slope that tapers into the roadway.

Councilman May asked if we were still intending to renovate Johnston Park. Mr. Fivas stated yes, we have a design, and our hope is, once we are done with Mosby Park, we focus on it and the Civitan Park. We will probably bid out construction, with work done during the winter months, with the hope of opening May or June.

Councilman Hughes stated Larry Wallace helped the city during a time when we needed it with our Police Department. He worked with the Fire Department as well and did a lot of things that went unnoticed. He helped us immensely. He was so knowledgeable with the Police Department that we were able to receive our CELEA certification. Several people would get together to have lunch with Larry and everyone wanted to listen to Mr. Wallace. He will be missed. Next, Councilman Hughes continued that he has received several calls concerning additional Pickleball courts. During tournaments, there are not enough courts, and he hears a lot of people are coming from out of town to play on our courts. Lastly, he congratulated Mayor Brooks, Councilwoman McKenzie, Councilman Estes, and Councilman Webb on their re-election.

Councilman Webb stated he was not on the Council when Larry Wallace helped the city, but he is aware of the great work he did. He did have the honor of serving with Mr. Wallace on the Board of Trustees of Tennessee Wesleyan. The school is now doing well, and the campus looks great. Mr. Wallace was instrumental in making things happen. He was a friend and will be missed. Next, he also congratulated Mayor Brooks, Councilwoman McKenzie, and Councilman Estes on their re-election. He looks forward to serving another four-years. He feels our best days are ahead. Lastly, on August 20 at 9:00 a.m. City Fields and Blythe Oldfield Community Association will be sponsoring lawn mower races. Three categories will be, regular mowers, zero turn mowers and souped-up versions. It will be a fun morning in the Blythe Oldfield area.

Mayor Brooks stated he was not on the Council during the time of Larry Wallace but was honored to be in Nashville and there was not one time when Mr. Wallace would walk into a room, and the Governor and other leaders stood. It was an amazing thing to see multiple generations honor this great man and his decades of great wisdom and leadership. We will never know the impact he had across the entire State of Tennessee. He had great love for Cleveland and will be missed. Next, he congratulated his colleges on their re-election. He was asked on election night how Cleveland was so successful. He was honored to say it was because of the City Council getting our financial house in order, refunding the debt, and getting us in the position to have pages of completed projects that makes this city so great.

Mayor Brooks then announced he was reappointing Matt Coleman, Milan Blake, Dennis Epperson, and Tim Henderson to the Shade Tree Board for additional two-year terms to expire August 2024.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution 2022-66 –** Authorizing the Mayor to sign amendment #1 with TDOT related to the intersection improvement project at 25th and Ocoee Street.

RESOLUTION 2022-66

WHEREAS, the City has received the attached contract amendment #1 from the Tennessee Department of Transportation (hereafter "TDOT") for the project described below; and

Project: Intersection Improvements on SR-60 (25th Street, Intersection at SR-74 (Ocoee Street NE)

Agreement Number: 090238
Project Identification Number: 109276.00
Federal Project #: STP-M/NH-60(19)
State Project #: 06069-3228-54

WHEREAS, the City Council desires to enter into the attached contract amendment #1 with TDOT for the project described, and to further authorize the Mayor to execute this contract 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 #1 with TDOT for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [Agreement on file in the City Clerk's Office].

This 8th day of August, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2022-66 be accepted as presented but the agreement is not signed until after the Mayor meets with the Local Delegation. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-68** – Approving a Plan of Service for about 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 078.00) (Planning Commission: Approved 5-0; 3 absent, 1 recused).

RESOLUTION 2022-68

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

PUD-34 New Murraytown/Freewill Road

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 August 22, 2022, 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 northeast corner of the lands of Cleveland Utilities, as recorded in BCROD deed book 2095 page 160; thence in a northwesterly direction with the northern line of the lands of Cleveland Utilities 600 ft, more or less, to the northwestern corner of the lands of Cleveland Utilities, said point also being the northeast corner of the lands of New Prospect Cumberland Presbyterian Church, as recorded in BCROD deed book 101 page 318; thence in a northwesterly direction with the northern line of the lands of New Prospect Cumberland Presbyterian Church 402 feet, more or less, to the southeast corner of the lands of Louis Ledford, as recorded in BCROD deed book 296 page 412; thence in a northerly direction with the eastern line of the lands of Ledford 188 feet, more or less, to the northeast corner of the lands of Ledford; then in a northwesterly direction with the north line of Ledford 96 feet, more or less, to the northwest corner of the lands of Ledford, said point also being the northeast corner of the lands of Anna Louis Ledford, as recorded in BCROD deed book 280 page 450; thence following the northern line of the lands of Anna Louis Ledford in a northwesterly direction 47 feet, more or less, to the southeast corner of the lands of John Porte, as recorded in BCROD deed book 2385 page 902; thence in a northerly direction with the eastern line of the lands of Porte 200 feet, more or less, to the northeastern corner of the lands of Porte, said point being located in the southern line of the lands of Robert Hicks, as recorded in BCROD deed book 1812 page 484; thence in a southeasterly direction with the southern line of the lands of Hicks 130 feet, more or less, to the southeast corner of the lands of Hicks; thence in a northerly direction with the eastern line of the lands of Hicks 150 feet, more or less, to the northeast corner of the lands of Hicks; thence in a northwest direction with the northern line of the lands of Hicks 297 feet, more or less, to the northwest corner of the lands of Hicks, said point being located in the eastern right of way of New Murraytown Rd; thence crossing New Murraytown Rd on the previous bearing 44 feet, more or less, to a point in the western right of way of New Murraytown Rd; thence following the western right of way of New Murraytown Rd in a northerly direction 390 feet, more or less, to a point where the south line of the lands of Barry Littrell, as recorded in BCROD deed book 2272 page 165, if extended would meet the western right of way of New Murraytown Rd; thence crossing the right of way of New Murraytown Rd in southeasterly direction 40 feet, more or less, to the southwest corner of the lands of Littrell; thence in a southeasterly direction with the southern line of the lands of Littrell 338 feet, more or less, to the southeast corner of the lands of Littrell, said point also being the southwest corner of the lands of Elizabeth Rice, as recorded in BCROD deed book 2604 page 779; thence with the southern line of the lands of Rice in a southeasterly direction 53 feet, more or less, to the southeast corner of the lands of Rice, said point also being the southwest corner of the lands of John Pippenger, as recorded in BCROD deed book 350 page 484; thence in a southeasterly direction with

the southern line of the lands of Pippenger 302 feet, more or less, to the southeast corner of the lands of Pippenger, said point also being the southwest corner of the lands of Kenneth Vernon, as recorded in BCROD deed book 2703 page 586; thence in a southeasterly direction with the southern line of the lands of Vernon 256 feet, more or less, to the southeast corner of the lands of Vernon, said point also being located in the western line of the lands of Kenneth F Vernon, as recorded in BCROD deed book 2703 page 582; thence in a southerly direction with the western line of Kenneth F Vernon 55 feet, more or less, to the southwest corner of the lands of Kenneth F Vernon; thence along a curve in an easterly direction with the southern line of the lands of Kenneth F Vernon 200 feet, more or less, to the southeast corner of the lands of Kenneth F Vernon, said point also being the southwest corner of the lands of Emily Chock, as recorded in BCROD deed book 2524 page 391; thence in a southeasterly direction with the southern line of the lands of Chock 184 feet, more or less, to the southeast corner of the lands of Chock, said point also being the northwest corner of the lands of Storage Park LLC, as recorded in BCRD deed book 2809 page 466; thence in a southwesterly direction with the western line of the lands of Storage Park LLC 747 feet, more or less, to the southwest corner of the lands of Storage Park LLC; thence in an easterly direction with the southern line of the lands of Storage Park LLC 48 feet, more or less, to the southeast corner of the lands of Storage Park LLC, said point being located in the western right of way of Freewill Rd; thence in a northerly direction following the western right of way of Freewill Rd 5099 ft, more or less, to a point where the existing City Limits crosses Freewill Rd; thence crossing Freewill Rd in a northeasterly direction with the existing City Limits 65 feet, more or less, to a point where the existing City Limits meet the eastern right of way of Freewill Rd; thence in a southerly direction with the eastern right of way of Freewill Rd 3883 feet, more or less, to a point where the eastern right of way meets the Interstate 75 right of way; thence in a southwesterly direction following the eastern edge of Freewill Rd with an offset of 10 feet 1404 feet, more or less, to a point where the northern edge of the lands of Cleveland Utilities if extended would intersect the 10 foot offset of the eastern line of Freewill Rd; thence crossing Freewill Rd in a westerly direction 58 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

FEBRUARY 15, 2022
NEW MURRAYTOWN/FREEWILL- CT PROPERTIES
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 23.4 acres located on New Murraytown/Freewill Roads 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 2022.

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

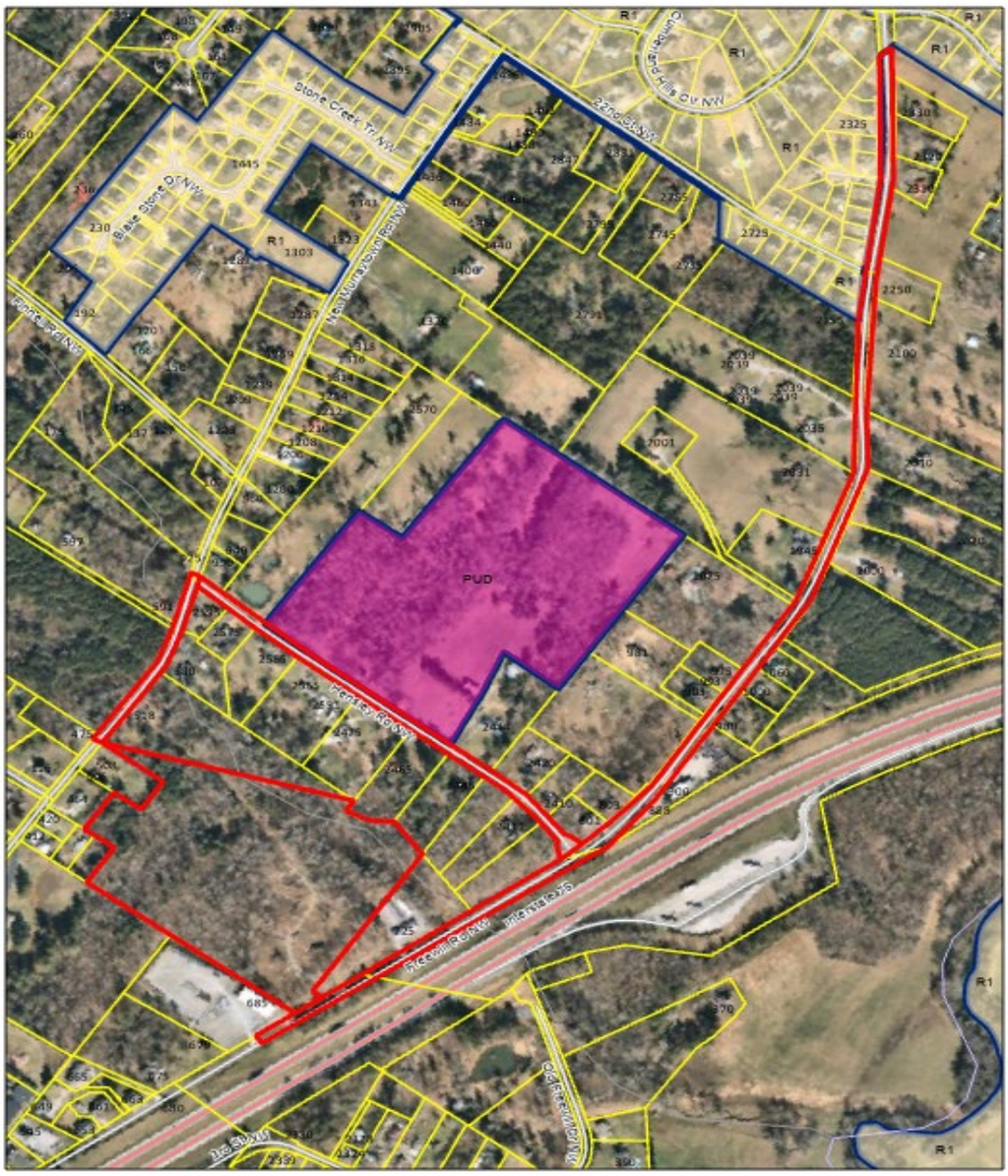
Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service 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 property consists of one parcel approximately 420 feet from the existing limits of the City of Cleveland. The annexation would zone the property as a Planned Unit Development with approximately 124 single family residential dwelling units. The property is described as of Tax Map 40 Parcel 078.00.

NEW MURRAYTOWN/FREEWILL ANNEXATION AREA

MAP



Legal Description

Beginning at the northeast corner of the lands of Cleveland Utilities, as recorded in BCROD deed book 2095 page 160; thence in a northwesterly direction with the northern line of the lands of Cleveland Utilities 600 ft, more or less, to the northwestern corner of the lands of Cleveland Utilities, said point also being the northeast corner of the lands of New Prospect Cumberland Presbyterian Church, as recorded in BCROD deed book 101 page 318; thence in a northwesterly direction with the northern line of the lands of New Prospect Cumberland Presbyterian Church 402 feet, more or less, to the southeast corner of the lands of Louis Ledford, as recorded in BCROD deed book 296 page 412; thence in a northerly direction with the eastern line of the lands of Ledford 188 feet, more or less, to the northeast corner of the lands of Ledford; then in a northwesterly direction with the north line of Ledford 96 feet, more or less, to the northwest corner of the lands of Ledford, said point also being the northeast corner of the lands of Anna Louis Ledford, as recorded in BCROD deed book 280 page 450; thence following the northern line of the lands of Anna Louis Ledford in a northwesterly direction 47 feet, more or less, to the southeast corner of the lands of John Porte, as recorded in BCROD deed book 2385 page 902; thence in a northerly direction with the eastern line of the lands of Porte 200 feet, more or less, to the northeastern corner of the lands of Porte, said point being located in the southern line of the lands of Robert Hicks, as recorded in BCROD deed book 1812 page 484; thence in a southeasterly direction with

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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 could provide immediate service to this parcel from our current Station 5 located on Freewill Road. Providing service to this parcel would have no budgetary impact on the Fire Department.

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

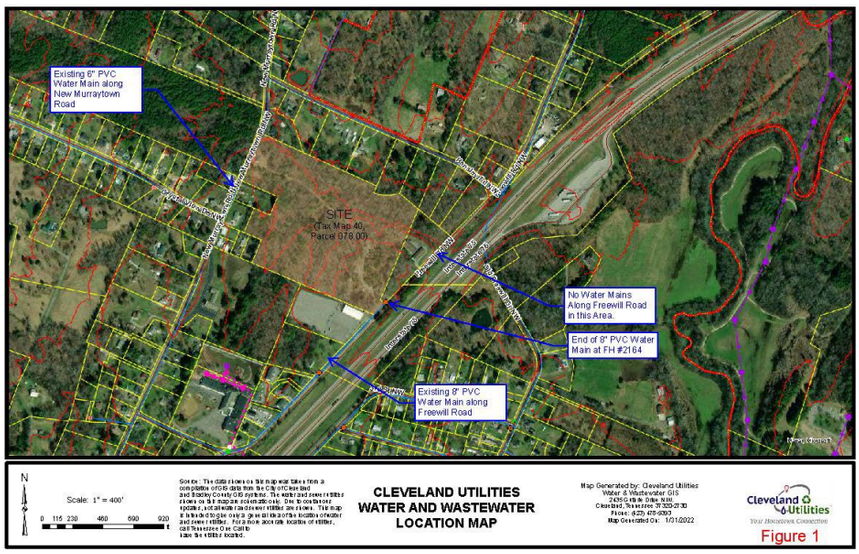
A. Domestic Water--- Domestic water service is available to this parcel.

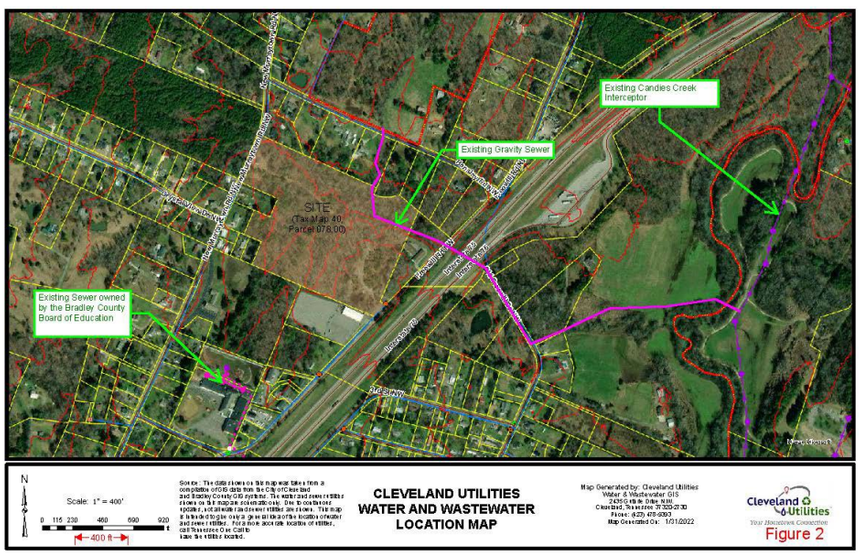
B. Sanitary Sewer--- This parcel is presently served with sanitary sewer service via a 12-inch gravity sewer main on the northeast side of the parcel. See Figure 2.

C. Fire Protection--- An existing fire hydrant is located at the southeast corner of the parcel along Freewill Road.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
New Murraytown/Freewill Road (Tax Map 40, Parcel 078.00)	$0	$0	$0	$0





4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

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

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 current cost to the school system is $976.59 per student per year. Using this formula, it is estimated the New Murraytown/Freewill annexation would cost the city $46,872.32 per year and add 48 students to enrollment.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 310 residents to the 3rd City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue

The total income from annexation without any improvements would result in approximately **$1,149.90** in property tax revenue.

With approximately 124 homes developed on the site with an estimated value of 260,000 each, property tax revenue would increase to approximately **$142,259**.

With an estimated 312 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$36,114.**

The annual stormwater fee for all homes on this site is estimated at **$2,870.80**.

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$181,243.80.**

Vice Mayor Johnson moved that Resolution 2022-68 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-69** - Annexing about 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 040 078.00) (Planning Commission: Approved 5-0; 3 absent, 1 recused).

RESOLUTION 2022-69

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

PUD 34 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 August 22, 2022.

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 northeast corner of the lands of Cleveland Utilities, as recorded in BCROD deed book 2095 page 160; thence in a northwesterly direction with the northern line of the lands of Cleveland Utilities 600 ft, more or less, to the northwestern corner of the lands of Cleveland Utilities, said point also being the northeast corner of the lands of New Prospect Cumberland Presbyterian Church, as recorded in BCROD deed book 101 page 318; thence in a northwesterly direction with the northern line of the lands of New Prospect Cumberland Presbyterian Church 402 feet, more or less, to the southeast corner of the lands of Louis Ledford, as recorded in BCROD deed book 296 page 412; thence in a northerly direction with the eastern line of the lands of Ledford 188 feet, more or less, to the northeast corner of the lands of Ledford; then in a northwesterly direction with the north line of Ledford 96 feet, more or less, to the northwest corner of the lands of Ledford, said point also being the northeast corner of the lands of Anna Louis Ledford, as recorded in BCROD deed book 280 page 450; thence following the northern line of the lands of Anna Louis Ledford in a northwesterly direction 47 feet, more or less, to the southeast corner of the lands of John Porte, as recorded in BCROD deed book 2385 page 902; thence in a northerly direction with the eastern line of the lands of Porte 200 feet, more or less, to the northeastern corner of the lands of Porte, said point being located in the southern line of the lands of Robert Hicks, as recorded in BCROD deed book 1812 page 484; thence in a southeasterly direction with the southern line of the lands of Hicks 130 feet, more or less, to the southeast corner of the lands of Hicks; thence in a northerly direction with the eastern line of the lands of Hicks 150 feet, more or less, to the northeast corner of the lands of Hicks; thence in a northwest direction with the northern line of the lands of Hicks 297 feet, more or less, to the northwest corner of the lands of Hicks, said point being located in the eastern right of way of New Murraytown Rd; thence crossing New Murraytown Rd on the previous bearing 44 feet, more or less, to a point in the western right of way of New Murraytown Rd; thence following the western right of way of New Murraytown Rd in a northerly direction 390 feet, more or less, to a point where the south line of the lands of Barry Littrell, as recorded in BCROD deed book 2272 page 165, if extended would meet the western right of way of New Murraytown Rd; thence crossing the right of way of New Murraytown Rd in southeasterly direction 40 feet, more or less, to the southwest corner of the lands of Littrell; thence in a southeasterly direction with the southern line of the lands of Littrell 338 feet, more or less, to the southeast corner of the lands of Littrell, said point also being the southwest corner of the lands of Elizabeth Rice, as recorded in BCROD deed book 2604 page

779; thence with the southern line of the lands of Rice in a southeasterly direction 53 feet, more or less, to the southeast corner of the lands of Rice, said point also being the southwest corner of the lands of John Pippenger, as recorded in BCROD deed book 350 page 484; thence in a southeasterly direction with the southern line of the lands of Pippenger 302 feet, more or less, to the southeast corner of the lands of Pippenger, said point also being the southwest corner of the lands of Kenneth Vernon, as recorded in BCROD deed book 2703 page 586; thence in a southeasterly direction with the southern line of the lands of Vernon 256 feet, more or less, to the southeast corner of the lands of Vernon, said point also being located in the western line of the lands of Kenneth F Vernon, as recorded in BCROD deed book 2703 page 582; thence in a southerly direction with the western line of Kenneth F Vernon 55 feet, more or less, to the southwest corner of the lands of Kenneth F Vernon; thence along a curve in an easterly direction with the southern line of the lands of Kenneth F Vernon 200 feet, more or less, to the southeast corner of the lands of Kenneth F Vernon, said point also being the southwest corner of the lands of Emily Chock, as recorded in BCROD deed book 2524 page 391; thence in a southeasterly direction with the southern line of the lands of Chock 184 feet, more or less, to the southeast corner of the lands of Chock, said point also being the northwest corner of the lands of Storage Park LLC, as recorded in BCRD deed book 2809 page 466; thence in a southwesterly direction with the western line of the lands of Storage Park LLC 747 feet, more or less, to the southwest corner of the lands of Storage Park LLC; thence in an easterly direction with the southern line of the lands of Storage Park LLC 48 feet, more or less, to the southeast corner of the lands of Storage Park LLC, said point being located in the western right of way of Freewill Rd; thence in a northerly direction following the western right of way of Freewill Rd 5099 ft, more or less, to a point where the existing City Limits crosses Freewill Rd; thence crossing Freewill Rd in a northeasterly direction with the existing City Limits 65 feet, more or less, to a point where the existing City Limits meet the eastern right of way of Freewill Rd; thence in a southerly direction with the eastern right of way of Freewill Rd 3883 feet, more or less, to a point where the eastern right of way meets the Interstate 75 right of way; thence in a southwesterly direction following the eastern edge of Freewill Rd with an offset of 10 feet 1404 feet, more or less, to a point where the northern edge of the lands of Cleveland Utilities if extended would intersect the 10 foot offset of the eastern line of Freewill Rd; thence crossing Freewill Rd in a westerly direction 58 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.

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 for the aforementioned property within the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

FEBRUARY 15, 2022
NEW MURRAYTOWN/FREEWILL- CT PROPERTIES
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 23.4 acres located on New Murraytown/Freewill Roads 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 2022.

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

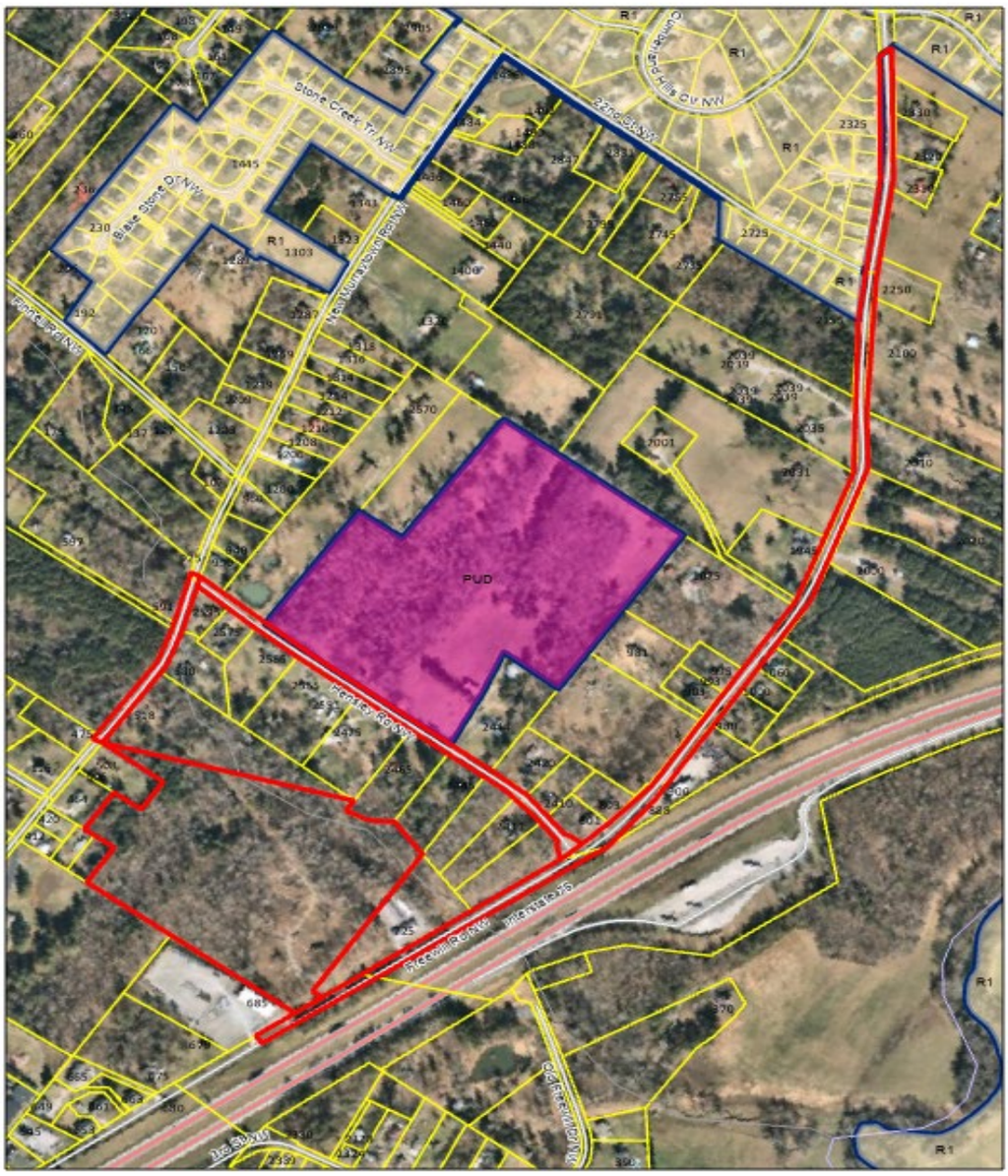
Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service 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 property consists of one parcel approximately 420 feet from the existing limits of the City of Cleveland. The annexation would zone the property as a Planned Unit Development with approximately 124 single family residential dwelling units. The property is described as of Tax Map 40 Parcel 078.00.

NEW MURRAYTOWN/FREEWILL ANNEXATION AREA

MAP



Legal Description

Beginning at the northeast corner of the lands of Cleveland Utilities, as recorded in BCROD deed book 2095 page 160; thence in a northwesterly direction with the northern line of the lands of Cleveland Utilities 600 ft, more or less, to the northwestern corner of the lands of Cleveland Utilities, said point also being the northeast corner of the lands of New Prospect Cumberland Presbyterian Church, as recorded in BCROD deed book 101 page 318; thence in a northwesterly direction with the northern line of the lands of New Prospect Cumberland Presbyterian Church 402 feet, more or less, to the southeast corner of the lands of Louis Ledford, as recorded in BCROD deed book 296 page 412; thence in a northerly direction with the eastern line of the lands of Ledford 188 feet, more or less, to the northeast corner of the lands of Ledford; then in a northwesterly direction with the north line of Ledford 96 feet, more or less, to the northwest corner of the lands of Ledford, said point also being the northeast corner of the lands of Anna Louis Ledford, as recorded in BCROD deed book 280 page 450; thence following the northern line of the lands of Anna Louis Ledford in a northwesterly direction 47 feet, more or less, to the southeast corner of the lands of John Porte, as recorded in BCROD deed book 2385 page 902; thence in a northerly direction with the eastern line of the lands of Porte 200 feet, more or less, to the northeastern corner of the lands of Porte, said point being located in the southern line of the lands of Robert Hicks, as recorded in BCROD deed book 1812 page 484; thence in a southeasterly direction with

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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 could provide immediate service to this parcel from our current Station 5 located on Freewill Road. Providing service to this parcel would have no budgetary impact on the Fire Department.

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

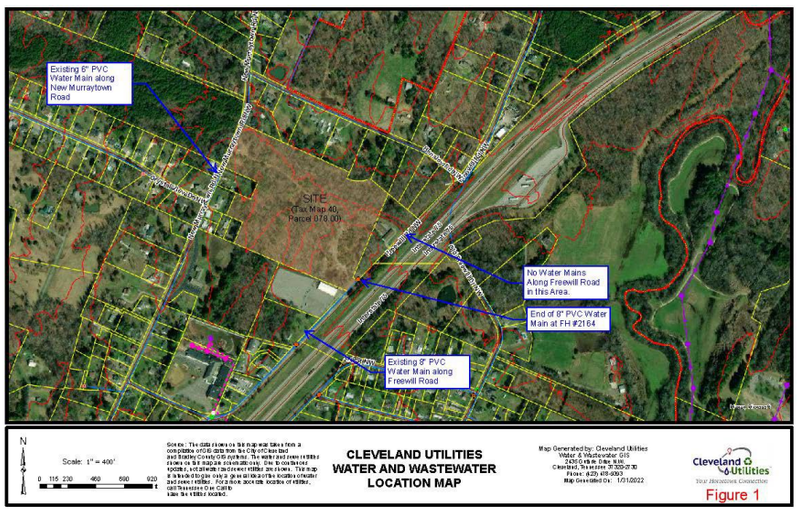
A. Domestic Water--- Domestic water service is available to this parcel.

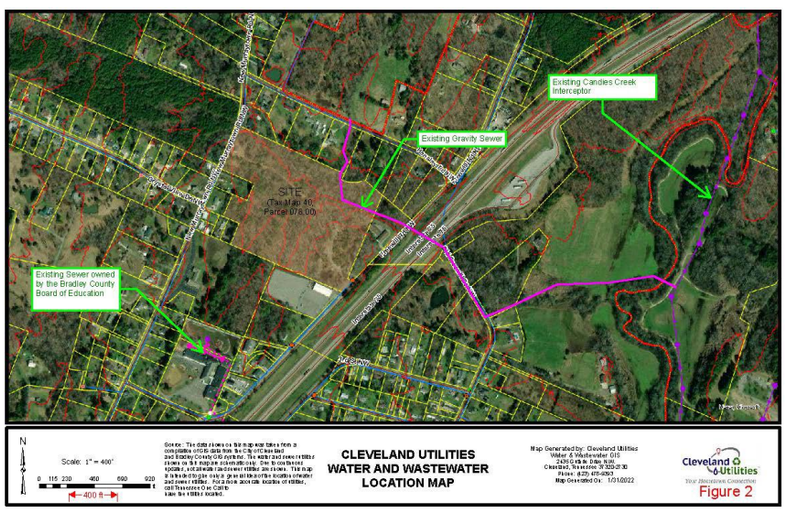
B. Sanitary Sewer--- This parcel is presently served with sanitary sewer service via a 12-inch gravity sewer main on the northeast side of the parcel. See Figure 2.

C. Fire Protection--- An existing fire hydrant is located at the southeast corner of the parcel along Freewill Road.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
New Murraytown/Freewill Road (Tax Map 40, Parcel 078.00)	$0	$0	$0	$0





4. Electric Service

This property is currently served by Cleveland Utilities Electric Division. No additional costs are anticipated.

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.

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*

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 current cost to the school system is $976.59 per student per year. Using this formula, it is estimated the New Murraytown/Freewill annexation would cost the city $46,872.32 per year and add 48 students to enrollment.

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 Zoning in the unincorporated County. The property is proposed for a PUD Planned Unit Development Zoning District as 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.

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 is expected to add approximately 310 residents to the 3rd City Council District.

10. Stormwater

I. The City of Cleveland Stormwater Utility Fee is based on impervious area. The fee is billed on the Cleveland Utilities monthly water bill. For additional information or to view the Stormwater Utility Fee Credit and Adjustment Manual please visit our website at www.clevelandtn.gov/stormwater.

II. All new development will need to adhere to the City of Cleveland Stormwater Ordinance. It appears that there may be a stream located on this site. Please review the City of Cleveland stream buffer requirements for any new development. Any modifications to the stream will require an Aquatic Resource Alteration Permit (ARAP). This permit is issued by the Tennessee Department of Environment and Conservation.

III. The City of Cleveland is now a Qualified Local Program (QLP). All development needing the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit coverage will submit all required documentation and fees to the City of Cleveland only.

IV. According to our maps there appear to be the possibility of hydric soils and streams on this site. A hydrological determination will be required and will need to be approved by TDEC. If it is determined that a wetland and/or stream is located on site, and work is proposed in those features, an Aquatic Resource Alteration Permit (ARAP) will be required before a Notice of Coverage can be issued. Please include Cleveland Stormwater staff in all communications.

Revenue

The total income from annexation without any improvements would result in approximately **$1,149.90** in property tax revenue.

With approximately 124 homes developed on the site with an estimated value of 260,000 each, property tax revenue would increase to approximately **$142,259**.

With an estimated 312 additional residents in the annexation area after being developed and a current state shared appropriation per person of $115.75 the property would generate approximately **$36,114.**

The annual stormwater fee for all homes on this site is estimated at **$2,870.80**.

Total revenue generated as a result of this annexation after the subdivision is developed would be approximately **$181,243.80.**

Councilman Hughes moved that Resolution 2022-69 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-33** – Zoning 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County to PUD34 for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 078.00) (Planning Commission: Approved 5-0; 3 absent, 1 recused).

Ordinance 2022-33

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 NEW MURRAYTOWN/FREEWILL ROAD "PUD 34" ON PROPERTY DESCRIBED AS TAX MAP 40 PARCEL 078, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 34; 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 34" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 34 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 34 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 34, New Murraytown/Freewill Road Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 40 Parcels 78. Exhibit C illustrates the overall New Murraytown/Freewill Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of the New Murraytown/Freewill Road development. The project consists of a mixture of detached single-family homes on small lots and attached single-family dwellings in multi-unit townhome structures. The attached multi-unit townhome units may constitute no more than 70 percent, or 84 units of the 124 of the overall units within the greater development. Exhibit B shows the general location of proposed infrastructure and common areas. The developer shall 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 34 Subdivision allows for the construction of up to 124 dwelling units in detached single-family houses and multi-unit townhome structures with up to four 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 conceptual plan through the Cleveland Municipal Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 34 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 New Murraytown/Freewill development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit B 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 34 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 B) for PUD 34, The New Murraytown/Freewill Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on February 15, 2022. The conceptual plan consists of a site plan for the overall development however additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD34 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. Any modification through the platting process may not increase the total number of dwelling units beyond 124 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 site plans for The New Murraytown/Freewill development 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 PUD34 New Murraytown/Freewill NW development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Existing Right of Way along New Murraytown/Freewill is narrow adjacent to PUD 34

and the intention is that the New Murraytown/Freewill 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 New Murraytown/Freewill along the entire property so as to make room for future city improvements to the New Murraytown/Freewill roadway including sidewalks. Exhibit B shall be modified to reflect the additional ROW along New Murraytown/Freewill. A Deceleration lane may be required by staff along Freewill Road.

6.B. PLATS.

One or more plats will be prepared for the PUD34 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. These plats shall be consistent in general layout with the conceptual site plan.

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 34 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 34 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.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD34 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.

All Single Family Detached Residential 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. All 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. The front facade of all structures shall contain a minimum of at least 50% of either brick or stone materials. No blank walls along street elevations are allowed. A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area. The driveways and parking areas for each Townhome shall be separated by a minimum of 3-foot planted landscape strip, therefore allowing for placement of trees and other landscaping.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff. The curb line should be extended along both New Murraytown Road and Freewill Road to the development property line or where feasible through staff review based on conditions in the field.

A monument style ground sign shall be installed at all entrances to the site. A landscaped berm no smaller than 2.5' in height shall be installed along New Murraytown Road and Freewill Road to provide privacy and to maintain a high-quality appearance. Open space shall be maintained at proportion no less than 15% of the total buildable area. The open space natural amenity shall be accessible to all lot within the subdivision by a sidewalk. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner’s association.

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.

The minimum lot width requirements 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 25 feet, side setback requirements are 3’ on one side and 10’ on the remaining side. Each 3’ side setback must be joined by a 10’ setback on the adjoining lot. Minimum side setbacks for townhomes are 10’. No setback is required for shared walls of townhouse units. All Rear setbacks shall be no less than 15' from the property line. In the case where there are Townhomes which have the parking located to the rear of the structure the minimum setback can be 15’. The minimum depth of a townhome parcel served with parking in the rear may be reduced to 75’.

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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address. Up to one lot, if located adjacent to a required Stream Buffer, may have a minimum size of 4,700 square feet in an effort to avoid private ownership of protected buffers.

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 PUD34 New Murraytown/Freewill Development. 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 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 PUD34, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit B, then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission and approved by the City Council of the City of Cleveland.

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 PUD34 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 11Developer'' 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 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 this ____ day of ____, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A – Site Location Map

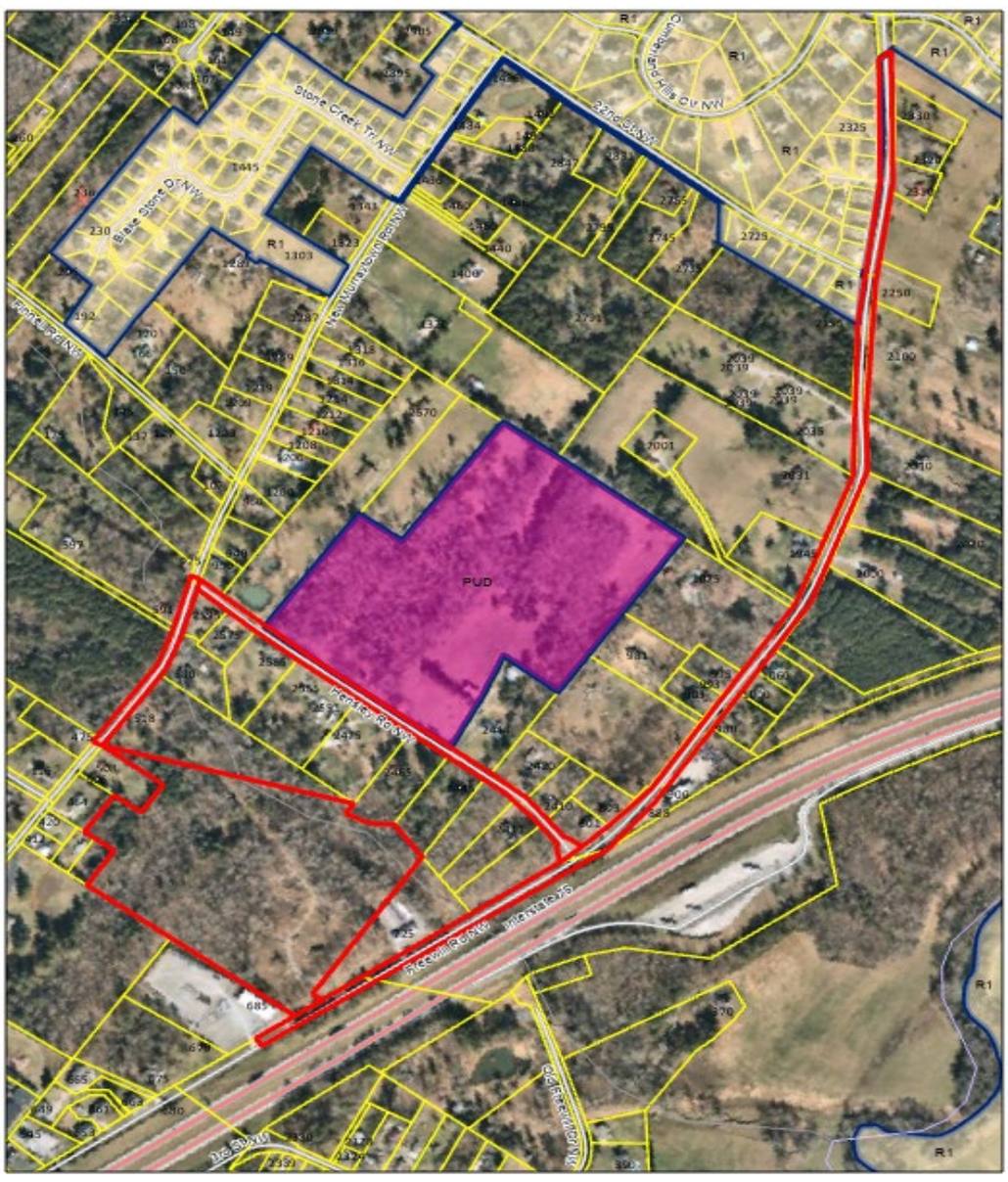
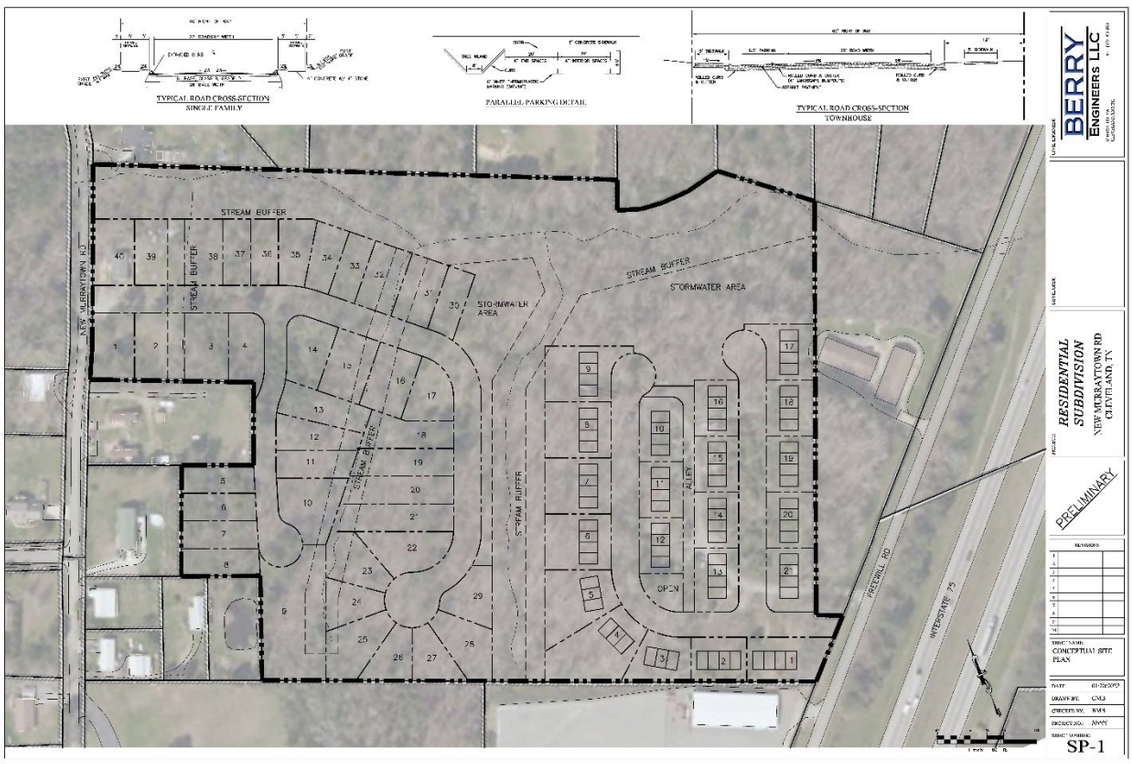


Exhibit B – Conceptual Plan of Development



Vice Mayor Johnson moved that Zoning Ordinance 2022-33 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed. Councilman Estes added this development has sidewalks and if he understands correctly, the 25' of right-a-way from the center line is for stacking lanes. Mr. Varnell comments were inaudible. Councilman Estes stated the PUDs are getting better and better and he appreciates staff working on this.

The following Resolution was then presented in full:

- **Resolution 2022-72** – Authorizing the Mayor to sign an Interlocal Agreement with Bradley County in connection with the annexation of a parcel of property located on New Murraytown Road.

RESOLUTION 2022-72

WHEREAS, the City has presented Bradley County with the attached Interlocal agreement between the City and the County in connection with the annexation of a parcel of property owned by CT Properties, which parcel is located off New Murraytown Road, and which is generally described as Tax Map 040, Parcel 078.00 as described in the interlocal agreement; and

WHEREAS, the Bradley County Commission approved of this Interlocal agreement at its voting meeting on August 1, 2022; and

WHEREAS, the City Council desires to approve of this Interlocal Agreement with Bradley County; and

WHEREAS, the City Council further desires to authorize the Mayor to execute the Interlocal agreement with Bradley County 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 Interlocal Agreement between the City of Cleveland and Bradley County.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the Interlocal agreement on behalf of the City. [Agreement on file in the City Clerk's Office.]

This 8th day of August, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2022-72 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following memo was then presented in full:

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **August 8, 2022**
RE: **Authorization for Staff to Proceed w/ Inman Street Diet**

SUMMARY:
City staff has worked closely with Cleveland Utilities to develop a proposal and estimated costs of purchasing new traffic light equipment on the downtown Inman Street corridor. The traffic light equipment on this corridor is over 30 years old and will need to be replaced with higher performing technology. The controllers will be able to be reused as supplies for other City owned traffic lights. They do not manufacture this kind of equipment anymore.

This project entails three distinct phases that could take two years to implement. The first phase is replacing all of the traffic light equipment at all five Inman Street intersections. The second phase is the state repaving Inman Street. The third phase are the pedestrian signals and replacing the sidewalk. The total estimated cost for phase 1 of this project is $694,966. We believe that this cost for labor and installation maybe a little high if we don't experience any unexpected issues. The second phase will be paid by TDOT. The third phase is $273,193 for the pedestrian signals, and approximately $500,000 for the sidewalk replacement on this corridor.

We are expecting a four-to-six-month delivery time for the equipment. The traffic lights would be installed next spring, and the paving will occur at the end of the spring.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends the approval of the Inman Street Corridor Project, the City purchasing the necessary equipment, and using bond funds to pay for this project.

Councilman Webb moved that the memo be approved and staff to proceed with the Inman Street Diet Signalization project. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

Councilman Cassada moved to give notice to the operator of the business at 70 Inman Street that the City of Cleveland is needing the business to vacate the building by September 30, 2022. The motion was seconded by Councilman Webb. Councilman Estes asked if the existing business paid rent. Mr. Fivas stated yes, it is a month-to-month lease. Upon roll call, Councilman Cassada, Councilman Webb, Vice Mayor Johnson, Councilwoman McKenzie, Councilman May and Councilman Hughes voted aye. Councilman Estes voted no. The motion passes 6:1.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, August 22, 2022.

There being no future business the meeting was adjourned at 3:45 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
AUGUST 22, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, AUGUST 22, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks and Mayor of the Day Carey Robertson. Also present were Councilmen Bill Estes, David May, Tom Cassada, Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Vice Mayor Avery Johnson was absent from the meeting. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Mike Griffin with the Chamber of Commerce; Cathy Andrews, CDBG Coordinator; Sharon Marr with Mainstreet Cleveland; Ben Berry with Berry Engineering; David Njoroge; Dustin Tommey with City Fields; Kim Brooks with Lee University and Tim Siniard with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Councilman Ken Webb, who asked for a speedy recovery for Vice Mayor Johnson, the following business was then entered into:

Councilman Cassada moved to excuse Vice Mayor Johnson from today's meeting. The motion was seconded by Councilman Webb; and upon roll, unanimously passed.

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 August 8, 2022 and approve them as written. The motion was seconded by Councilman Hughes; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations or public comments.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held to hear public comments concerning a change in the ownership interest of members for Elxr Wine & Spirits, LLC located at 640 Inman St W. Mayor Brooks asked if anyone would like to make any comments. No one spoke. Mayor Brooks closed the hearing.

Mayor Brooks stated today's meeting is being held to hear public comments concerning a change in the ownership interest of members for Georgetown Wine & Spirits located at 2325 Georgetown Road. Mayor Brooks asked if anyone would like to make any comments. No one spoke. Mayor Brooks closed the hearing.

Mayor Brooks 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 Brooks asked if anyone would like to speak in favor of the annual report. No one spoke. Mayor Brooks then asked if anyone would like to speak in opposition of the approval of the annual report. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held to hear public comments concerning approval of Plan of Service for about 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 078.00). Robert Varnell stated we held a public hearing two weeks ago on this plan of service, annexation and zoning and is available for any questions.

Planning Commission approved this item 5-0; with 3 absent and 1 recused. Mayor Brooks asked if anyone would like to speak in favor of the Plan of Service. Ben Berry with Berry Engineers stated he was also available for any questions. Mayor Brooks asked if anyone would like to speak in opposition of the Plan of Service. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held to hear public comments concerning a request by the property owner to annex about 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 040 078.00). The Planning Commission approved this item 5-0; with 3 absent and 1 recused. Mayor Brooks asked if anyone would like to speak in favor of the annexation. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the annexation. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held to hear public comments concerning a request by the property owner to rezone 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County to PUD34 for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 078.00). The Planning Commission approved this item 5-0; with 3 absent and 1 recused. Mayor Brooks asked if anyone would like to speak in favor of the zoning request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the zoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is also being held as a public hearing to hear public comments concerning the use of the FY2022 Byrne Justice Assistance Grant Award to be received by the Cleveland Police Department. Mayor Brooks asked if anyone would like to speak in favor of the approval of the grant use. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the approval of the grant use. No one spoke. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as public hearing to hear public comments concerning the Consolidated Annual Performance Evaluation Report (CAPER) for the 2021-2022 Community Block Grant Program. Mayor Brooks asked if anyone would like to speak in favor of the approval of the CAPER. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the approval of the CAPER. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning the FY2023-2024 Annual Action Plan for Community Block Grant Program. Mayor Brooks asked if anyone would like to speak in favor of the action plan. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the action plan. No one spoke. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated the State Form CT-0253 – Report on Debt Obligation - Relating to the General Obligation Bonds, Series 2022 ($22,175,000.00) had been distributed in your packets and no formal action is necessary.

CONSENT AGENDA

Councilman Hughes moved to approve the following items from the Consent Agenda, with removal of the surplus property item. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

- **Final Passage - Zoning Ordinance 2022-33** – heretofore passed on first reading August 8, 2022 and found in Minute Book 30, Page 812; Zoning 23.40 acres, more or less, as well as portions of the Freewill Road, New Murraytown Road, and Hensley Road Right-of-ways from the unincorporated County to PUD34 for property located on New Murraytown Road and Freewill Road (also described as Tax Map 040 Parcel 078.00) (Planning Commission: Approved 5-0; 3 absent, 1 recused).
- **Motion –** Issuing a new Certificate of Compliance to Elxr Wine & Spirits, LLC due to change in the ownership interest of members.
- **Motion –** Issuing a new Certificate of Compliance to Georgetown Wine & Spirits due to change in the ownership interest of members.
- **Motion** – Authorizing the Mayor to sign the annual report to Tennessee Department of Environment and Conservation (TDEC) Division of Water Pollution Control from the Stormwater Division.
- **Resolution 2022-73** – Authorizing the Mayor to sign a grant application for the 2022 Edward Byrne Grant to be used for in-car camera systems.

RESOLUTION 2022-73

AUTHORIZING THE CITY OF CLEVELAND TO APPLY FOR AN EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FOR FY2022 THROUGH THE UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE

WHEREAS, the City of Cleveland desires to apply for a FY2022 Edward Byrne Memorial Justice Assistance Grant in the amount of $46,010 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 22nd day of August, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-74** - Authorizing the Mayor to sign an interlocal agreement with Bradley County for the 2022 Byrne Justice Assistance Grant (JAG) Program Award.

RESOLUTION 2022-74

WHEREAS, the Cleveland Police department has received notification from the United States Department of Justice, Office of Justice Programs that an Interlocal agreement needs to be executed between the City of Cleveland and Bradley County, Tennessee in connection with grant funds being provided from the 2022 Byrne Justice Assistance Grant (JAG) Program; and

WHEREAS, the attached interlocal agreement has been prepared using a template provided by the United States Department of Justice, Office of Justice Programs; and

WHEREAS, the City Council desires to enter into the attached interlocal agreement with Bradley County, Tennessee 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 interlocal agreement with Bradley County, Tennessee, 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.]

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-75** - Approval of the 2021-2022 Consolidated Annual Performance Evaluation Plan (CAPER) for the CDBG Program.

RESOLUTION 2022-75

A RESOLUTION APPROVING THE 2021-2022 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REPORT(CAPER) FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT(CDBG) PROGRAM

WHEREAS, the City Council of the City of Cleveland, Tennessee passed a Resolution approving the 2021-2022 Annual Action Plan; and

WHEREAS, the 2021-2022 Consolidated Annual Performance Evaluation Report (CAPER) has been prepared by City Staff and, and a summary of the same has been made available; and

WHEREAS, the City Council desires to approve the 2021-2022 Consolidated Annual Performance Evaluation Report; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council approves the 2021-2022 Consolidated Performance Evaluation Report (CAPER) and authorizes the submission to the United States Department of Housing and Urban Development (HUD)

Approved 22nd day of August 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Reappointment –** City Judge; Richard Banks for an additional two-year term to expire September 2024.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilwoman McKenzie stated the City of Cleveland has received the 2022 TML Excellence in Downtown Revitalization and Historic Preservation Award. Mr. Fivas added a formal presentation will be at a future meeting.

Councilman Estes thanked Cathy Andrews for her work on the 2023 CAPER and reaching out to the community and being accessible. He then questioned the interest rate stated on the debt obligation form from the State. Mr. McKay explained the difference between the coupon rate and the yield on the bonds and offered to meet with Councilman Estes to explain in greater detail.

Councilman Cassada asked if staff would look at 3520 Adkisson Drive for potential code violations.

Councilman May stated he was happy that the Army Corps was ready to let the contract for the retention ponds and asked if a timeline had been announced. Mr. Fivas stated construction meetings should begin within the next month.

Councilman Hughes asked if the City has applied for a portion of the $3 billion the State has for mental health needs for Tennessee residents. Mr. Fivas responded no, but staff will discuss with our legislative delegation to see how to receive funds. Councilman Hughes then stated Hal Taylor with City Schools handled a busing problem and thanked him for always being sensitive to the needs of the Council and the children. Also, this is the time of year that energy comes to Cleveland. Cleveland State and Lee University students provide that energy, and he appreciates it.

Councilman Webb stated this is his last meeting of his first term. It has been an honor and privilege it has been to serve on the Council and is looking forward to the next four years. He appreciates his fellow Councilmembers and the opportunity to work with them for the needs of our citizens.

NEW BUSINESS AND ORDINANCES

The following memo concerning Homelessness Action Plan was presented in full:

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **August 22, 2022**
RE: **Homelessness Action Plan**

SUMMARY:

As we have emerged from the Covid pandemic, our community has seen a serious uptick in general homelessness. Most communities across the United States have seen the same uptick, and are looking for solutions to these issues. The national opioid epidemic has substantially raised the level of drug abuse, and homeless persons. We have started to receive several communications that residents feel uncomfortable with this situation. I can assure you that Chief Gibson, his staff, and myself have met regularly to address these issues the last couple years. We've always taken these issues with the highest level of seriousness. The Cleveland Police Department has been proactive on these issues and have done numerous special projects to react to business owners and resident's concerns. At this time, I am proposing to escalate our approach and will begin to implement a new Homelessness Action Plan. Councilwoman Marsha McKenzie is our City representative to the Homeless Coalition in

Bradley County. Ms. McKenzie and I have had numerous conversations about the Homeless Coalition recommendations and direction of homelessness in Bradley County.

Generally, homelessness is usually found in three different categories. The first are those families and individuals who want to work and live in a home but have fallen on difficult times. Second, are those individuals who just want to be homeless and see it as a lifestyle. Third, are those individuals who have mental health or various disability issues, and in many cases, self-medicate those mental health issues with drugs and alcohol. To be clear, just like life, these individuals can go up and down in these general groups depending on the issues and stresses they have daily. The third population is the population that our police department spends the most time responding to in our city.

Staff is proposing a 15-step Action Plan that we can do more on these issues. Some are short-term in implementation, and some are longer in terms of implementation.

Homelessness Action Plan:

1) We need to meet with our legislative delegation to express the need for assistance on these homelessness issues that are impacting all local communities. The State of Tennessee has an approximate $3 billion dollar surplus, and they should assist in funding the mental health needs of these people. The state is generally responsible for public health operations in Tennessee.

2) We need to request that the Bradley County Health Department needs to allocate more resources to solving these issues within our community.

3) The City will meet again with Tennova Hospital and Bradley County EMS to make sure they are fully assisting our officers with dealing with our issues. Tennova Hospital needs to take a larger role in getting medical and mental health evaluations for these populations.

4) The city will meet with the Bradley County jail officials and local judicial officials and find ways to partner on keeping more of the homeless who are convicted of crimes in jail and off our streets.

5) The city will encourage an accurate and updated homeless population census. This information gives you an idea of how they got here, why are they homeless, and what are their needs.

6) The City will double our efforts to demolish non-functional buildings and have code enforcement focus on tall weeds on public and private properties. We've seen the homeless populations breaking into and living in these properties.

7) Work with the Bradley-Cleveland Community Services and Bradley County to fund the construction and build-out of 24 additional units for the city-owned homeless shelter. I've had conversations with Community Services, and they are ready to proceed with moving forward. The City Council in the FY 23 budget has allocated $50,000 in our budget for the project. These 24 additional units would allow those individuals and families who are actively looking for work to have a temporary place to live.

8) Work with The Caring Place to serve the needs of the homeless in Bradley County. The City Council in the FY 23 budget has allocated $50,000 to allow them to implement these services. These would generally be facility upgrades, food programs, and clothing programs.

9) The city will push forward with a live camera system linked to most of our public places within the city. The city would construct a Transportation and Police Department area to observe these live feeds and be connected to police patrols instantly if they see any trouble. This would specifically include a live camera system on the Greenway, in our public parks, most of our major intersections, and in our downtown area. We've done substantial work on this project in the past and believe that this has urgency in its implementation schedule.

10) The City will establish a 'Homelessness Hotline' for residents to report any trespassing, panhandling, camping, sleeping, etc. This will allow a resident to anonymously report an issue with the homeless population and have public works or CPD react immediately to the issue. This could also include a public education campaign on how to engage the homeless to best support the city in our efforts.

11) The Cleveland Police Department has a pilot project they are actively testing to allow a certified public health counselor to be imbedded with police officers to be able to health services to any homeless person that is in crisis. They have been assisting that person to get assistance at the hospital and to find housing.

12) We will do an extensive review of our ordinances and make sure they are up to date, and give CPD enough tools to enforce panhandling, loitering, etc.

13) We will continue to have additional foot patrols on the Greenway. The city had already increased these patrols earlier this year.

14) We are implementing a program to have time release locks on all of our public restrooms. Our public restrooms are frequently visited by the homeless population. They have been responsible for substantial damage to these restroom facilities.

15) Study options to look at additional homeless space in the future.

RECOMMENDATION:

City staff recommends the support of this 15-step Homelessness Action Plan.

Councilman Webb stated recognizing homelessness is a complicated situation to both those experiencing it and the community in general, he moved to support the 15-step Homelessness Action Plan as proposed by city staff and encourage its continued refinement and implementation on an expedited basis. We also recognize and appreciate the important roll our city agencies play in addressing this issue. The motion was seconded by Councilwoman McKenzie. Upon roll call, the motion unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, September 12, 2022 at the Museum Center – 3:00 session only (Presentation of Certificates of Election)

There being no future business the meeting was adjourned at 3:31 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
SEPTEMBER 12, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, SEPTEMBER 12, 2022 AT 3:00 P.M. AT THE MUSEUM CENTER AT 5IVE POINTS.

Present and presiding was Mayor Kevin Brooks. Also present were Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie. Vice Mayor Avery Johnson as absent from the meeting. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Tim Sinead with *The Cleveland Daily Banner*; and several friends and family members. Following the Pledge of Allegiance to the American Flag and prayer by the Honorable Judge Michael Sharp, the following business was then entered into:

PRESENTATION OF CERTIFICATES OF ELECTION & ADMINISTRATION OF OATHS OF OFFICE

Mayor Brooks stated the Honorable Judge Michael Sharp, Circuit Court Judge of Bradley County will administer the oath of office to each Council member. As each member prepares to take their oath Travis Henry from the Bradley County Election Commission will present their Certificates of Election.

Travis Henry with the Bradley County Election Commission then presented Councilman Ken Webb with his Certificate of Election. Judge Sharp then administrated the Oath of Office to At-Large Councilman Ken Webb.

Travis Henry with the Bradley County Election Commission then presented Councilwoman Marsha McKenzie with her Certificate of Election. Judge Sharp then administrated the Oath of Office to Councilwoman Marsha McKenzie.

Travis Henry with the Bradley County Election Commission then presented Councilman Bill Estes with his Certificate of Election. Judge Sharp then administrated the Oath of Office to Councilman Bill Estes.

Travis Henry with the Bradley County Election Commission then presented Mayor Kevin Brooks with his Certificate of Election. Judge Sharp then administrated the Oath of Office to Mayor Kevin Brooks.

Judge Sharp then administered the Oath of Office to Municipal Judge Richard Banks.

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 August 22, 2022 and approve them as written. The motion was seconded by Councilman Webb; and upon roll call, the motion unanimously passed.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

RESOLUTION 2022-76

WHEREAS, the City has received the attached scope and fee proposal from Cannon & Cannon, Inc. which authorizes Cannon & Cannon, Inc. to perform professional engineering services for Roadway Improvements at 20th Street NE at Michigan Avenue Road; and

WHEREAS, the City Council desires to enter into the attached scope and fee proposal with Cannon & Cannon, 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 approve of the attached proposal with Cannon & Cannon, Inc., and it further authorizes the Mayor to execute any necessary documents on behalf of the City of Cleveland [on file in the City Clerk's Office].

This 12th day of September, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Resolution 2022-76 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:

ORDINANCE 2022-34

AN ORDINANCE TO AMEND TITLE 9 OF THE CLEVELAND MUNICIPAL CODE, BY ADDING A NEW CHAPTER TO BE DESIGNATED AS CHAPTER 8, ENTITLED "NIGHTCLUBS"

WHEREAS, City staff is of the opinion that regulations and a permitting process for nightclubs needs to be created and included in the Cleveland Municipal Code.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, that Title 9 of the Cleveland Municipal Code, be amended to add a new Chapter to be designated as Chapter 8 and to be titled "Nightclubs"

TITLE 9, CHAPTER 8 NIGHTCLUBS

Section 9-801 Definitions

Section 9-802 Permits required for Nightclubs

Section 9-803 Revocation of Permit

SECTION 9-801 DEFINITIONS.

Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

Nightclub: A commercial establishment, which may or may not be held out to the public as a Bar or social gathering place, **with an occupancy capacity of 100 or more people** which serves alcohol or allows alcohol on the premises and which is operated as a place of entertainment at night for eating or drinking or dancing and which provides live or recorded entertainment, characterized by any or all of the following activities as a principal use:

(1) Festival Seating: A form of audience/spectator accommodation for entertainment events in which limited or no seating, other than floor or ground surface, is provided for the audience/spectators gathered to observe entertainment events, dance, or watch a perfom1ance. It is not the intent of this section to apply the term festival seating to exhibitions, sports events, conventions, and bona fide political, religious, and educational events.

(2) Musical or video or live entertainment-live or recorded (DJ) that is amplified or very loud. This category does not include karaoke unless such activity continues after midnight.

(3) Dance floor available for use during certain hours.

(4) Later operating hours - defined as after midnight.

(5) Low lighting levels or darkness during any musical, video, or live entertainment event.

(6) Stage/platform for floor shows or other live or recorded performances.

(7) Operates with a city or state license to serve alcohol or allows consumption of alcohol on the premises during musical, video, or live entertainment events between the hours of 11:00 p.m. until 3:00 a.m.

The above factors need not be present during all hours of operations nor include the entirety of the establishment to result in the necessity for a Nightclub permit as required under Section 9-802 of this Chapter.

9-802 PERMITS REQUIRED FOR NIGHTCLUBS

If a commercial establishment, which may or may not be held out to the public as a Nightclub, Bar or other social gathering place, **with an occupancy capacity of more than one hundred (100) people**, and which serves alcohol or allows alcohol on the premises and is operated as a place of entertainment at night for eating, drinking, dancing and provides live or recorded entertainment and engages in certain activities referenced under the nightclub definitions in Section 9-801, such commercial establishment shall require a Nightclub permit from the City Council before any certificate of occupancy can be issued by the Building Official and provided that the following conditions are met:

(a) The owner shall apply for a Nightclub Permit which shall be issued by the City Council. The process for application for this permit shall be to submit a site plan to the Director of the Cleveland Department of Development and Engineering Services, which shows the general plan for utilization of any building (including the location and size of outside gathering places such as decks, balconies, covered areas and patios), distances from nearby residential zones, locations of any amplified speakers in the building, parking plans, and any proposed landscaping or noise reduction efforts which will be taken to protect nearby properties from excessive noise or traffic concerns due to this use by the applicant. Additionally, the applicant shall provide a copy of its Tennessee Alcoholic Beverage Commission Liquor by the Drink (LBD) Application and supporting paperwork. Development and Engineering Services shall review and suggestions on necessary conditions for parking, landscaping, or noise reduction resulting from the proposed or actual use of the property. The Development and Engineering Services shall provide a recommendation on the Nightclub Permit application directly to the City Council, and any Nightclub Permit shall only be issued by the City Council after a public hearing.

(b) Nightclub permits issued by the City Council may be revoked by the City Council after notice and hearing as set forth in Section 9-803.

(c) If a property owner or business owner disagrees with the determination of the Director of Development and Engineering Services that an establishment is a Nightclub under this chapter, then upon request by the owner, the decision will be reviewed by the Cleveland City Council.

(d) Any doorway entrance regularly used for ingress and egress or outdoor place of gathering such as a deck/patio of any such use (if permitted by approval of a Nightclub permit) shall be located more than seven hundred and fifty feet (750') away from the nearest boundary of any residential zone when constructed for a Nightclub. The 750' buffer distance may be decreased in part or entirety and the City Council may impose additional conditions for the protection of residential properties from excessive noise or other nuisance issues depending on the proximity and location of water, rail, and road rights-of-way, topography, adjoining land uses, or other natural or manmade barriers to sound and noise.

(e) Outdoor gathering places such as decks, balconies, covered areas and patios shall have no amplified noise, no entertainment or theatrical lighting, and no outside sale of food or beverages.

(f) If a Permit for a Nightclub is approved by the City Council:

a. Said permit shall not be transferred to any person or entity without approval by the Cleveland City Council.

b. The Nightclub permit and any conditions attached to the Nightclub Permit shall be posted in the interior of the Nightclub next to the building's Occupancy Rating and shall be available for inspection upon request.

9-803 REVOCATION OF PERMIT

A Nightclub permit may be revoked by the City Council at any time upon written notice to the owner and after a public hearing before the City Council which establishes by a preponderance of evidence that the Nightclub permit holder has violated any federal, state, or local law or ordinance.

A Nightclub permit may also be revoked by the City Council at any time upon written notice to the owner and after a public hearing before the City Council for any of the following reasons:

1. At the time of a suspension of the Nightclub's beer permit by the Beer Board, or the suspension of any liquor by the drink permit by the Tennessee Alcoholic Beverage Commission; or

2. Upon recommendation by the City Planning Director, City Chief Building Official, Cleveland Police Department, or the Cleveland Beer Board.

3. Number and occurrences of Police Department calls to the Nightclub and about the Nightclub.

4. Impact of noise and activity from the Nightclub on surrounding property owners.

5. Changes to site plan by the Nightclub or activity occurring at Nightclub after the nightclub permit is granted.

6. Parking problems on nearby properties occurring due to Nightclub use.

7. Any other City ordinance violations related to use of property as provided by City staff.

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

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Ordinance 2022-34 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on September 26, 2022.

There being no future business the meeting was adjourned at 3:20 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
SEPTEMBER 26, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, SEPTEMBER 26, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brook. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, David May, Tom Cassada, Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Christy Brandon, Assistant City Clerk; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Doug Berry with the Chamber of Commerce; Sharon Marr with Mainstreet Cleveland; Charlie Boothe; Gwendolen Lowe; Robin Jones; James Morgan; Shawna Staup; Taylor Hill; Brenda Gibson; Michelle Goldston and Dustin Tommey with City Fields; Ron and Lynn Harrison; Kim Brooks with Lee University; Vince Dauro and Tim Siniard 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 12, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Mayor Brooks read the following proclamation for retired Fire Chief Ron Harrison and congratulated him on the naming of the Ron Harrison Fire Training Tower. Chief Harrison thanked Mayor Brooks, Mayor Emeritus Rowland, the City Council and the Cleveland Fire Department for their support and honoring him in this way. Councilman Hughes added Chief Harrison is a team player and thanked him for helping the City receive the improved ISO rating and additional apparatuses. He wished him the best in his retirement. Councilman May congratulated Chief Harrison for a job well done.

"F I R E C H I E F R O N H A R R I S O N"

Whereas, Chief Ron Harrison is a Bradley Central High School graduate class of 1978. Studied nursing and fire science earning his degree through Cleveland State and Chattanooga State Community College before he spotted a job opening in the newspaper for the Cleveland Fire Department. After a grueling 14-week training program, he's been with the department ever since; and. . . .

Whereas, Chief Harrison began his service to the Cleveland Fire Department in February 1995 and served there for the entirety of his career, getting promoted to Fire Chief in 2015; and . . . .

Whereas, under his leadership, new equipment and personnel were added to the fire services as well as implementation of a program to reduce the risk of cancer for firefighters; oversaw the building of Fire Station 6 and improved the ISO rating to a 2, the community's overall fire safety rating; and . . . .

Whereas, he also help deploy a support group of firefighters to New York in the aftermath of 9/11, and led the establishment of the Cleveland Fire Training Tower which was named by the Mayor and City Council in Chief Harrison's honor; and . . . .

Whereas, Chief Harrison will certainly be missed for his leadership. A look back on the accomplishments helps you realize that he brought Cleveland Fire Department a long way for the citizens that we serve,

NOW THEREFORE, I, Kevin Brooks as Mayor of the City of Cleveland and on behalf of the entire City Council wish Chief Harrison much happiness in his retirement, enjoying his family and of course fishing! We wish him a long and healthy retirement.

Mayor Brooks then introduced Vince Dauro. Vince Dauro with CALEA gave a brief history of CALEA and their standards for agencies to follow. They help departments follow law enforcement standards, minimizes the department's exposure to liability, demonstrates accountability to the public and guarantees professional management practices. It confirms their commitment to excellence in law enforcement. The certificate represents the agencies efforts to achieve accredited status, therefore by demonstrating their willingness to change in order to effectively address contemporary public safety concerns. It represents the commitment to do the right thing and doing it the right way, adherences to a professional code and lastly, an ongoing dedication to ensuring the agency resources are appropriately developed, actively deployed and constant management for a safer City. He then presented Police Chief Mark Gibson the 2022 Accreditation Certificate for the Cleveland Police Department and recognized their hard work toward achieving this goal. This is the departments fifth award for Advance Law Enforcement Accreditation, which is the highest level.

Mayor Brooks then read the following proclamation.

"CHILDHOOD CANCER AWARENESS MONTH"

Whereas, each day 47 children are diagnosed in the United States, which means more than 17,000 children in the U.S. are diagnosed each year and face their battle with incredible bravery and inspiring hope; and . . . .

Whereas, cancer is the leading cause of death by disease among U.S. children, resulting in the death of approximately 1,800 kids e ach year; and . . . .

Whereas, many childhood cancer survivors suffer long-term side effects and/or experience secondary cancers later in childhood or as an adult, as a result of the cancer treatments they received; and . . . .

Whereas, a local parent advocacy group has confirmed there have been at least 40 children diagnosed with cancer in Cleveland, Tennessee, over past 30 years and with permission from their parents we wish to recognize them by name; and . . . .

Whereas, we honor the following childhood cancer fighters in active treatment (some ae present today) Olivia Weatherford, Kimmy Nascimento, Christian Ingram, Axel Florian, Sebastain Hernandez, and Seth Voyles; and. . . .

Whereas, We honor the following childhood cancer survivors in remission (some are present today): Aiden Boyd, Aiden Williams, Audrey Robbins, Brayden Dilbeck, Candace Womac, Caleb Ledford, Chloe Watts-McClung, Dylan Duncan, Eva Townsend, Jonah Phillips, Kenleigh Rae, Lexi Workman, Lydia Brink, Ryan Perdomo, and Wyatt Maxwell; and . . . .

Whereas, We honor the memory of the following childhood cancer warriors who courageously battled but are no longer with us (some of their parents brought a photo of their child today): A.J. Pugh, Amber Blair, Cheyenne Edmonson, Colton Malone, Danica Holder, Doc Walker, Dylan Green, Emma Cummings, Grayson Moser, Hampden Ipser, Jaxson Kidd, Joshua Freeman, Mason Cobble, Matthew Yarber, Ryan Ramsey, and Sierra Underwood; and . . . .

Whereas, we also honor all courageous fighters, survivors, and angels across our nation and across the world as well as any local children we may have unintentionally omitted,

NOW THEREFORE, I, Kevin Brooks,, Mayor of the City of Cleveland do hereby proclaim the month of September as: **"CHILDHOOD CANCER AWARENESSS MONTH"** in the City of Cleveland and encourage our citizens to join me in this worthy observance. The cancer ribbon color for childhood cancer is gold, and all citizens are urged to GO GOLD.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone .54 acres, more or less, from R1 to PI for property located at 4041 N. Ocoee Street. Robert Varnell stated this is a straightforward rezoning request and is available for questions. The Planning Commission approved this item 8-0 with 1 member being absent. Mayor Brooks asked if anyone would like to speak in favor of the rezoning request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3.8A and 3.8B to clarify accessory structures total maximum square footage per lot. Robert Varnell stated this amendment removes the several ways to follow different regulations within the zoning ordinance and this amendment makes it very specific to one set rule to follow for accessory structures. The Planning Commission approved this item 8-0 with 1 member being absent. Mayor Brooks asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comment concenring a request by the City of Cleveland to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 4.1.2A sub number 1 to require a pre-submittal meeting for PUDs. Robert Varnell stated this is so he can sit with applicants and have conversations, so expectations are the same across the board. The Planning Commission approved this item 8-0 with 1 member being absent. Mayor Brooks asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

Councilman Estes moved to approve the following items from the Consent Agenda. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

- **Resolution 2022-77 –** Authorizing the Mayor to sign a grant application for the Tennessee Agriculture Enhancement Program (TAEP) Grant for Community Tree Planting (50/50; City Match $5,496.00).

RESOLUTION 2022-77

WHEREAS, the City has received the attached grant contract from the Tennessee Department of Agriculture, (hereafter "TDOA") for an Urban TAEP Community Tree Planting Project; and

WHEREAS, the City Council desires to enter into the attached grant contract with TDOA for the project described, and to further authorize the Mayor to execute this contract 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 grant contract with TDOA for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 26th day of September 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-78 -** Authorizing the Mayor to sign the driver safety awareness grant contract with the Tennessee Department of Safety and Homeland Security Tennessee for community-based traffic safety enforcement and education ($50,000).

RESOLUTION 2022-78

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF THE 2023 STATE OF TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY DRIVER SAFETY AWARENESS GRANT

WHEREAS, the State of Tennessee Department of Safety and Homeland Security through the Tennessee High is sponsoring competition for $23 million in federal grant funds to be distributed statewide from the National Highway Traffic Safety Administration for the 2022-2023 Federal Fiscal Year. Grant funding is available for traffic safety programs, public awareness campaigns, impaired driving, highway safety education, occupant protection, speed enforcement as well as pedestrian and bicycle safety; and

WHEREAS, the City Council of the City of Cleveland, Tennessee desires to authorize City staff to accept the grant funding, and authorize the Mayor to sign the same, as well as to execute any other documents or take any other actions which may be necessary or appropriate to implement the grant awarded to the City by the Tennessee Department of Safety and Homeland Security.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee that the Mayor and City staff be authorized to sign and accept the grant with the State of Tennessee Department of Safety and Homeland Security on behalf of the City of Cleveland for the grant described herein.

BE IT FURTHER RESOLVED by the City Council of the City of Cleveland that the Mayor is authorized to execute any other documents or take any other actions which may be necessary or appropriate to implement the grant if the same is awarded to the City by the Tennessee Department of Safety and Homeland Security.

Adopted this 26th day of September 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-79**– Authorizing the Mayor to sign an agreement with WSP USA, Inc. to provide professional services for MPO.

RESOLUTION 2022-79

A RESOLUTION APPROVING OF THE SELECTION OF WSP USA, INC. TO PROVIDE PROFESSIONAL SERVICES FOR THE CLEVELAND URBAN AREA METROPOLITAN PLANNING ORGANIZATION (MPO) AND TO AUTHORIZE THE MAYOR TO EXECUTE AN AGREEMENT WITH WSP USA, INC. ON BEHALF OF THE MPO FOR THESE SERVICES

WHEREAS, City staff have completed the consultant selection process for professional services for the Cleveland Urban Area Metropolitan Planning Organization (MPO); and

WHEREAS, City staff are now recommending that the City select WSP USA, Inc. to provide these professional services for the MPO and to authorize the Mayor to execute the attached agreement with WSP USA, Inc.; and

WHEREAS, the City Council desires to approve of the selection of WSP USA, Inc. for the projects and professional services described in the attached agreement, and to authorize the Mayor to execute a professional services agreement with WSP USA, Inc. on behalf of the MPO.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee that the City Council does hereby approve of the selection of WSP USA, Inc. to provide professional services for the projects described in the attached agreement, and the City Council further authorizes the Mayor to execute the attached professional services agreement on behalf of the MPO.

Approved this 26th day of September 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-80** – Authorizing an application for USDOT Rail Crossing Elimination Program Grant for bridge over Norfolk Southern Railroad and to provide required matching grant funds.

RESOLUTION 2022-80

RESOLUTION TO AUTHORIZE APPLICATION FOR USDOT RAIL CROSSING ELIMINATION PROGRAM GRANT FOR BRIDGE OVER NORFOLK SOUTHERN RAILROAD AND TO PROVIDE REQUIRED MATCHING FUNDS FOR SAID GRANT

WHEREAS, the United States Department of Transportation (USDOT), acting through its Federal Railroad Administration, published a Notice of Funding Opportunity (NOFO) inviting communities to apply for funding that would be used to eliminate railroad grade crossings through its Rail Crossing Elimination Program; and

WHEREAS, whereas the City of Cleveland is currently working with USDOT and the Tennessee Department of Transportation (TDOT) to prepare a Crosstown Connector plan using funding from the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) funding and a key component of the connector will be a bridge across the railroad at 3rd Street SE crossing in the former Whirlpool site; and

WHEREAS, the estimated cost of a bridge sufficient for the planned corridor to span the railroad in this location is approximately $34,218,000 for which the required 20% match would be approximately $6,844,000; and

WHEREAS, it is desirable to apply for grant funding to design and construct the bridge over the railroad and time is of the essence in submitting the grant application described herein,

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

1. Staff are authorized to work with consultants and others as necessary to development the application for the Rail Crossing Elimination Program grant for the bridge as described herein.

2. The Mayor is authorized to sign documents necessary and appropriate to the grant.

3. Required matching funds for the grant up to $6,844,000 are approved.

Approved this 26th day of September, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Bid Report** – Drug and Alcohol Testing Services.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **September 26, 2022**
RE: **Drug and Alcohol Testing Services RFP**

SUMMARY:
The City advertised to accept proposals for Drug and Alcohol Testing Services on September 7, 2022. Proposals were received from the following:

- Arc Point Labs
  Chattanooga, TN
- DSI Medical Services
  Horsham, PA

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff has evaluated the proposals and recommends award to Arc Point Labs.

- **Reappointment** – *Greenway Board* – Annie Robbins for an additional two-year term to expire August 2024.
- **Reappointment** – *Greenway Board* – Dr. Pat Stone for an additional two-year term to expire August 2024.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

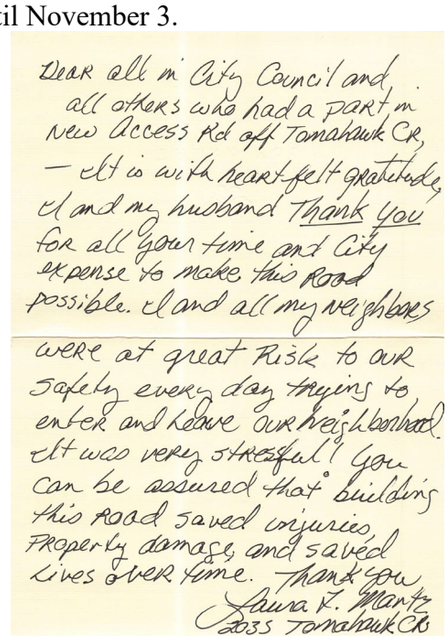
Councilman Cassada stated he felt the meetings were getting lengthy, due to cancellation of meetings around holidays. He encourages the Council to follow the Charter, which states if a meeting date falls on a holiday, the meeting be moved to the following day. Councilman May asked if he was making a motion. Councilman Cassada stated no, it's in the Charter. Councilman May stated we have moved meetings with important matters. Councilman Cassada stated he was asking for Council to follow the Charter. Secondly, he has received several concerns about peddlers and asked what kind of additional enforcement or deterrent to help alleviate the issue. Chief Gibson stated we are happy to move them along and write citations where warranted. They do move to other locations, but staff would look further to see what else could be done. Councilman Cassada then asked about the letter from Dave Ramsey asking if the large development off Stone Lake Road/Brymer Creek is no longer active. Mr. Fivas replied the City is not aware but will ask the developer the status. Lastly, he asked for an update on the Raider Drive building. Mayor Brooks stated we've had additional conversations with the donor, where both parties have requested additional information in writing and the paperwork is catching up with each other.

Councilman May inquired about the status of Michigan Avenue Road. Mr. Jobe stated we have met with the consultant and are actively working on the design and preliminary reports for the grants. Staff is working on the in-house design for Minnis Road turn lane. Councilman May asked about timeline. Mr. Jobe stated we have to make it work with the paving window. The Michigan/20th Street is a larger project, about 85% of the project, which we will sub out design and construction. City staff will handle the Minnis Road turn lanes in house.

Mayor Brooks asked to thank the Public Works department for their quick response in helping the widow on Fulbright Road, which is in Councilman May's district.

Councilman Hughes stated he received a call from Max Morris concerning the efficient response time of 3 minutes from the Cleveland Fire Department to a call to assist his wife. Councilman May stated he also received a call from a resident on Gibson Drive, who call the nonemergency number for a vehicle unlock. Patrol was there in 3 minutes and opened the door quickly. Councilman Hughes then welcomed Vice Mayor Johnson back. Several prayers were answered during his sickness. Mayor Brooks then acknowledged that Mrs. Johnson was with us today in the audience.

Councilman Webb stated he appreciated the update on Greenway security. Secondly, we have received a thank you card from Ms. Laura Martz for the new access road off Tomahawk Circle [note below]. Councilman Webb then reminded all of the November election. Early voting will be October 19 until November 3.



Dear all in City Council and all others who had a part in New Access Rd off Tomahawk Cir, — It is with heart-felt gratitude I and my husband Thank You for all your time and City expense to make this Road possible. I and all my neighbors were at great Risk to our Safety every day trying to enter and leave our neighborhood. It was very stressful! You can be assured that building this Road saved injuries, Property damage, and saved Lives over time. Thank you
Laura K. Martz
2035 Tomahawk Cir

Vice Mayor Johnson thanked everyone for the calls, food and prayers during his recent illness. Secondly, he remembers discussing with Chief Harrison about a fifteen-year plan for the future and how to improve the ISO rating. Chief Harrison moved us further down the road. He then address the length of the agenda and meetings. It is just a part of growing and doing so many projects, we are catching up. It is just something we have to dig in and get the job done.

Councilwoman McKenzie commended Chief Gibson and the Cleveland Police Department for the new Crisis Intervention Team, which twenty-one officers are trained for certain situations. She had a ride along with Sgt. West and Officer Hartwig where they had the opportunity to check on a homeless gentleman and she was very impressed on the professionalism and humanity in handling the situation. She commended them for their efforts with the homeless.

Councilman Estes commended Greg Thomas for giving a fifty slide-presentation on the Rail Grant in under 30 minutes. It was a good presentation as well. Next, the Planning Commission has been a steep 2-year learning curve. Robert Varnell is the right person at the right time. He has the tact and skills, and he has enjoyed working with him with Planning Commission. We have been cleaning up our Zoning Code and Sub-Regulations to eliminate discrepancies where they don't match, which will make Cleveland more efficient and help staff. Planning Commission has discussed sidewalks and people from ORBA and River Counties have come together to help bring it together. Next, the Pie Center is an asset to Cleveland. It is a good thing for everyone. Forth, he has received scads of praise on the quality and speed on what the Public Works crews are doing with the Greenway extension at Candies Lane. Lastly, he likes the idea of the pilot program for the homelessness intervention team. It is well overdue.

Mayor Brooks welcomed Gracie White from Congressman Fleishmann's office. He thanked his office for their service to our community. Councilman Estes introduced Laken Shattuck from Senator Hagerty's office

Councilman Hughes left the meeting at 4:10 p.m.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

- **Final Passage - Ordinance 2022-34** – Amending Title 9 of the Municipal Code to add a new Chapter 8 to be titled Nightclubs.

ORDINANCE 2022-34

AN ORDINANCE TO AMEND TITLE 9 OF THE CLEVELAND MUNICIPAL CODE, BY ADDING A NEW CHAPTER TO BE DESIGNATED AS CHAPTER 8, ENTITLED "NIGHTCLUBS"

WHEREAS, City staff is of the opinion that regulations and a permitting process for nightclubs needs to be created and included in the Cleveland Municipal Code.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, that Title 9 of the Cleveland Municipal Code, be amended to add a new Chapter to be designated as Chapter 8 and to be titled "Nightclubs"

TITLE 9, CHAPTER 8 NIGHTCLUBS

Section 9-801 Definitions

Section 9-802 Permits required for Nightclubs

Section 9-803 Revocation of Permit

SECTION 9-801 DEFINITIONS.

Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

Nightclub: A commercial establishment, which may or may not be held out to the public as a Bar or social gathering place, with an occupancy capacity of 50 or more people which serves alcohol or allows alcohol on the premises and which is operated as a place of entertainment at night for eating or drinking or dancing and which provides live or recorded entertainment, characterized by any or all of the following activities as a principal use:

(1) Festival Seating: A form of audience/spectator accommodation for entertainment events in which limited or no seating, other than floor or ground surface, is provided for the audience/spectators gathered to observe entertainment events, dance, or watch a perfom1ance. It is not the intent of this section to apply the term festival seating to exhibitions, sports events, conventions, and bona fide political, religious, and educational events.

(2) Musical or video or live entertainment-live or recorded (DJ) that is amplified or very loud. This category does not include karaoke unless such activity continues after midnight.

(3) Dance floor available for use during certain hours.

(4) Later operating hours - defined as after midnight.

(5) Low lighting levels or darkness during any musical, video, or live entertainment event.

(6) Stage/platform for floor shows or other live or recorded performances.

(7) Operates with a city or state license to serve alcohol or allows consumption of alcohol on the premises during musical, video, or live entertainment events between the hours of 11:00 p.m. until 3:00 a.m.

The above factors need not be present during all hours of operations nor include the entirety of the establishment to result in the necessity for a Nightclub permit as required under Section 9-802 of this Chapter.

9-802 PERMITS REQUIRED FOR NIGHTCLUBS

If a commercial establishment, which may or may not be held out to the public as a Nightclub, Bar or other social gathering place, with an occupancy capacity of fifty (50) or more people, and which serves alcohol or allows alcohol on the premises and is operated as a place of entertainment at night for eating, drinking, dancing and provides live or recorded entertainment and engages in certain activities referenced under the nightclub definitions in Section 9-801, such commercial establishment shall require a Nightclub permit from the City Council before any certificate of occupancy can be issued by the Building Official and provided that the following conditions are met:

(a) The owner shall apply for a Nightclub Permit which shall be issued by the City Council. The process for application for this permit shall be to submit a site plan to the Director of the Cleveland Department of Development and Engineering Services, which shows the general plan for utilization of any building (including the location and size of outside gathering places such as decks, balconies, covered areas and patios), distances from nearby residential zones, locations of any amplified speakers in the building, parking plans, and any proposed landscaping or noise reduction efforts which will be taken to protect nearby properties from excessive noise or traffic concerns due to this use by the applicant. Additionally, the applicant shall provide a copy of its Tennessee Alcoholic Beverage Commission Liquor by the Drink (LBD) Application and supporting paperwork. Development and Engineering Services shall review and suggestions on necessary conditions for parking, landscaping, or noise reduction resulting from the proposed or actual use of the property. The Development and Engineering Services shall provide a recommendation on the Nightclub Permit application directly to the City Council, and any Nightclub Permit shall only be issued by the City Council after a public hearing.

(b) Nightclub permits issued by the City Council may be revoked by the City Council after notice and hearing as set forth in Section 9-803.

(c) If a property owner or business owner disagrees with the determination of the Director of Development and Engineering Services that an establishment is a Nightclub under this chapter, then upon request by the owner, the decision will be reviewed by the Cleveland City Council.

(d) Any doorway entrance regularly used for ingress and egress or outdoor place of gathering such as a deck/patio of any such use (if permitted by approval of a Nightclub permit) shall be located more than

seven hundred and fifty feet (750') away from the nearest boundary of any residential zone when constructed for a Nightclub. The 750' buffer distance may be decreased in part or entirety and the City Council may impose additional conditions for the protection of residential properties from excessive noise or other nuisance issues depending on the proximity and location of water, rail, and road rights-of-way, topography, adjoining land uses, or other natural or manmade barriers to sound and noise.

(e) Outdoor gathering places such as decks, balconies, covered areas and patios shall have no amplified noise, no entertainment or theatrical lighting, and no outside sale of food or beverages.

(f) If a Permit for a Nightclub is approved by the City Council:

a. Said permit shall not be transferred to any person or entity without approval by the Cleveland City Council.

b. The Nightclub permit and any conditions attached to the Nightclub Permit shall be posted in the interior of the Nightclub next to the building's Occupancy Rating and shall be available for inspection upon request.

9-803 REVOCATION OF PERMIT

A Nightclub permit may be revoked by the City Council at any time upon written notice to the owner and after a public hearing before the City Council which establishes by a preponderance of evidence that the Nightclub permit holder has violated any federal, state, or local law or ordinance.

A Nightclub permit may also be revoked by the City Council at any time upon written notice to the owner and after a public hearing before the City Council for any of the following reasons:

1. At the time of a suspension of the Nightclub's beer permit by the Beer Board, or the suspension of any liquor by the drink permit by the Tennessee Alcoholic Beverage Commission; or

2. Upon recommendation by the City Planning Director, City Chief Building Official, Cleveland Police Department, or the Cleveland Beer Board.

3. Number and occurrences of Police Department calls to the Nightclub and about the Nightclub.

4. Impact of noise and activity from the Nightclub on surrounding property owners.

5. Changes to site plan by the Nightclub or activity occurring at Nightclub after the nightclub permit is granted.

6. Parking problems on nearby properties occurring due to Nightclub use.

7. Any other City ordinance violations related to use of property as provided by City staff.

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

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Cassada had several questions concerning the ordinance, such as operating hours and distance requirement from any residential zone. He feels this could create havoc and unsure if we need to open this up. Mr. Fivas stated currently we do not have any regulations for nightclubs. Certainly, there was concern as we have had temporary nightclubs come into town, with over 300 people. The Police, Fire and Building Code Departments had many questions on the gray areas and what could be done. We are trying to have a regulatory framework to have a good partnership with establishments. Councilman May added we need to have something in place now. Mr. Fivas stated absolutely. We are trying to figure it out. Councilman Cassada inquired about operating hours. Mr. Kimball stated currently restaurants and bars can serve alcohol until 3:00 a.m., which follows state law. Councilman Cassada thanked everyone for the discussion.

Councilman May then moved that Ordinance 2022-34 be approved on final reading; heretofore passed on first reading September 12, 2022 and found in Minute Book 30, Page 831. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance 2022-35** – Rezoning .54 acres, more or less, from R1 to PI for property located at 4041 N. Ocoee Street (also described as Tax Map 042G Group A Parcel 002.00) (Planning Commission: Approved 8-0; 1 absent).

ZONING ORDINANCE 2022-35

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

Approximately .54 acres, more or less, located on Ocoee St. N as shown on the attached map.

For reference, same property is being shown on Tax Map 042G Group A Parcel 002.00, 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.

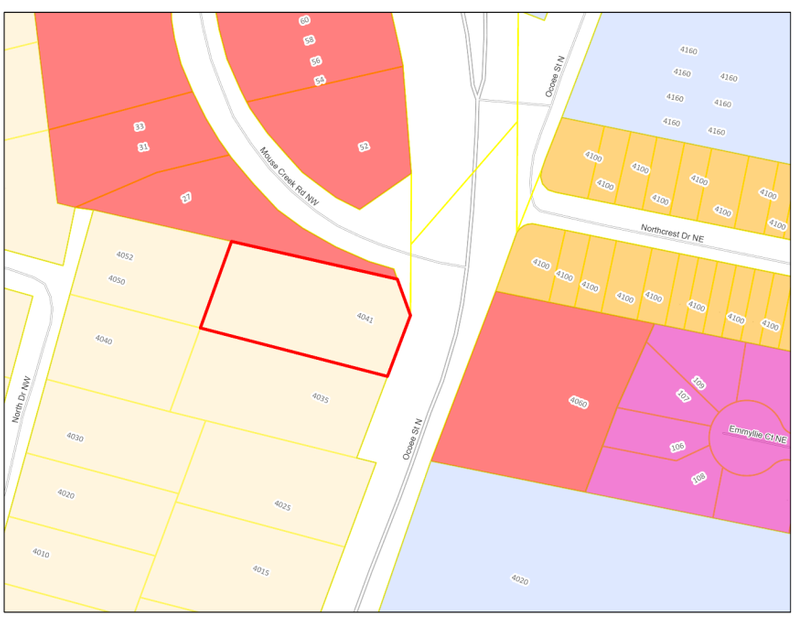
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Zoning Ordinance 2022-35 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:

- **Ordinance 2022-36** – Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3.8A and 3.8B to clarify accessory structures total maximum square footage per lot (Planning Commission: Approved 8-0; 1 absent).

ORDINANCE 2022-36

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 3.8 IN REFERANCE TO AMENDING THE MAXIMUM TOTAL SQUARE FOOTAGE FOR ACCESSORY STRUCTURES: 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 intent of the language in the existing zoning ordinance concerning the maximum allowable square footage for accessory structures; and

WHEREAS, the current required maximum square footage is now referenced within the zoning ordinance; and

WHEREAS the City Council has determined that the existing ordinance should be revised to clarify the maximum square footage for accessory structures; 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, Section 3.8.A. be amended by changing the total maximum square footage for accessory structures:

3.8.

A. A. Accessory structures may be located on any parcel which has a permitted principal structure or development located in full compliance with the standards of this Ordinance, but this paragraph is not intended to prohibit otherwise lawful structures not ordinarily intended for human occupancy or the storage of goods (e.g., utility equipment buildings, fences, signs, and the like). ~~The total area covered by accessory structures on any lot or parcel shall not exceed 10% of the total lot area.~~ No accessory structure shall be placed on a lot so as to cause the total amount of impervious area on the lot to be increased beyond the maximum that is allowed for the zoning district. No accessory structure of any type shall be located in a manner such that it interferes with a utility or utility easement or such that it presents a public safety problem, e.g., interfering with motorists' view of oncoming traffic, as determined by the Planning Director. At no time can the square footage of accessory structures on the site exceed 1,000 square feet as a total, if multiple structures are desired.

Section 2. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, Section 3.8.B. be amended by changing the total maximum square footage for accessory buildings:

3.8
B. Accessory Buildings
(2) Accessory buildings shall be limited to two (2) stories in height. The total maximum square footage for accessory structure(s), combined on a site, is 1,000 square feet.

Section 3. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Ordinance 2022-36 be approved on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2022-37** – Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 4.1.2A sub number 1 to require a pre-submittal meeting for PUDS (Planning Commission: Approved 8-0; 1 absent).

ORDINANCE 2022-37

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 4.1.2.A SUBNUMBER 1 IN REFERANCE TO REQUIRING A PRE-SUBMITTAL MEETING FOR PLANNED UNITS OF DEVELOPMENT (PUD): 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 intent of the language in the existing zoning ordinance concerning the requirement of a PUD pre-submittal meeting; and

WHEREAS, the current ordinance does not require a PUD pre-submittal meeting, and

WHEREAS the City Council has determined that the existing ordinance should be revised to amend the PUD conceptual plan process

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, Section 4.1.2.A sub number 1 be amended by requiring a pre-submittal meeting for Planned Units of Development (PUD):

4.1.2.A PUD Conceptual Plan Process

The PUD Conceptual Plan process consists of the completion of an application and a conceptual plan by the applicant, a review and recommendation regarding the proposed conceptual plan by staff, and approval or denial by the Planning Commission.

(1) PUD Conceptual Plan Application. The City of Cleveland or an owner of property within an area where the PUD is proposed to be applied may make application for the PUD Conceptual Plan approval. The area to which the PUD Conceptual Plan is to be applied shall be at least three (3) acres in size, or at least one (1) acre for a residential -only PUD. The application must contain a statement of justification based upon the purposes of the PUD as described above. The application must show the boundaries of the proposed PUD area on a tax map. The application must also identify for each parcel to be included: the property owner(s); current zoning; current use of the property. The application must include any existing deed restrictions or covenants affecting the proposed PUD area. The application must contain a PUD Conceptual Plan drawn by a professional engineer at a legible scale. The application must identify the proposed uses and locations of those uses; the uses may be a range of possible uses and they should be identified according to the classification contained in the North American Industrial Classification System (NAICS) for non-residential uses. Residential uses should be identified by density and a description of the housing units (number of units, number of units per building, size of units, number of bedrooms, ownership structure [apartments, fee-simple townhome subdivision condominium, etc.] along with any common amenity features to be shared by residents. Prior to the acceptance of any application the City of Cleveland and an owner of the property, or their designee, must have a pre-submittal meeting concerning the area of the proposed PUD.

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. 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

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

Councilman Estes moved that Ordinance 2022-37 be approved on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

The following Resolution was presented in full:

- **Resolution 2022-82** – Approving of a contribution to the Industrial Development Board for the purchase of stream mitigation credits relating to the Spring Branch Industrial Development Park.

RESOLUTION 2022-82

RESOLUTION APPROVING CONTRIBUTION OF FUNDS FOR THE PURCHASE OF STREAM MITIGATION CREDITS BY THE INDUSTRIAL DEVELOPMENT BOARD OF BRADLEY COUNTY AND THE CITY OF CLEVELAND

WHEREAS, the Industrial Development Board of Bradley County and the City of Cleveland, (hereinafter "IDB") is in the process of continuing to develop the Spring Branch Industrial Development Park; and

WHEREAS, in connection with the ongoing development of the Spring Branch Industrial Development Park, the IDB has met and approved the attached agreement for the purchase and sale of stream mitigation credits; and

WHEREAS, TCA 6-54-118 authorizes municipalities to contribute funds to an eligible industrial development corporation for the purchase of economic development or industrial development, or both; and

WHEREAS, the Bradley County Finance Committee met on September 22, 2022 and is recommending to the Bradley County Commission that it also contribute funds to the IDB for the purchase of one-half of these stream mitigation credits; and

WHEREAS, the Bradley County Commission will not meet in a voting session to consider the approval of a resolution to contribute funds to the IDB to purchase the other one-half of the stream mitigation credits until October 3, 2022; and

WHEREAS, the Cleveland City Council will not be holding a regular voting session on October 10, 2022; and

WHEREAS, the City Manager has been advised by Doug Berry, Vice President of Economic Development for the Chamber of Commerce, that the purchase of these stream mitigation credits is time sensitive; and

WHEREAS, the City Manager is recommending the Cleveland City Council approve a contribution to the IDB for the purchase by the IDB for one-half of these stream mitigation credits, contingent upon Bradley County Commission passing a similar resolution at its meeting on October 3, 2022 committing to contribute funds to the IDB to purchase the other one-half of the stream mitigation credits.

NOW, THEREFORE, BE IT RESOLVED, the Cleveland City Council authorizes the City to contribute funds to the IDB to purchase one-half of these stream mitigation credits, provided that the Bradley County Commission also passes a resolution to contribute funds to the IDB to purchase the other one-half of the stream mitigation credits.

BE IT FURTHER RESOLVED that if for any reason the Bradley County Commission does not approve a similar resolution for the IDB's purchase the other one-half of the stream mitigation credits, then this resolution shall have no force and effect.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

Councilman May moved that Resolution 2022-82 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- City Offices will be closed on Monday, October 10, 2022 in observance of Columbus Day.
- The City Council meeting will be cancelled for Monday, October 10, 2022.
- The next City Council meeting will be held on Monday, October 24, 2022.
- City Council Official Picture – Monday, October 24, 2022 at 3 p.m.
- Nominations and Appointment of Vice Mayor – October 24 at 3 p.m.

Mayor Brooks then recognized award winning Airport Director Mark Fidler on his announcement of his retirement.

There being no future business the meeting was adjourned at 4:28 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
OCTOBER 10, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MET IN A REGULAR SESSION THIS MONDAY, OTOBER 10, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING DUE TO THE VETERAN'S DAY.

_____ _____

Mayor City Clerk

REGULAR SESSION
OCTOBER 24, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, OCTOBER 24, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brook. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, David May, Tom Cassada, Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Christy Brandon, Assistant City Clerk; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Adam Lewis with the Bradley County Mayor's Office; Sharon Marr with Mainstreet Cleveland; Charlie Boothe; Cathy Andrews, CDBG Coordinator; Michelle Goldston and Dustin Tommey with City Fields; Kim Brooks with Lee University; Debra Ledford; Leah Keller and Shneka Jones with Parks & Recreation; Darrell Rose; Mike Price with MAP Engineers; Gracie White and Tim Siniard with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Bishop Winston Reed, 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 26, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

No special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone .55 acres, more or less, from R1 to R2 for property located at Clearwater Drive (also described as Tax Map 042O Group A Parcel 001.06). Robert Varnell stated the development will consist of one duplex. The Planning Commission approved this item 8-0 with 1 member being absent. Mayor Brooks asked if anyone would like to speak in favor of the rezoning reqeust. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 1.00 acres, more or less, from IH to CH for property located along APD 40 (also described as a portion of Tax Map 065 Parcel 001.00). Robert Varnell stated this is the best use for the proeprty by rezoning to commercial highway. The Planning Commission approved this item 8-0 with 1 member being absent. Mayor Brooks asked if anyone would like to speak in favor of the rezoning reqeust. Mr. Bassam Issa stated the development would be for a restaurant and was available for any questions. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by Maverick Development for consideration of an ordinance to zone about 80 acres, more or less, from RA, R1, and CH to PUD 40 Planned Unit of Development for property located on North Lee Hwy (also described as Tax Map 034 Parcel 055.00). Robert Varnell stated staff appreciates the developer working with staff to reach a final ordinance. The development will be a maximum of 180 units, with 36 townhomes and the rest as single-family detached homes. A portion of the property will be held for possible commercial

development in the future. The Planning Commission approved this item 8-0 with 1 member being absent. Mayor Brooks asked if anyone would like to speak in favor of the rezoning reqeust. Mike Price with MAP Engineers stated they feel this is a good plan for the proeprty and is available for any questions. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by Berry Engineering for consideration of an ordinance to amend PUD41 which includes about 54 acres, more or less, to include 12 townhome units as an allowable use and to reduce the minimum lot size from 7500 square feet to 5000 square feet (also described as Tax Map 058 Parcels 025.02, 024.00, and 024.05). Robert Varnell stated the adjustment of the lot size is for 3 or 4 lots that will be impacted, due to the way the road turns in the cul-de-sac. The Planning Commission approved this item 7-0 with 1 member being absent and 1 member recused. Mayor Brooks asked if anyone would like to speak in favor of the amendment. Ben Berry with Berry Engineering stated the additioanl use of townhomes is for a specific area that fronts Minnis Road, which a higher and better use. He is also available for any questions. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend The Cleveland Municipal Code, Title 16 Streets, Sidewalks, and Drainage, Chapter 5 to include sidewalk construction requirements for all development and redevelopment projects. Robert Varnell stated our existing regulations conflicted with each other in certain way, this will clean it up and put it in a specific place. The Planning Commission approved this item 7-0 with 1 member being absent and 1 member recused. Mayor Brooks asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend The Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3.4.1 to remove sidewalk construction requirements in conflict with Title 16. Robert Varnell stated this is the section of the code that conflicted with the previous amendment. The Planning Commission approved this item 9-0. Mayor Brooks asked if anyone would lke to speak in favor of the amendment. No one spoke. Mayor Brooks adked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks the declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend The Cleveland Municipal Code, Title 14 Chapter 2, Zoning Regulations, Section 2.15.2 to include cryptocurrency mining as a conditional use and section 1.6 definitions, to define cryptocurrency mining. Robert Varnell stated this is for something on an industrial size level. There could be impacts on the citizens and this gives steps to gather further information. The Planning Commission approved this item 9-0. Mayor Brooks asked if anyone would lke to speak in favor of the amendment. No one spoke. Mayor Brooks adked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks the declared the public hearing to be closed.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2022-35** – heretofore passed on first reading September 26, 2022 and found in Minute Book 30, Page 844; Rezoning .54 acres, more or less, from R1 to PI for property located at 4041 N. Ocoee Street (also described as Tax Map 042G Group A Parcel 002.00) (Planning Commission: Approved 8-0; 1 absent).

- **Final Passage - Ordinance 2022-36** – heretofore passed on first reading September 26, 2022 and found in Minute Book 30, Page 845; Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3.8A and 3.8B to clarify accessory structures total maximum square footage per lot (Planning Commission: Approved 8-0; 1 absent).
- **Final Passage - Ordinance 2022-37** – heretofore passed on first reading September 26, 2022 and found in Minute Book 30, Page 846; Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 4.1.2A sub number 1 to require a pre-submittal meeting for PUDS (Planning Commission: Approved 8-0; 1 absent).
- **Resolution 2022-83** – Authorizing the Mayor to sign amendment #1 with TDOT for PIN 128170.00 related to Greenway Phase VI.

RESOLUTION 2022-83

WHEREAS, the City has received the attached contract amendment #1 from the Tennessee Department of Transportation (hereafter "TDOT") for the project described below; and

Project: Greenway Phase VI; Willow Street Northwest to the existing sidewalk system on the south side of Inman Street West in Cleveland

Agreement Number: 190246
Project Identification Number: 128170.00
Federal Project #: TAP-2(275)
State Project #: 06LPLM-F3-068

WHEREAS, the City Council desires to enter into the attached contract amendment #1 with TDOT for the project described, and to further authorize the Mayor to execute this contract 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 #1 with TDOT for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 24th day of October, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-84** – Authorizing the submission of the Public Entity Partners Driver Safety Grant.

RESOLUTION 2022-84

Authorizing the City of Cleveland to participate in the James L. Richardson *"Driver Safety"* 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, Public Entity Partners seeks to encourage the establishment of a safe workplace by offering a *"Driver Safety" Matching Grant Program*; and

WHEREAS, the City of Cleveland now seeks to participate in this important program.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE the following:

SECTION 1. That the City of Cleveland is hereby authorized to submit application for a *"Driver Safety" Matching Grant Program* through Public Entity Partners.

SECTION 2. That the City of Cleveland is further authorized to provide a matching sum to serve as a match for any monies provided by this grant and to make purchases designated in the approved grant application.

Resolved this 24th day of October, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-85** – Authorizing the submission of the Public Entity Partners Property Conservation Grant.

RESOLUTION 2022-85

Authorizing the City of Cleveland to participate in the Public Entity Partners "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 have been made to protect city-owned property from various perils that may arise for the City of Cleveland, and

WHEREAS, Public Entity Partners seek 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 Loss Control Department of Public Entity Partners.

The City agrees that if the award is obtained, a matching sum for any moneys for this grant will be provided and gives authorization to make purchases designated in the approved grant application.

Adopted this 24th day of October, 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-86** – Authorizing the Mayor to sign an agreement with The Caring Place regarding the American Rescue Plan Act Funds.

RESOLUTION 2022-86

WHEREAS, on March 11, 2021, the United States Congress passed the American Rescue Plan Act of 2021 ("ARPA"), which provides fiscal relief funds to State and Local Governments, and other program areas aimed at mitigating the continuing efforts of the COVID-19 Pandemic; and

WHEREAS, ARPA is intended to provide support to local governments in responding to the impact of COVID-19 and in their efforts to contain COVID-19 in their communities, residents, and businesses; and

WHEREAS, ARPA includes State and Local Fiscal Recovery Funds to support urgent COVID response efforts to decrease the spread of the virus; to replace lost public sector revenue to strengthen support for vital public services; to support immediate economic stabilization for households and businesses; and to address systemic public health and economic challenges that have contributed to inequal impacts of the pandemic on certain populations; and

WHEREAS, The Caring Place endeavors to provide assistance to those in need; and

WHEREAS, services provided by the Caring Place will help alleviate the immediate economic impacts of the COVID-19 pandemic on food insecurity to those in need; and

WHEREAS, the City Manager and City staff are recommending that the City Council appropriate fifty-thousand dollars ($50,000) to the Caring Place to provide services as allowed by the conditions and terms of the American Rescue Plan Act; and

WHEREAS, the City Council desires to approve of the attached agreement with the Caring Place for this project and the use of American Rescue Plan Act Funds, and the City Council further desires to authorize the Mayor to execute this 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 the Caring Place regarding American Rescue Plan Act Funds.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with The Caring Place on behalf of the City for this project.

This 24th day of October 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-87** – Authorizing the Mayor to sign amendment #8 with TDOT for PIN 120322.00 related to the Multimodal Access Project, Phase II – Dalton Pike.

RESOLUTION 2022-87

WHEREAS, the City has received the attached grant contract amendment eight from the Tennessee Department of Transportation, (hereafter "TDOT") for the project described below; and

Project: Dalton Pike/Wildwood MMA Grant

Agreement Number: 140160; Amendment 1
Project Identification Number: 120322.00
State Project Number: 06LPLM-S3-049

WHEREAS, the purpose of the amendment is to extend the contract completion date until December 31, 2022; and

WHEREAS, the City Council desires to enter into the attached grant contract amendment eight with TDOT for the project described, 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 grant contract amendment eight with TDOT for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 24th day of October, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-88** – Authorizing the submission of a grant application to TDEC for the State Water and Infrastructure Program Grant (SWIG) and to provide the required 15% match.

RESOLUTION 2022-88

A RESOLUTION TO APPROVE ALLOCATION OF TDEC NON-COMPETITIVE ARPA FUNDS TO CLEVELAND UTILITIES AND FOR CITY WATER QUALITY IMPROVEMENT PROJECTS

WHEREAS, funds have been authorized and appropriated by the Federal American Rescue Plan Act (ARPA) to be used for eligible drinking water, wastewater, or stormwater projects. The Tennessee Department of Environment and Conservation (TDEC) has been designated to administer these funds; and

WHEREAS, The City of Cleveland has been afforded a non-competitive allocation of $5,398,163.10 in ARPA funding from the Tennessee Department of Environment and Conservation, Division of Water Resources to address critical and priority water and wastewater infrastructure needs throughout the city; and

WHEREAS, TDEC's State Water Infrastructure Grant Program allows for up to 6% of the funds to be allocated for administration and management of the program and the City of Cleveland will set aside $323,895.78 of the grant for this purpose, and will provide needed match.

WHEREAS, The City of Cleveland desires to allocate $2,500,000 to Cleveland Utilities to complete critical infrastructure projects which include sewer planning and modeling, water model updating and the replacement of small diameter, aging water lines; and

WHEREAS, these grant funds require a 15% match or $441,176.40 which Cleveland Utilities is committed to providing in order to draw down these grants funds needed to complete the projects totaling $2,941,176.40.

WHEREAS, The City of Cleveland has identified several water quality improvement projects resulting from stormwater impacts and plans on allocating $2,574,267 toward the completion of these projects and will furnish the required 15% or $454,282 local non-TDEC matching funds for projects totaling $3,028,549.41.

NOW, THEREFORE BE IT RESOLVED BY THE CLEVELAND CITY COUNCIL MEETING IN SESSION THIS THE 24th DAY OF OCTOBER, 2022 that this Council does hereby agree to allocate its non-competitive ARPA funds as outlined in this resolution to strengthen their systems and prepare them for expansion of services, **AND FURTHERMORE, RESOLVES** to grant authority to the City Mayor to execute agreements and documents necessary to fulfill the intent of this resolution.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-89** - Authorizing the Mayor to sign a contract with Southeast Tennessee Development District for application preparation, submittal and administration services pertaining to the TDEC SWIG Grant.

RESOLUTION 2022-89

WHEREAS, City staff are recommending that the City enter into an agreement with the Southeast Tennessee Development District (hereafter "SETD") whereby SETD will provide grant administration services to the City in connection with its non-competitive grant application to the Tennessee Department of Environment and Conservation (TDEC) for the State of Tennessee American Rescue Plan Act (ARPA) funds which have been allocated to the City for water, wastewater, and stormwater infrastructure projects under TDEC's Water Infrastructure Investment Plan; and

WHEREAS, the services to be provided to the City by SETD include the following:

- Using the TDEC grant management system to prepare the City's grant application in accordance with TDEC's grant manual, grant application and any other guidance provided by TDEC;

- Assisting in preparing or preparing the City's Title VI Pre-Audit Survey, Supplier Direct Deposit Authorization Use, future invoices for reimbursement requests and state approvals, and other required documents and submit these documents to TDEC using TDEC grant management system or other means as necessary;

- Providing timely reports to TDEC during the grant award period in accordance with the terms and conditions of the TDEC grant contract with the City;

- Assisting the City in maintaining accounting records for compiling and reporting accurate financial data in accordance with appropriate accounting standards and principles;

- Ensuring that all State ARPA funds used for water, wastewater and stormwater infrastructure projects are used in compliance with the United States Treasury's Final Rule;

- Assisting the City in complying with federal reporting requirements found in 2 C.F.R. Part 200 and the Compliance and Reporting Guidance issued by the United States Treasury for State and Local Fiscal Recovery funds under American Rescue Plan Act (ARPA); and

- Providing all other needed grant administration services

WHEREAS, TDEC allows up to 6% of the City's total grant contract to be used for reasonable and allocable administrative expenses, and to compensate SETD for the work to be performed under this Agreement; and

WHEREAS, under the terms of the agreement, the City agrees to pay SETD 3% of the amount of the projects included in the City's grant contract with TDEC. This fee will be billed quarterly to the City by SETD until the completion and closeout of all projects. The City's total fee under the agreement is an amount not to exceed $162,000.

WHEREAS, based on the recommendation of City staff, the City Council desires to approve of the attached agreement with Southeast Tennessee Development District for these services, and to authorize the Mayor to execute this 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 Southeast Tennessee Development District.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with Southeast Tennessee Development District on behalf of the City.

This 24th day of October 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-90** – Authorizing the Mayor to sign a license agreement with TDOT related to the Gaut Street Area Multimodal Improvements.

RESOLUTION 2022-90

WHEREAS, the City has received the attached license agreement from the Tennessee Department of Transportation (hereafter "TDOT") for the project described below; and

Description of Project:
State Project Number: 06LPLM-F3-056
Federal Project Number: TAP/STP-M-9203(23)
License Agreement for the installation and maintenance of
Gaut Street Area Multimodal Improvements

WHEREAS, the City Council desires to enter into the attached license agreement with TDOT and to further authorize the Mayor to execute the attached 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 license agreement with TDOT for the project described herein, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 24th day of October 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-91** – Supporting an application of the Transportation Alternative Program for Greenway Phase VI in the 2023 funding cycle.

RESOLUTION 2022-91

RESOLUTION TO SUPPORT AN APPLICATION TO THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE TRANSPORTATION ALTERNATIVES PROGRAM FUNDING

WHEREAS, the City of Cleveland will be submitting an application to the Tennessee Department of Transportation (TDOT) for funding under the Transportation Alternative Program (TAP) for a project described as the "Greenway Phase VI"; and

WHEREAS, the City of Cleveland has conducted a Design Public Involvement meeting and worked with the Greenway Advisory Board, Cleveland Urban Area MPO, and others to develop the concept plan for the Greenway Phase VI TAP application in accordance with TDOT guidance; and

WHEREAS, work on the aforementioned concept plan resulted in design options for construction on either bank of South Mouse Creek which have different total construction cost estimates; and

WHEREAS, the City desires to provide the required TAP funding 25% match for whichever design option is chosen,

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

1. The application for TAP funds for the Greenway Phase VI Project is affirmed with the TAP grant proposed to cover 75% of project construction costs and the City paying the remaining 25% up to $400,000.00.

2. The City of Cleveland would be responsible for environmental, design, ROW, and utilities costs related to the project.

3. The Mayor is authorized to sign a letter to that effect as well as any related grant contract or documents for the purpose of carrying out this project.

Approved this 24th day of October, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2022-92** – Supporting an application for the Downtown Improvement Grant through the Tennessee Department of Economic and Community Development.

RESOLUTION 2022-92

WHEREAS, the Tennessee Department of Economic and Community Development offers funding through the Downtown Improvement Grant Program to provide funds for façade improvements and other general downtown improvement activities; and

WHEREAS, the City of Cleveland is eligible to apply for up to $100,000 in grant funds to implement a housing rehabilitation program to assist residents without the need for matching funds; and

WHEREAS, the City of Cleveland has developed and adopted a Downtown Revitalization Plan in 2019 to support and guide downtown revitalization efforts and the Downtown Improvement Grant program aligns with the adopted plan; and

WHEREAS, approximately $13 million of private investment has taken place in the last 18 months within the downtown area of the City of Cleveland and the City of Cleveland has committed several million additional dollars in public funds for streetscape and related improvements.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND that the City of Cleveland is hereby authorized to submit a Downtown Improvement Grant application in the amount up to $100,000 to rehabilitate properties in the downtown area of the City of Cleveland, and the Mayor is hereby authorized to execute the grant application on behalf of the City.

BE IT FURTHER RESOLVED that if said application is approved, the Mayor is hereby authorized to accept the grant on behalf of the City of Cleveland, and the Mayor or his designee is hereby designated as the City's representative to act in connection with the Downtown Improvement Grant, and to execute any other documents or take such actions as may be necessary to accept the grant, and to provide such additional information as may be required in order for the City to accept the grant.

This 24th day of October, 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Surplus Property** – Declaring several inoperable vehicles as surplus property to be used for training by the Cleveland Fire Department.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **October 24, 2022**
RE: **Surplus Property**

SUMMARY:
The Police Department has requested the City Council declare the vehicles listed below as surplus property to be used for training by the Fire Department.

- 2008 Ford Crown Victoria VIN 2FAFP71V98X142701
- 2004 Ford Crown Victoria VIN 2FAHP71W54X166084
- 2003 Ford Crown Victoria VIN 2FAHP71W63X178646
- 2003 Ford Crown Victoria VIN 2FAFP71W93X140707
- 2006 Ford Crown Victoria VIN 2FAHP71W97X114462
- 2006 Chevrolet Tahoe 2x4 VIN 1GNEC13Z96R143876

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

- **Bid Summary** – Mosby Park Pavilion/Amphitheater

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **October 24, 2022**
RE: **Bid Summary – Mosby Park Pavilion**

SUMMARY:
The City advertised to accept sealed bids on October 5, 2022, for the construction of a pavilion at Mosby Park. Bids are listed below:

• B&W Contractors, Inc. dba Cherokee Construction Co.	**$116,815.00 (Base Bid)**
	$114,264.00 (Alt #1)
	$116,815.00 (Alt #2)
	$114,264.00 (Alt #3)
• Kane Industries, LLC	**$245,809.29 (Base Bid)**
	$232,588.61 (Alt #1)
	$245,809.29 (Alt #2)
	$232,588.61 (Alt #3)

• Ross Construction, Inc.	**$119,000.00**	**(Base Bid)**
	$119,000.00	**(Alt #1)**
	$119,000.00	**(Alt #2)**
	$119,000.00	**(Alt #3)**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
CDBG funded.

RECOMMENDATION:
Staff recommends award to B&W Contractors, Inc. dba Cherokee Construction Co. for the base bid in the amount of $116,815.00, contingent upon approval of HUD CDBG contract.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Hughes thanked Bishop Reed for his wonderful prayer for our City, Council and the Mayor. Secondly, we had ribbon cuttings for College Hill basketball courts and the 17th/20th Street project. The new College Hill basketball floor is excellent, and he is excited to add a few pickleball courts there. Next, we are proud of the Cleveland High School Girls Volleyball team for winning the State Volleyball Championship with Coach Amy Geren-McGowan. He asked that the Coach and team attend a future meeting to be recognized for their accomplishment. Lastly, pickleball. We had several people attend the Work Session, even a ranked top ten professional, who could be the catalyst to bring tournaments to our City. He is looking forward to seeing enhanced drawings for additional courts at Tinsley Park. He believes this will pay dividends down the road.

Councilman Webb thanked all involved in the tremendous work on the sidewalk ordinance. He then thanked the City Manager and others for a situation that needed immediate attention first thing this morning and for making sure it was taken care.

Vice Mayor Johnson stated this agenda has a lot of sidewalk activity. Growing up in Cleveland, not a lot has been done to sidewalks since he walked them as a kid, especially along Central Avenue. He appreciates all the work from staff and the Council for providing the funding and proud of the progress we are making.

Councilwoman McKenzie stated she is proud to be on the Council. In two years, she has observed how well the city takes care of the people, the staff, Council, everyone in the offices. They work so hard to make Cleveland a very great place to live. Thank you to everyone who has a part in it. Cleveland is growing and pickleball is another thing that will put us on the map. We've got great schools. It is a wonderful place to live. She then congratulate the Cleveland High School Band. They won first place in the Color Guard, first place in the Drum Line, first place in the Percussion, first place in Band in Class Four, Best Large Division Band, first place overall winner out of sixteen bands in the Trojan Marching Invitational and the Soddy Daisy Marching Contest. Congratulations to them!

Councilman Estes announced this evening was a Blythe Oldfield meeting at 6 p.m. Secondly, a week from Friday starts Lee's Homecoming, which will bring hundreds of people to Cleveland. He is also looking forward to the Parker Street dedication. He appreciates city staff working with County Schools on that project. Next, being on the Planning Commission he has learned so much on how the grind starts there and works its way up and all the things that affect our City and development. There are many moving parts at that level. We have examples of that on today's agenda. One thing that gives him pause; it is administrative, procedural. It's not to take sides on an issue but it's the BZA. They meet when there is an item when someone appeals. They're an appeal body and there is not a lot for them to hear every year. We have five appointed people who can override zoning regulations, sub-regulations, codes and even our ordinances if they are not in black and white and open to interpretation. He is uncomfortable with that much authority, with no recourse by the City for the decision of the five people. There are other ways to handle the BZA. The appellate could be the Planning Commission, here or Chancery Court. He feels the Council seeds over too much of their responsibility to a group, that doesn't meet a lot. Pragmatically, the Council can handle their business, they are not necessary. Tennessee Law states they are not required. This is not political, just procedural. This is good governess. He would like the Council to think about it and he would like a discussion item on the next agenda to specifically discuss, eliminating the board and if so, what do we do with their job; to the Planning Commission or appeals to this body. We have unelected people making a lot of decisions that go against what's down in Code and on paper. They are making allowances and allegiances. It's not a bunch of work, this is minimal, feels in the long term it's not good for Cleveland. He asked Mr. Fivas to have it on the next agenda for discussion.

Councilman Cassada stated he sent photos out of the Candies Greenway and encouraged all to visit. It is an absolute gem and a great asset for Cleveland. Secondly, he'd like the Council to consider earmarking a portion of the liquor sales tax funds for paving and sidewalks.

Mayor Brooks thanked First Baptist Church for the Go, Love, Serve event with over 2,000 volunteers, serving hundreds of neighborhoods, locations, including many of our parks and public areas along the Greenway. They repainted the entire Boys and Girls Club exterior in two hours and twelve minutes. Several city staff from various departments like Parks & Recreation worked along side the volunteers. He thanked all who were involved.

NEW BUSINESS AND ORDINANCES

Councilman May moved to reappoint Avery Johnson as Vice Mayor for an additional two-year term. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed. Vice Mayor Johnson thanked everyone and stated he feels we have the best Council, who all bring something different to the table. He is proud to be a part of it.

The following Ordinance was then presented in full:

- **Zoning Ordinance 2022-38** – Rezoning .55 acres, more or less, from R1 to R2 for property located at Clearwater Drive (also described as Tax Map 042O Group A Parcel 001.06) (Planning Commission: Approved 8:0; 1 absent).

ZONING ORDINANCE 2022-38

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

Approximately .55 acres, more or less, located on Clearwater Drive as shown on the attached map.

For reference, same property is being shown on a portion of Tax Map 042O Group A Parcel 001.06, 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.

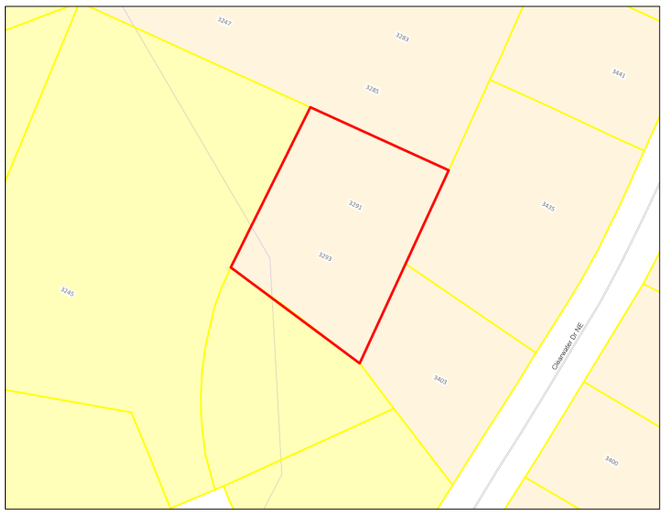
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman Webb moved that Zoning Ordinance 2022-38 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:

- **Zoning Ordinance 2022-39** – Rezoning 1.00 acres, more or less, from IH to CH for property located along APD 40 (also described as a portion of Tax Map 065 Parcel 001.00) (Planning Commission: Approved 8:0; 1 absent).

ZONING ORDINANCE 2022-39

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

Approximately 1.00 acres, more or less, located APD-40 as shown on the attached map.

For reference, same property is being shown on Tax Map 065 Parcel 001.00, 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.

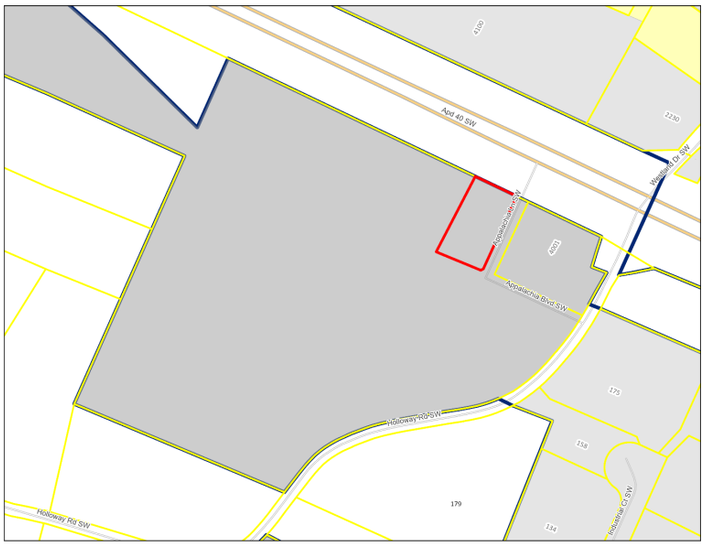
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Exhibit A



Councilman Hughes moved that Zoning Ordinance 2022-39 be voted for passage on first reading. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance 2022-40** – Rezoning about 80 acres, more or less, from RA, R1, and CH to PUD 40 Planned Unit of Development for property located on North Lee Hwy (also described as Tax Map 034 Parcel 055.00) (Planning Commission: Approved 8:0; 1 absent).

ZONING ORDINANCE 2022-40

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 HARDWICK FARMS WESTSIDE "PUD 40" ON PROPERTY DESCRIBED AS TAX MAP 034 PARCEL 055.00 AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 40; 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 40" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 40 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 40 district are 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 theterms 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 40, Hardwick Farms Westside Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning), includes property generally identified as follows:

Tax Map 034 Parcel 055.00

Exhibit C illustrates the overall Hardwick Farms Westside Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.
This section is intended to provide a general description of the Hardwick Farms Westside PUD. The project will provide up to 180 units of new housing in a mix of sizes and unit types including detached single-family homes and attached single-family townhomes. The attached townhome units will constitute no more than 20% percent of the allowable 190 allowable units or no more than 36 townhome units. Exhibit C depicts a likely distribution of unit types, location of proposed infrastructure and common areas. In terms of total allowable density across the site, the project shall not exceed 3.0 units per acre. The developer shall include common open space which may include uses such as a neighborhood parks, playgrounds, pools, tennis courts, and walking trails. Developers shall also include permanent retention or detention pond areas, and landscaped entrance and common areas. The typical street section will include sidewalks and landscaped area with street trees.

Section 5. PERMITTED USES AND PROHIBITED USES.
The PUD 40 Subdivision allows for the construction of up to 180 dwelling units in detached single-family houses and single family attached townhome structures. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with an approved plan.

Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 40 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 residential uses within the Hardwick Farms Westside PUD development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit C unless modified by agreement of the Cleveland Municipal Planning Commission.

Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by Developer covenants and restrictions. The developer reserves the right to propose commercial uses on the portion of the property currently zoned Commercial Highway (CH) within the City of Cleveland as depicted on Exabit B with the exception of the following uses: Gasoline sales and service, vehicle sales, rental, service, and repair of new or uses automobiles, boats, buses, farm equipment, motorcycles, trucks, recreational vehicles, and mobile homes, flea markets, mini-warehouse facilities or any conditional uses listed. Uses other than those described as permitted or allowed herein are prohibited. Billboards are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.
A conceptual plan (Exhibit C) for PUD40, The Hardwick Farms Westside PUD, was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on September 20th, 2022. The conceptual plan consists of a site plan for the overall development. However additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD 40 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. Plats for any multi-family residential units must be reviewed by the Planning Commission. However, any modification may not increase the total number of dwelling units beyond 180 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 site plans for the Hardwick Farms Westside PUD development may reflect some alteration in the conceptual plan such as the exact location of each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets within the PUD 40 Hardwick Farms Westside development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting. Where existing Right of Way along Sequoia Road is narrow adjacent to PUD 40 and the intention is that it 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 along the entire property.

6.B. PLATS.
One or more plats will be prepared for the PUD40 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. These plats shall be consistent in general layout with the conceptual site plan.

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 40 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 40 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.

Section 7. DEVELOPMENT STANDARDS
The development standards for PUD 40 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R1 zone, from the City of Cleveland's zoning regulations.

For Single Family Detached residential areas units of identical elevation types must be separated by at least two different front 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 style (reverse elevations do not count as different building elevations), facade, materials, or colors. All 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. The front façade of all structures shall contain a minimum average of at least 50% of either brick or stone materials as calculated throughout the development. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick or stone. No blank walls along street elevations are allowed. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.

A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area. For Townhomes the tree shall be placed in between each structure. The driveways and parking areas for each Townhome shall be separated by a minimum of 2.5-foot planted landscape strip, therefore allowing for placement of trees or other landscaping. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff and improve water quality.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff. Sidewalks shall also be constructed along the Sequoia Drive and North Lee Highway at the developer’s expense. A walking trail shall connect throughout the subdivision to each potential phase as it develops and can be included and connected to the Mouse Creek Greenway System was further improvements have been made outside the scope of this development. The proposed Greenway along the northern property line/flood zone areas are to be deeded to the City for eventual connection to the overall Greenway System. Other site amenities such as a pool, tennis court, playground, pocket parks, as well as open spaces can be added for the benefit of the development. These uses will be finalized as the neighborhood develops depending on current conditions.

A monument style ground sign shall be installed at all of the primary entrance(s) to the site.

A landscaped berm no smaller than 2.5’ in height shall be installed along the Sequoia Drive to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. The existing Tree’s planted within the State ROW may remain in place. Open space shall be maintained at proportion no less than 20% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% the buildable lots in the development are established or under construction. All common areas, facilities, and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner’s association. Once established, the Homeowners Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal service, and shall include a minimum of 4 off-street parking spaces. These may be combined with site amenities as provided. A school bus shelter must be constructed at each potential

pick up spot in coordination with Cleveland City Schools. 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. All stormwater detention/retention areas will be screened from the public ROW.

Each lot must provide a minimum of 3 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 55 feet for up to 75% of the overall development. The remaining 25% of single-Family Homes shall have a minimum lot width of 46 feet. Townhome sites shall comply with existing city townhome regulations for lot width. The front setback requirements are 25 feet, side setback requirements are 3’ on one side and 10’ on the remaining side. Each 3’ side setback must be joined by a 10’ setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. Townhomes must follow the City's established process requiring a site plan for construction and a final plat after 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. Retaining walls as needed for the grading of building pads are required to maintain a 5’ setback on property lines. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address.

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 40 Hardwick Farms Westside Development. 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 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 THEPUD.

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 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 PUD 40, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit C, then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD 40 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 11Developer" is intended to encompass Maverick Development 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 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.
Where this ordinance conflicts 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 this _____ day of _____, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit “B” Site Location

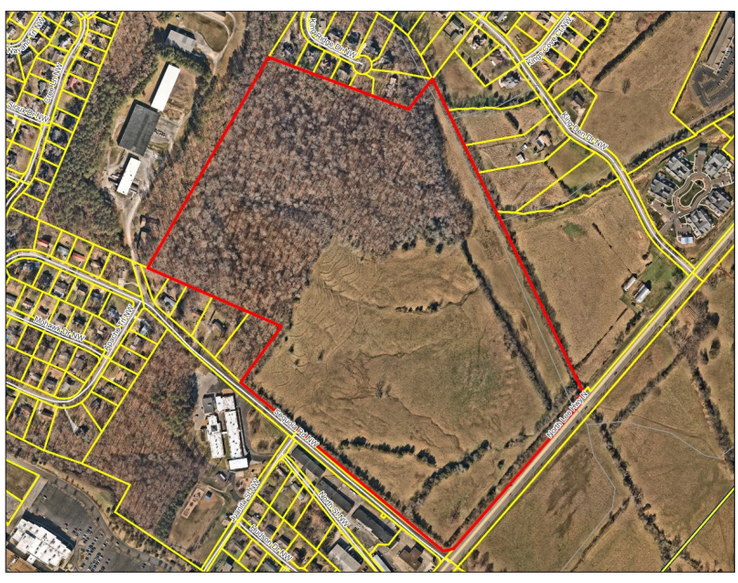
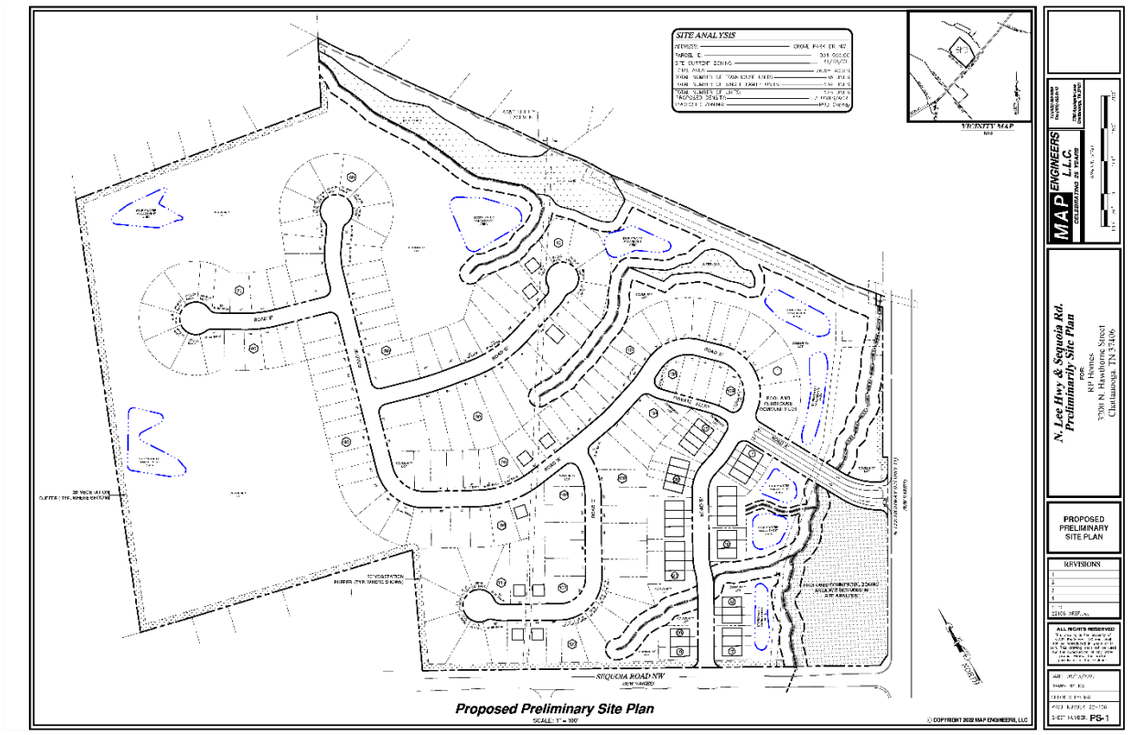


Exhibit "C" Proposed Development Plan.



Councilman May moved that Zoning Ordinance 2022-40 be voted for passage on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2022-41** – Amending PUD41 which includes about 54 acres, more or less, to include 12 townhome units as an allowable use and to reduce the minimum lot size from 7500 square feet to 5000 square feet (also described as Tax Map 058 Parcels 025.02, 024.00, and 024.05) (Planning Commission: Approved 7-0; 1 recused, 1 absent).

ZONING ORDINANCE 2022-41

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISHA PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS MINNIS_OLD POWERLINE "PUD 41" ON PROPERTY DESCRIBED AS TAX MAP 058 PARCELS 024.00, 024.05, AND 025.02, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 41; 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 41" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 41 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 41 district are 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 theterms 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 41, Minnis_Old Powerline Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 058 Parcels 024.00, 024.05, and 025.02. Exhibit A illustrates the overall Minnis_Old Powerline Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.
This section is intended to provide a general description of the Minnis_Old Powerline development. The project consists of single family detached residential units. The developer shall include any permanent retention or detention pond areas or landscaped common areas.

Section 5. PERMITTED USES AND PROHIBITED USES.
The PUD 41 Subdivision allows for the construction of up to 117 dwelling units in detached single-family houses and up to 12 dwelling units of attached Single-Family Townhomes. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 41 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 residential uses within the PUD will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit C unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by Developer covenants and restrictions. Billboards are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.
6.A. CONCEPTUAL PLAN.
A conceptual plan (Exhibit A) for PUD 41, The Minnis_Old Powerline Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on June 21, 2022. The conceptual plan consists of a site

plan for the overall development. However additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD 41 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. However, any modification may not increase the total number of dwelling units beyond 129 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 site plans for the PUD development may reflect some alteration in the conceptual plan such as the exact location of each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets within the PUD 41 development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting. Where existing Right of Way along Old Powerline Road and Minnis Road is narrow adjacent to PUD 41 and the intention is that the 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 along the entire property.

6.B. PLATS.
One or more plats will be prepared for the PUD41 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; identifylots; and identify easements that are necessary for various purposes within the development such as utilities, access, maintenance, and conservation, etc. These plats shall be consistent in general layout with the conceptual site plan.

6.C. PRIVATE DEVELOPMENT DOCUMENTS.
The Developer shall prepare and implement such master covenants, restrictions, homeowner association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 41 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 41 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.

Section 7. DEVELOPMENT STANDARDS
The development standards for PUD41 shall be those established in this ordinance. 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 Single Family Detached 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. All Residential areas must also incorporate a variety of building elements and treatments. Structures must include articulation, change in materials or texture, windows, or other architectural features. The front façade of all structures shall contain, on average, a minimum of at least 50% of either brick or stone materials. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick on stone. No

blank walls along street elevations are allowed. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.

A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff, flooding, and poor water quality.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff. Site amenities shall include uses such as pocket parks, trails as well as undeveloped and protected open spaces. These uses will be finalized as the neighborhood develops depending on current conditions.

A monument style ground sign shall be installed at the primary entrance(s) to the site. A landscaped berm no smaller than 2.5’ in height shall be installed at the primary entrance(s) to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. Open space shall be maintained at proportion no less than 20% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% the buildable lots in the development are established or under construction. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner’s association. Once established the Homeowners Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal service, and shall include a minimum of 2 off-street parking spaces per 50 lots. These may be combined with site amenities as provided. 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. All stormwater detention/retention areas will be screened from the public ROW. Each lot must provide a minimum of 4 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 50 feet for up to 80% of the overall development. At no time can a lot have a minimum frontage of less than 46’. The front setback requirements are 25 feet, side setback requirements are 3’ on one side and 10’ on the remaining side. Each 3’ side setback must be joined by a 10’ setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. Townhomes must follow the City's established process requiring a site plan for construction and a final plat after 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. Retaining walls as needed for the grading of building pads should maintain a 5-foot setback. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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. The development standards for the R1 Low Density Single Residential Zoning District shall apply for any standards this ordinance does not address.

The developer shall dedicate right-of-way and construct a deceleration lane on Minnis Road and deceleration lane shall be required before acceptance of any new street within the subdivision. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements. The deceleration lane shall be curbed to City standards. The Townhome portion of the development along Minnis Road must utilize the interior access driveway as depicted on the attached preliminary site plan.

Public Utilities shall be designed outside of the curb-to-curb area, except for reasonable crossings where necessary. The Director of Planning and Community Development, or their assigns, may allow deviations to utility locations when given a reasonable explanation for the deviation.

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 PUD41 Minnis_Old Powerline Development. 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 THEPUD.
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 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 PUD41, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit A then a revised conceptualplan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD41 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 11Developer" is intended to encompass Morgan Lane Development 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 establishedfor 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 executionof the development order as described above, the public convenience and necessity requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Ordinance 2022-41 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 2022-42** – Amending the Cleveland Municipal Code, Title 16 Streets, Sidewalks, and Drainage, Chapter 5 to include sidewalk construction requirements for all development and redevelopment projects (Planning Commission: Approved 7:1; 1 absent).

ORDINANCE 2022-42

AN ORDINANCE TO AMEND TITLE 16 OF THE CLEVELAND MUNICIPAL CODE, BY ADDING A NEW CHAPTER TO BE DESIGNATED AS CHAPTER 5 ENTITLED "SIDEWALKS"

WHEREAS, City staff is of the opinion that regulations for sidewalks needs to be created and included in the Cleveland Municipal Code.

Section 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, that Title 16 of the Cleveland Municipal Code, be amended to add a new Chapter to be designated as Chapter 5 and be title "Sidewalks."

TITLE 16, CHAPTER 5 SIDEWALKS

Section 16-501 Subdivision I. –Sidewalk Construction—In General

Section 16-502 Subdivision II. –Sidewalks—General Requirements

Section 16-503 Fee in Lieu of Construction

Section 16-504 Design and Construction Standards

Section 16-505 Insufficient Right-of-Way

Section 16-506 ADA and Transit Requirements

Section 16.507 Building Permits and Certificate of Occupancy

Section 16.508 Alternative Method of Pedestrian Mobility

Section 16-509 Contractor's Bond Prerequisite

Section 16-510 Sidewalk Reconstruction Required

Section 16-511 Design Deviation

Section 16-512 Appeal Decision of the Director

16.501. Subdivision I. – Sidewalk Construction- In General

1. - Definitions.

(a) The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Curb-line- means the inside edge of the top of a curb.

Principal Structure- means a structure in which is conducted the principal uses of the lot on which it is situated. In any residential or agricultural district, any dwelling shall be deemed the principal structure on the lot on which the same is situated. Carports and garages, if permanently attached to the principal structure, shall be deemed a part of the principal structure. Awnings, porches, patios, or similar attachments shall be deemed a part of the principal structure.

Principal Use- means the specific primary purpose for which land or a building is used or is intended to be used.

Roadway- means the actual road surface including necessary road shoulders and drainage facilities, including ditches and curbs and gutters, which is used to transport motor vehicles.

Sidewalk- means that portion of a street between the curb-lines, or if there are no curb-lines, the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

Street- means any public way or part thereof, including but not limited to a boulevard, avenue, highway, road, lane or alley.

Director- means Director of Engineering & Development.

(b) For the purpose of this division, when not inconsistent with the context, the term "structure" includes the term "building;" the term "lot" includes the term "plot" or "parcel;" and whenever a provision or section requires the head of a department or some other city official to do some act or perform some duty, it shall be construed to authorize the head of the department or other official to designate, delegate and authorize subordinates to perform the required act or perform the duty, unless the terms of the provision or section specify otherwise.

2. – Purpose.

(a) The Mayor and City Council finds and declares that the construction of sidewalks improves pedestrian safety; expands opportunities for recreational walking and running activities; provides more cohesive neighborhoods; that the National Cooperative Highway Research program determined that pedestrians are significantly less likely to be struck by car while walking on a sidewalk along a street; and that "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials notes that sidewalks are an essential part of city streets.

(b) The purpose of this division is to establish the general requirement to construct sidewalks along streets, and to provide a comprehensive system of sidewalks within the city to promote the health, safety, and welfare of the inhabitants of the city.

16.502 - Subdivision II. - Sidewalks - General requirements.

(a) Sidewalks and curb shall be constructed along the street frontage whenever a new principal structure is built or erected, or the property improvements equal over 50% of the value of facility or building, except for limited access highways. Industrial, commercial, or residential developments where there is not a direct new principal structure along the street frontage of the

development shall have to construct sidewalks along the street frontage of the property being developed if the street frontage area is included in the Community Sidewalk & Greenway Master Plan.

(b) The construction of required sidewalks shall be completed, a contractor's bond in place, or if applicable, a fee in lieu of construction paid before a certificate of occupancy shall be issued by the building official.

(c) When the City Council has adopted a Corridor Rights of Way (ROW) Plan for any city corridor, any property owner who is constructing a structure or the property improvements equal over 50% of the value of facility or building, shall dedicate the needed Rights of Way or an easement according to the Corridor ROW Plan, before a certificate of occupancy is issued by the building official.

(d) The City Council shall have a Community Sidewalk & Greenway Master Plan within 6-months of the adoption of this ordinance to indicate where current and future sidewalks and greenway should be located within our community balancing the needs of pedestrian mobility and the cost of future implementation.

e) Improvement, renovation, or repair of a single-family house or duplex shall be exempt from the requirements of this division, except when the approved Community Sidewalk & Greenway Master Plan includes a future sidewalk in this location.

f) For residential subdivisions, sidewalks shall be on one side of the street if the use of the development is only single family detached housing. Sidewalks shall be on both sides of the street for all other development uses within the City. Sidewalks in PUD zoning shall be determined by the adopted ordinance, but sidewalks shall be at a minimum on one side of the street. Cul-de-sacs and small roads which include 6 or fewer lots fronting it are exempt when it's a part of a larger planned neighborhood.

g) If a property owner is constructing a new principal structure or making improvements equal to over half of the value of the facility or building, and there is already an existing sidewalk that meets standards in the Sidewalk & Greenway Master Plan, meets city sidewalk standards, and is in good repair, then the property owner does not have to pay a Fee in lieu of construction.

16.503 - <u>Fee in lieu of construction</u>.

(a) Except as otherwise provided herein, when a sidewalk is required to be constructed, the Director, or his designee, may waive the requirement and permit the payment of a fee in lieu of construction after considering:

(1) Pedestrian safety, school locations, connection to existing sidewalks, and other engineering and community concerns; or

(2) When it would be in the best interest of the city that sidewalk construction be postponed due to pending street or utility construction.

(b) Applicants must make a written request to the Director, or his designee, for a waiver. If a waiver is granted, a fee will be assessed in lieu of constructing the sidewalk. The fee shall be based on the current bid City contract sidewalk rate of the construction of the sidewalk.

(c) In the event a fee in lieu of constructing a sidewalk is approved, the property owner shall provide to the city in a form approved by the city attorney a recorded easement for street right-of-way, which may include future development of the sidewalk.

(d) Grading shall be done in preparation for future sidewalks or pedestrian pathways.

(e) The fee shall be paid in full before a certificate of occupancy is issued. Fees collected will go into a city fund dedicated to sidewalk, pedestrian pathway, or greenway construction. Disbursal

from such fund is not geographically constrained and may be used to install sidewalks anywhere in the city.

(f) Such waiver and payment in lieu of construction is not permitted when one or more of the following circumstances exist:

(1) The location is specified for sidewalks in the city's adopted sidewalk plan;

(2) The location is within 1,000 feet (street distance) of an existing sidewalk on the same side of the street;

(3) The development is expected to generate significant numbers of pedestrians. Examples include, but are not limited to, schools, day care centers, office buildings, churches, multifamily residential buildings, and other residential facilities such as group homes, nursing homes and residential homes for the aged;

(4) The development contains retail uses expected to attract customers from residences, retail area, places of employment, or places of public assembly within 1,500 feet of the development;

(5) The development is within 1,500 feet (street distance) of a regular city transit stop; or

(6) The new development is within one-half mile (street distance) of an existing or proposed school.

(g) If a facility or building is constructed or improved more than 50% and the street frontage is not consistent with the Community Sidewalk & Greenway Master Plan, then the Director shall request a fee in lieu of construction be paid for the required sidewalk.

16.504 - Design and construction standards.

Design and construction details of required sidewalks shall be included with the development or access site plan. The Director, or his designee, shall review and approve the plans prior to the issuance of a building permit by the building official. Except as otherwise provided in section 16.511, sidewalks shall be constructed in accordance with the general requirements and standards of sidewalk design in the city's design standards. The Director, or his designee, shall be responsible for inspection of sidewalks during construction. Completion of sidewalk construction shall be required to the satisfaction of the Director, or his designee, before a certificate of occupancy will be issued.

16.505 - Insufficient right-of-way.

When there is insufficient street right-of-way for the construction of a required sidewalk, the dedication of an additional right-of-way for street use including a sidewalk and drainage easement shall be required of the developer. The width of the easement shall be determined by the Director, or his designee. A deed of easement for the street right-of-way shall be provided by the property owner to the city in a form approved by the city attorney and shall stipulate guarantee public access in perpetuity and be recorded with the appropriate county register of deeds.

16.506 - ADA and Transit Requirements.

All sidewalks built privately or by the city shall conform to the Americans with Disabilities Act Accessibility Guidelines in effect at the time of construction. The Director shall require a pedestrian connection to the principle building within a development. For residential subdivision, the driveway may serve as this connection. For commercial properties, it shall be required, to the extent possible, that the pedestrian shall be able to get from front entrance of principle building to the sidewalk fronting the property.

16.507 - Building permits and certificates of occupancy.

Certificates of occupancy may be issued for each parcel individually provided that sidewalks are constructed and pass inspections for the respective lot.

16.508 - Alternative method of pedestrian mobility.

(a) In certain circumstances it may be desirable that an alternative method of pedestrian mobility be substituted for standard sidewalk construction. These alternative methods can include the installation of walking paths, greenways, bike paths or trails, or similar modes of nonvehicular mobility. Alternative surfaces may be considered for such alternative methods, subject to approval by the Director. The following provisions shall apply for the approval of alternative methods for the provision of pedestrian mobility:

(1) The property owner shall submit a written request for provision of alternative method of pedestrian mobility to the Director, or his designee. The request shall specify the method proposed as a substitute for sidewalk installation. A site plan depicting the location and dimensions of the alternative method of pedestrian mobility, and any other information deemed necessary by the Director, or his designee, shall be included with the request; and

(2) The request for an alternative method shall be consistent with the sidewalk plan and shall be submitted to the planning commission for approval or rejection.

16.509 - Contractor's bond prerequisite.

The Director, or his designee, may request a bond in an amount necessary to indemnify the city against loss or damage for injury to person or property due to the prosecution of work under this division and to bind such contractor to comply with the terms of this chapter. The Director shall require a developer to post a 2-year sidewalk bond for subdivision construction to allow for orderly sidewalk construction within a subdivision. Each phase may have a separate bond and developers may request the Director, or his designee, only on an annual basis to reduce the bond amount to account for the completed sidewalk sections within subdivisions.

16.510 - Sidewalk reconstruction required.

Where a principal structure is constructed or erected along an existing street, sidewalk construction is required along all streets adjacent to that property. If sidewalks exist where development or redevelopment is occurring, but their width or condition renders them substandard, in the opinion of the Director applying the city's design standards, then the developer of the principal structure shall reconstruct the sidewalk following the guidelines and requirements of this division.

16.511- Design deviation.

(a) In certain circumstances it may be necessary to adjust the standards for sidewalk construction to conform to the unique characteristics of a site. Economic benefit alone is not sufficient grounds for deviation from the standard for sidewalk construction. Unusual or exceptional topography, physical or natural characteristics must be present at the site to justify a design deviation. Any deviation from established sidewalk design standards must be reviewed and approved by the Director, or his designee. The burden of proof shall be on the applicant to demonstrate that the criteria, set out hereinafter, are satisfied before a design deviation may be granted. In considering a request for design deviation the Director, or his designee, and the planning commission shall apply the following criteria, all of which must be satisfied before a design deviation may be granted:

(1) There must be exceptional physical conditions such as rock, extreme slope or other natural or manmade obstacles existing;
(2) The condition must cause the installation of a standard sidewalk be extremely difficult or prohibitively expensive considering the present or future need for the sidewalk balanced with the additional cost for installation;
(3) The design deviation shall be the minimum adjustment necessary, and every attempt shall be made to ensure that the needs of pedestrians are accommodated to the maximum extent possible; and

(4) The design deviation must not be injurious to the neighborhood or detrimental to the public safety and welfare.

(b) A design deviation does not include the waiver of sidewalk construction unless a fee in lieu of construction permitted is approved.

16.512- Appeal Decision of the Director.

(a) Any decision by the Director may be appealed to the City Manager for review within 30 days of the Directors decision. The City Manager shall make a final written decision within 30 days of receiving an official written appeal.

(b) If the applicant is not satisfied with the City Manager decision, then the City Council will make final decision on the matter. The City Council may request a recommendation from the Planning Commission on the appealed issue.

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

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Ordinance 2022-42 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:

- **Ordinance 2022-43** – Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3.4.1 to remove sidewalk construction requirements in conflict with Title 16 (Planning Commission: Approved 9-0).

ORDINANCE 2022-43

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14, CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REMOVING PORTIONS OF SECTION 3.4.1 DRIVES, DRIVEWAYS AND SIDEWALKS: 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 intent of the language in the existing zoning ordinance concerning drives, driveway, and sidewalks; and

WHEREAS, the current specific regulations are now referenced within the zoning ordinance; and

WHEREAS the City Council has determined that the existing ordinance should be revised to remove portions of section 3.4.1 Drives, Driveway, and Sidewalks; 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 removing portions of section 3.4.1

3.4.1 Drives, and Driveways ~~and sidewalks~~.

A. No ~~sidewalk~~, driveway or other means of entrance to any lot, regardless of the district in which the said lot is located, shall be constructed without the written approval of the city public works director.

(1) Adjacent commercial or office properties which are major traffic generators (such as shopping centers and office parks) shall provide a cross access drive and pedestrian access to allow circulation between sites. A major traffic generator is defined as a generator that is responsible for initiating over five hundred (500) trips per day.

(2) Joint use driveways and cross access easements shall be established wherever feasible along arterial streets and major collector streets. A unified access and circulation system plan that includes coordinated or shared parking areas is encouraged wherever feasible.

(3) The city may reduce required separation distances of access points provided that joint access driveways and cross access easements are provided as described in this section.

(4) Driveways shall be located and constructed in the City of Cleveland according to the urban standards outlined in the latest edition of the Tennessee Department of Transportation guidelines entitled "Rules and Regulations for Constructing Driveways on State Highway Rights-of- way."

~~B. Sidewalk locations.~~

~~(1) Where a proposed development includes improvements or new construction of collector or arterial facilities, facility designs shall include provision for sidewalks within the right-of-way on both sides of the street.~~

~~(2) Residential projects within two thousand (2,000) feet of an activity center comprised of commercial, office, service, recreation activities, or public primary and secondary schools shall provide sidewalks on both sides of the street, except that cul-de-sacs with less than two hundred fifty (250) adt or less than one thousand (1,000) feet in length shall not require sidewalks. All other residential streets shall have a sidewalk on at least one side.~~

~~(3) Pedestrian ways or crosswalks, not less than ten (10) feet wide with a sidewalk meeting the requirements of this ordinance, may be required to be placed in the center of blocks more than eight hundred (800) feet long where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.~~

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. 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Ordinance 2022-43 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 2022-44 –** Amending the Cleveland Municipal Code, Title 14, Zoning Ordinance, Section 2.15.2 conditional uses to include cryptocurrency mining and Section 1.6 to define cryptocurrency mining (Planning Commission: Approved 9-0.

ORDINANCE 2022-44

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 2.15.2 CONDITIONAL USES TO INCLUDE CRYPTOCURRENCY MINING AND SECTION 1.6 DEFINITIONS TO DEFINE CRYPTOCURRENCY MINING: 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 intent of the language in the existing zoning ordinance concerning Cryptocurrency Mining as a conditional use; and

WHEREAS, cryptocurrency mining as conditional uses is not currently referenced within the zoning ordinance; and

WHEREAS, the City Council has determined that the existing ordinance should be revised to include cryptocurrency mining as a conditional use; 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, Section 2.15.2 shall include the following as a conditional use:

"C. Cryptocurrency Mining provided that no residential zoning districts are within 500, both the Industrial Development Board and Utilities Sign off on the location and that the operation is conducted completely within an approved primary structure"

Section 2. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, Section 1.6.0 shall include the following definition:

1.6.13a Cryptocurrency Mining. The operation of specialized computer equipment for the purpose of mining one or more blockchain-based cryptocurrencies, such as Bitcoin. This activity typically involves the solving of algorithms as part of the development and maintenance of a blockchain which is a type of distributed ledger maintained on a peer-to-peer network. Typical physical characteristics of cryptocurrency mining include specialized computer hardware for mining operations as well as equipment to cool the hardware and operating space. For the purposes of the associated regulations, cryptocurrency mining does not include the exchange of cryptocurrency or any other type of virtual currency nor does it encompass the use, creation, or maintenance of all types of peer-to-peer distributed ledgers.

Section 3. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Ordinance 2022-44 be approved on first reading. The motion was seconded by Councilman Estes. Councilman Estes then asked staff to consider limitations similar to the liquor and adult entertainment ordinances and amend the ordinance before final reading. Mr. Fivas stated staff will double check the ordinance and see what can be amended. Councilman Estes encouraged the Council to research and look at other cities where this has been implemented. Councilman Webb added it is important we get out in front of this. There are good articles in the Johnson City newspaper about issues this has caused in Washington County and surrounding areas. It is a good resource. Mr. Fivas added this is not against what this company does, this is just making sure there are safeguards if there is a potential location where they can safely do work. We are not trying to eliminate them, just make sure we have certain community controls in place. Councilman Estes added he is not aware of any company just speaking of the industry. Mayor Brooks stated as Mr. Varnell indicated in the Work Session, this also helps Cleveland Utilities figure a way to service this industry. Upon roll call, the motion unanimously passed.

The following memo was then presented in full

To: Joe Fivas, City Manager
From: Kris Miller, IT Director
Date: October 24, 202211/7/2022
Re: Greenway Camera Project

The IT Department has come up with a initial demonstration plan for the Greenway Camera Safety Project. I have been working with Verkada, a cloud-based security system company. They have customers all across the United States, including Tennessee – City of Athens, City of

Memphis, Wilson County Sheriff, Williamson County, & Cleveland Utilities.

We will begin by implementing three cameras – a dome cam, bullet cam, and fisheye cam at Greenway Park. This will allow us to test the field of vision, zoom capabilities, and cloud-based monitoring of the different cameras. They will operate via cellular communication to the cloud. This demo should provide us the technical information as to how many cameras and camera types we will need installed throughout the Greenway. We are also in discussions with Cleveland Utilities to utilize existing light poles for most of the installation locations and power requirements. Once the cameras are operating, they will be able to be securely accessed and monitored remotely by emergency services and other designated departments.

The estimated cost of the equipment for the demonstration is $9,000. The cameras will be owned by the City and include a 10yr hardware warranty. I have included a map of Greenway Park showing the proposed test locations of the 3 cameras.

We are also in discussions with Verkada for a demonstration of their LPR (License Plate Reader) product for review. If you have any questions or comments concerning this project, feel free to contact me.

Councilman Estes moved to approve the pilot project for Greenway cameras. The motion was seconded by Councilman Cassada. Councilman Hughes inquired about LPR's [License Plate Readers] for the Cleveland Police Department. Mr. Fivas stated Chief Gibson has tried out different companies and Verkada has offered a pilot program for free, so this vote would include doing a pilot program for the LPR's as well, if Chief Gibson wants to proceed. Councilman May asked who will be monitoring the 24/7 cameras. Mr. Fivas stated you will need a room with live monitoring. We will need to work through how to accomplish it very soon. We like the technology for the easy access and flexibility. We will need to have someone watching it, but we will still have police presence on the Greenway. Upon roll call, the motion was approved unanimously.

The following resolution was then presented in full:

- **Resolution 2022-93** – Approval of the City's options for property acquisition of right-of-way at 1120 Valley Head Road.

RESOLUTION 2022-93

WHEREAS, the City of Cleveland is in the process of making intersection improvements at the intersection of Paul Huff Parkway and Peerless Road (hereafter referred to as "the project"); and

WHEREAS, the City needs to acquire some land for right of way from an adjacent property owner for this intersection project; and

WHEREAS the intersection improvements are necessary for benefits to the public; and

WHEREAS, the current owner of the adjacent property is Property Holding Group LLC, and the property address is generally identified as 1120 Valley Head Road, Tax ID Number 034I-B-001.00; and

WHEREAS, the City needs to acquire some land from this parcel in order to move forward with the intersection project; and

WHEREAS, the City Council desires to authorize City staff to offer $7,425.00 to the property owner to purchase the land needed by the City for the project; and

WHEREAS, the City Council also desires to authorize eminent domain proceedings by the City in order to acquire the land from the property owner.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council hereby authorizes City staff to offer $7,425.00 to the property owner to purchase the land needed by the City for the project; and

BE IT FURTHER RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council hereby authorizes the City's legal representatives to institute eminent domain proceedings against the property owner in order to acquire the necessary land for the project described herein.

This 24th day of October 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2022-93 be approved as presented. The motion was seconded by Vice Mayor Johnson. Councilman Cassada stated he doesn't think eminent domain has been utilized since he has been on the Council and would like to hear from staff and the property owner. Mr. Fivas stated in the past, we obtain an appraisal and make an offer for property based on that appraisal, staff usually does that. This is the appraisal plus 10%, that is what the Council is really voting to do, to go through the official process, give an offer plus 10%. It is a fairly small area. The existing construction easement area, we need just the tip. Usually these get worked out so it's not the first direction that we take, but this starts the dialog with the property owner. Councilman May stated this is a way if the city and owner cannot come together then it's a process that is as fair as it can be. Chris Townsend stated it would be their privilege to participate in the intersection improvement project at Peerless and Paul Huff Parkway. The immediate issues that are of concern to us is. One, the appraisal that was conducted. They do not believe it applies adequate value to the property, especially considering the property is currently under contract to be sold at a price significantly higher than the appraised value. Two, an eminent domain proceeding would have the potential to jeopardize the sale of the property. We would rather work with the city. We have had dialogue over the last year-year and half concerning the property but have not been able to come to an agreement that would convey the property to the city. They have made three offers to the city over the last six-eight months, the last being we would donate the property under certain conditions. We have not received a response from any offer. No response at all, from anyone. He requests the City Council postpone the resolution and give the opportunity to come to an agreement that number one, assigns a proper value to the property. Two, it does not jeopardize the sale of the existing contract on the property. Three, affords us equal treatment as a neighboring property owner has received on several key issues. That is the heart of the matter, equal treatment between property owners. Councilman Cassada asked if there was a timeline or could it be postponed for a few meetings for dialogue. Mr. Kimball stated if you pass this resolution, it doesn't mean proceedings will begin immediately. If they have a contrary appraisal, they need to provide that to Mr. Fivas. Councilman Cassada offered a substitute motion to delay until the November 28 meeting for additional dialogue with the property owner. Mr. Fivas stated due to conflicts our legal counsel felt time was of the essence. Mr. Jobe stated yes, the appraisal will become out of date. Councilman Hughes asked what the conditions were on donating the property. Mr. Townsend responded we are requesting the PUD25 be amended in several ways, which has been outlined to the City. The revisions reflect language that is found in other commercial PUD's. Mr. Fivas stated we need to Council to authorize the offer so we can begin dialogue. We can bring the eminent domain portion back at a later date if needed. Councilman Cassada rescinded his substitute motion. Councilman May and Vice Mayor Johnson rescinded their original motion. Councilman May then moved to approve the offer of $7,425 and defer the discussion of eminent domain until the November 14 meeting if needed. The motion was seconded by Councilman Cassada. Councilman Estes reminded the Council and staff as negotiations go forward, no

billboard. The Planning Commission and neighborhood was very adamant, no billboard. Mr. Fivas stated this is just a monetary negotiation. Upon roll call, Councilman May, Councilman Cassada, Councilman Hughes, Councilman Webb, Councilman McKenzie and Vice Mayor Johnson voted aye. Councilman Estes voted no. The motion passed 6:1.

Mr. Townsend thanked the Council and noted they have come to the table every single time to participate knowing what is needed for intersection improvement because they believe it's good for all parties. But it is unfortunate that he has to leverage the city's desire for property to be treated equally to a neighboring property owner. That is unfortunate.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. The next City Council meeting will be held on Monday, November 14, 2022.

b. Holiday Schedule: Following Tennessee State Government Holiday Office Closure Schedule, City offices will be closed as follows:

- Friday, November 11 in observance of Veterans Day.
- Thursday, November 24 and Friday, November 25 due to the Thanksgiving Holiday.
- Friday, December 23 and Monday, December 26 for the Christmas Holiday. The December 26 Council meeting will be cancelled.
- Friday, December 30 and Monday, January 2, 2023 for the New Year's Holiday.

There being no future business the meeting was adjourned at 4:19 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
NOVEMBER 14, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, NOVEMBER 14, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brook. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, David May, Tom Cassada, Ken Webb and Councilwoman Marsha McKenzie. Councilman Dale Hughes was absent from the meeting. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Christy Brandon, Assistant City Clerk; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; City Attorney John Kimball; Chris Gaylor, IT/GIS Administrator; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Hal Taylor with City Schools; Doug Berry with the Chamber of Commerce; Sharon Marr with Mainstreet Cleveland; Cathy Andrews, CDBG Coordinator; Ben Berry with Berry Engineering; Jaxen Bay; Garry Rodgers and Tim Siniard with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Pastor Jeff Lovingood with First Baptist Church, the following business was then entered into:

Councilman Cassada moved to excuse Councilman Hughes from today's meeting. The motion was seconded by Councilman Webb; 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 October 24, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Mayor Brooks stated today we are swearing-in six new Police Officers to the Cleveland Police Department. Chief Gibson introduced each officer and gave a brief background on each of them. Mayor Brooks then administered the Oath of Office to Police Officers Randolph Hamilton, Legend Holloway, Aaron Oliver, Colton Roe, Cody Widdow and Colton Ford and then welcomed them to the Cleveland Police Department.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone .23 acres, more or less, from IH to CBD for property located at 630 Montgomery Avenue NE (also described as Tax Map 049M Group K Parcel 006.00). Robert Varnell stated the property owners have requested it be rezoned for possible redevelopment in the future. The Planning Commission approved this item 9-0. Mayor Brooks asked if anyone would like to speak in favor of the rezoning reqeust. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 16.5 acres, more or less, from CH to PUD 43 for property located at 3900 Adkisson Drive (also described as Tax Map 033L Group C Parcel 010.00). Robert Varnell stated this is a multi-family request. We added some infrastructure improvements on Adkisson Drive, as well as internal improvements. Designated turn lanes on Adkisson and the development will include sidewalks. The Planning Commission approved this item 8:0 with 1 member recused. Mayor Brooks asked if anyone would like to speak in favor of the rezoning request. Ben Berry with Berry Engineers stated they see this development as the highest and best use of the property long term. The apartment community will have a pool, dog park and elevators. It will be a nice addition to the city. Gary Rodgers thanked the Council for their support of the project. We will strive for a good development.

Mayor Brooks asked if anyone would like to speak in opposition of the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the City of Cleveland to amend the Cleveland Municipal Code, Title 14 Chapter 2, Zoning Regulations, Section 2.15.2 to include cryptocurrency mining as a conditional use and section 1.6 definitions, to define cryptocurrency mining. Robert Varnell stated we had a public hearing and first reading at the last meeting. This is utilizing the tools to maintain a level of control for this use and the impact to the community. The Planning Commission approved this item 9:0. Mayor Brooks asked if anyone would like to speak in favor of the amendment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the amendment. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

Councilman Cassada moved to approve the following items from the Consent Agenda. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

- **Final Passage - Zoning Ordinance 2022-38** – heretofore passed on first reading October 24, 2022 and found in Minute Book 30, Page 863; rezoning .55 acres, more or less, from R1 to R2 for property located at Clearwater Drive (also described as Tax Map 042O Group A Parcel 001.06) (Planning Commission: Approved 8:0; 1 absent).
- **Final Passage - Zoning Ordinance 2022-39** – heretofore passed on first reading October 24, 2022 and found in Minute Book 30, Page 864; rezoning 1.00 acres, more or less, from IH to CH for property located along APD 40 (also described as a portion of Tax Map 065 Parcel 001.00) (Planning Commission: Approved 8:0; 1 absent).
- **Final Passage - Zoning Ordinance 2022-40** – heretofore passed on first reading October 24, 2022 and found in Minute Book 30, Page 865; rezoning about 80 acres, more or less, from RA, R1, and CH to PUD 40 Planned Unit of Development for property located on North Lee Hwy (also described as Tax Map 034 Parcel 055.00) (Planning Commission: Approved 8:0; 1 absent).
- **Final Passage - Ordinance 2022-41** – heretofore passed on first reading October 24, 2022 and found in Minute Book 30, Page 871; amending PUD41 which includes about 54 acres, more or less, to include 12 townhome units as an allowable use and to reduce the minimum lot size from 7500 square feet to 5000 square feet (also described as Tax Map 058 Parcels 025.02, 024.00, and 024.05) (Planning Commission: Approved 7-0; 1 recused, 1 absent).
- **Final Passage - Ordinance 2022-42** – heretofore passed on first reading October 24, 2022 and found in Minute Book 30, Page 876; amending the Cleveland Municipal Code, Title 16 Streets, Sidewalks, and Drainage, Chapter 5 to include sidewalk construction requirements for all development and redevelopment projects (Planning Commission: Approved 7:1; 1 absent).
- **Final Passage - Ordinance 2022-43** – heretofore passed on first reading October 24, 2022 and found in Minute Book 30, Page 881; amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 3.4.1 to remove sidewalk construction requirements in conflict with Title 16 (Planning Commission: Approved 9-0).
- **Final Passage - Ordinance 2022-44 –** heretofore passed on first reading October 24, 2022 and found in Minute Book 30, Page 883; amending the Cleveland Municipal Code, Title 14, Zoning Ordinance, Section 2.15.2 conditional uses to include cryptocurrency mining and Section 1.6 to define cryptocurrency mining (Planning Commission: Approved 9-0).

- **Resolution 2022-94** – Allocating the use of a portion of ARPA Funds for Police Vehicles and Fire Apparatus.

RESOLUTION 2022-94

RESOLUTION FOR AMERICAN RESCUE PLAN ACT (ARPA) ALLOCATION

WHEREAS, on March 11, 2021 the President of the United States signed into law the American Rescue Plan Act (ARPA) to provide continued relief from the impact of the COVID-19 pandemic; and

WHEREAS, the ARPA program appropriates funds to assist state, local, tribal and territory governments in responding to the COVID-19 pandemic; and

WHEREAS, the Coronavirus State and Local Fiscal Recovery Funds provide needed fiscal relief for recipients that have experienced revenue loss due to the onset of the COVID-19 public health emergency; and

WHEREAS, Treasury presumes that up to $10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund "government services."; and

WHEREAS, Recipients may elect a "standard allowance" of $10 million to spend on government services through the period of performance; and

WHEREAS, All recipients may elect to use this standard allowance instead of calculating lost revenue using the formula provided by US Treasury, including those with total allocations of $10 million or less; and

WHEREAS, the City of Cleveland has the need to fund government services while in the recovery phase of the COVID-19 pandemic.

NOW, THEREFORE IT BE RESOLVED, the City Council of the City of Cleveland, Tennessee, authorize the following:

Section 1. The following allocation of ARPA funding to fund government services under the replacing lost public sector revenue spending category as follows:

1. Appropriating up to $400,000 to the Cleveland Police Department to purchase and equip police vehicles.
2. Appropriating up to $400,000 to the Cleveland Fire Department to purchase fire apparatus.

Adopted this 26th day of September, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-95 –** Authorizing the Mayor to sign a subrecipient agreement with the Community Foundation for Cleveland and Bradley for use of the CDBG-CARES Act Funding.

RESOLUTION 2022-95

WHEREAS, the City has received CARESs Act funding through the Community Development Block Grant (CDBG) program to be used for activities eligible under the Housing and Community Development Act of 1974, as amended; and

WHERAS, the City has funds remaining in the CDBG-Covid Allocation; and

WHEREAS, the Community Foundation of Cleveland and Bradley County has partnered with various community partners to assist with the Cold Weather Centers for the homeless; and

WHEREAS, the activity described herein has been determined to be an eligible CDBG activity under the CARES Act to respond to, prepare for, and aid the prevention of COVID 19; and

WHERAS, the City of Cleveland will award up to $10,000 for the activity, and in connection with said funding, the City Council desires to authorize the Mayor to execute a Subrecipient Agreement with the Community Foundation of Cleveland and Bradley County, which Agreement is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the Mayor is hereby authorized to execute the Subrecipient Agreement with the Community Foundation of Cleveland and Bradley County, which Agreement is attached hereto and incorporated herein by reference.

This 14th day of November 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-96 –** Authorizing the Mayor to sign an agreement with the Cleveland/Bradley County Public Library for the use of ARPA funds.

RESOLUTION 2022-96

WHEREAS, on March 11, 2021, the United States Congress passed the American Rescue Plan Act of 2021 ("ARPA"), which provides fiscal relief funds to State and Local Governments, and other program areas aimed at mitigating the continuing efforts of the COVID-19 Pandemic; and

WHEREAS, Cleveland Bradley County Public Library seeks to paint the exterior of the library; and

WHEREAS, the City Council finds that an investment of local fiscal recovery fund dollars to Cleveland Bradley Public Library to paint the exterior of the library is an eligible expense; and

WHEREAS, on November 14, 2022, City of Cleveland appropriated twelve-thousand dollars ($12,000.00) for Cleveland Bradley County Library to paint the exterior of the library by the conditions and terms of the American Rescue Plan Act; and

WHEREAS the City Council desires to approve of the attached agreement with Cleveland Bradley County Library for this project and the use of American Rescue Plan Act Funds, and the City Council further desires to authorize the Mayor to execute this 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 Cleveland Bradly County library regarding American Rescue Plan Act Funds for this project.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with Cleveland Bradley County Library on behalf of the City for this project.

This 14th day of November 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-98** – Authorizing the future purchase of cameras for the Greenway through the Master Intergovernmental Cooperative Agreement #200203.

RESOLUTION 2022-98

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE SECURITY SYSTEM PRODUCTS AND SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT #200203, AS AMENDED, WHICH IS ADMINISTERED BY THE INTERLOCAL PURCHASING SYSTEM (TIPS).

WHEREAS *Tennessee Code Annotated* § 12-3-1205 provides that any municipality may participate in, sponsor, conduct, or administer a "cooperative purchasing agreement" for the procurement of any supplies, services, or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants, including governmental entities outside this state; and

WHEREAS, the Master Intergovernmental Cooperative Purchasing Agreement ("MICPA") to provide security systems products and services between Waypoint Business Solutions ("Company") and The Interlocal Purchasing System (TIPS) a government cooperative purchasing program authorized by the Region 8 Education Service Center of Pittsburg, Texas ("Lead Agency"), which may include the City of Cleveland, Tennessee, meets the authorized public bidding requirements for the State of Tennessee and allows governmental purchases of security systems products and services pursuant to this MICPA at discounted contract prices, as permitted by *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City of Cleveland is authorized to participate in this Master Intergovernmental Cooperative Purchasing Agreement provided that it adopts a resolution accepting the terms of the Master Agreement and the City of Cleveland as a participant acquires and maintains documentation that the purchasing entity that procured the bid complied with the purchasing requirements for the City of Cleveland pursuant to *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City Manager has determined that the Master Agreement shall be construed in accordance with and governed by the laws of the State in which the City of Cleveland exists as a participating agency and that the City of Cleveland has registered on-line with The Interlocal Purchasing System (TIPS) at https://tips-usa.com which allows the City of Cleveland to enter into this MICPA and which is intended to allow the City of Cleveland to meet applicable legal requirements and facilitate access to the Master Agreement and the Company under Contract #200203, as amended, held by Region 8 Education Service Center as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE that the City of Cleveland be and is hereby authorized to purchase security system products and services as a participating public agency under MICPA Contract #200203, as amended, held by Region 8 Education Service Center as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through The Interlocal Purchasing System (TIPS) for the City of Cleveland and its citizens.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-100** – Authorizing the Mayor to sign amendment #1 with TDOT related to the intersection improvement project at 25th and Ocoee Street.

RESOLUTION 2022-100

WHEREAS, the City has received the attached contract amendment #1 from the Tennessee Department of Transportation (hereafter "TDOT") for the project described below; and

Project: Intersection Improvements on SR-60 (25th Street, Intersection at SR-74 (Ocoee Street NE)

Agreement Number: 090238
Project Identification Number: 109276.00
Federal Project #: STP-M/NH-60(19)
State Project #: 06069-3228-54

WHEREAS, the City Council desires to enter into the attached contract amendment #1 with TDOT for the project described, and to further authorize the Mayor to execute this contract 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 #1 with TDOT for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. The City will immediately contribute $496,000 for the requested cost of NEPA and Design of the project. Once confirmation that the project has been placed in the five-year plan, the City Manager will make a determination on the appropriate time when to submit the remaining $1,504,000 to TDOT.

This 14th day of November, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-102** – Amending the FY2023 Authorized Position List for Public Works.

RESOLUTION 2022-102

A RESOLUTION TO AMEND THE AUTHORIZED POSITIONS LIST FOR THE FY2023 BUDGET

WHEREAS, the City Council of the City of Cleveland has previously established and adopted the FY2023 City Budget; and

WHEREAS, the City Budget contains the "Authorized Employees By Fund, Department, and Position Classification"; and

WHEREAS, the Public Works Director and the City Manager are recommending that the City Council approve a change in the authorized positions for the Fleet Management Division of the Public Works Department as set forth in the City Manager's memorandum to the Mayor and City Council dated November 14, 2022 which is attached hereto.

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 70 through 73 of the FY2023 City Budget is hereby amended to reflect the changes included in the attached memorandum.

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

Adopted this 14th day of November, 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **November 14, 2022**
RE: **Authorized Position List**

SUMMARY:
The City's Fleet Manager is retiring in December 2022. The Director of Public Works has requested to set up a new structure to manage our Fleet Operations which require a couple changes to our Authorized Position List. This new structure will result in cost savings to the City. The Fleet Manager position will be left open and unfunded, and we will create a position of a General Supervisor at Level 114. This replaces the former position of Fleet Maintenance Supervisor at Level 113 which has been eliminated. We will also create a position of Fleet Service Coordinator at Level 109. The list also included an additional part-time employee for Public Works.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends the approval of the modified Authorized Position List.

- **Motion** - Authorization for staff to proceed with Disc Golf Course Design at Fletcher Park.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **November 14, 2022**
RE: **Disc Golf Design**

SUMMARY:
The City has been approached to look at Disc Golf opportunities in Cleveland. Disc Golf is a rapidly growing passive recreation option throughout the nation. Last week, the Parks & Recreation Department and the City Council had a demonstration last week to see how the game and rules work, and to ask questions about a future course.

Fletcher Park seems to meet all of the criteria for a passive course. City staff would along with some experts in the field would like to lay out a design in Fletcher Park was the City Council to review before making any decisions. If approved we've been told that costs would be very minimal to the City.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends the approval of having staff work with Disc Golf experts and develop a design in Fletcher Park for the City Council to review.

- **Motion** – Approval of Civitan Inclusive Park Design and Funding.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **November 14, 2022**
RE: **Civitan Inclusive Park Improvements**

SUMMARY:
The Civitan Club has long been a strong funding source for the Civitan Inclusive Park. They have donated hundreds of thousands of dollars for this park. The park is our only 'Inclusive Park', and many aspects of the playground are not sufficient for those with disabilities. Staff believes that the Park should serve all families equally, especially those families who have multiple children and can only go to Civitan Park.

City staff will present a detailed design on these new improvements and a new theme for the park. Staff is requesting to use $500,000 of bond funds to complete this facility, and have it completed before July 1, 2023.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
$500,000 from bond funds.

RECOMMENDATION:
City staff recommends the approval of the new design and theme for Civitan Park, and also approves $500,000 in funding from bond funds to be used for these improvements.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Estes stated he has received several comments about the postal service. Since it is a Federal issue, he has emailed Gracie White from Congressman Fleishmann's office as well as, Laken Shattuck from Senator Hagerty's office to make them aware. He then thanked Cathy Andrews and Greg Thomas for representing the City at the City Fields event over the weekend. They are very appreciative of both the City and County involvement.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-45** – Rezoning .23 acres, more or less, from IH to CBD for property located at 630 Montgomery Avenue NE (also described as Tax Map 049M Group K Parcel 006.00) (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2022-45

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the portion of property described herein be, and the same is hereby, re-zoned from IH Heavy Industrial Zoning District to CBD Central Business District Zoning District.

Approximately .23 acres, more or less, located on Montgomery Avenue NE as shown on the attached map.

For reference, same property is being shown on a portion of Tax Map 049M Group K Parcel 006.00, 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.

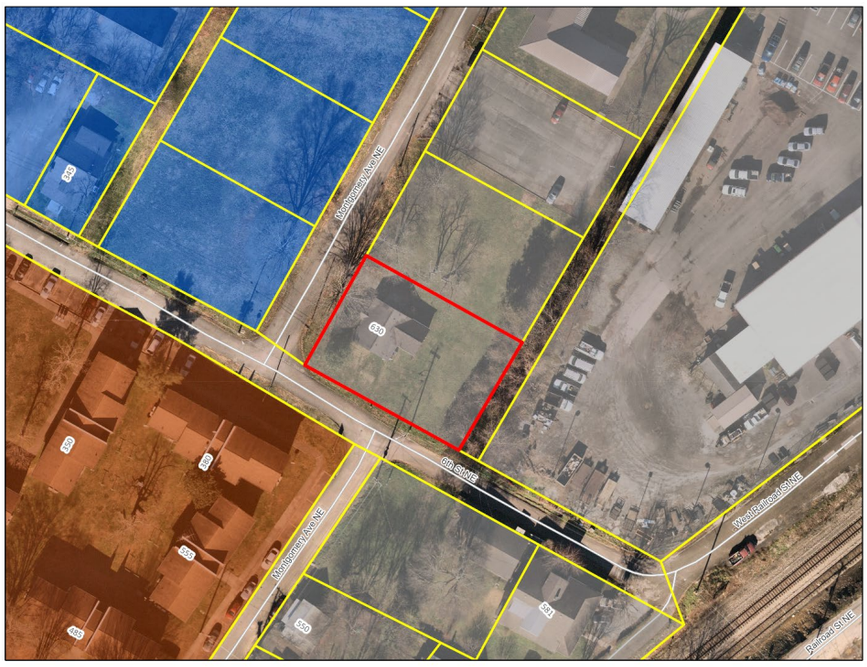
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

Exhibit A



Councilman Estes moved that Zoning Ordinance 2022-45 be approved on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2022-46** – Rezoning 16.5 acres, more or less, from CH to PUD 43 for property located at 3900 Adkisson Drive (also described as Tax Map 033L Group C Parcel 010.00) (Planning Commission: Approved 8:0; 1 Recused).

ZONING ORDINANCE 2022-46

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISHA PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS ADKISSON DRIVE MULTI-FAMILY "PUD 43" ON PROPERTY DESCRIBED AS TAX MAP 033L GROUP C PARCEL 010.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 43; 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 43" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 43 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 43 district are 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 theterms 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 43, Adkisson Drive Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 033L Parcel 010.00. Exhibit A illustrates the overall Adkisson Drive Multi-family Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.
This section is intended to provide a general description of the Adkisson Drive Development. The project consists of a multi-family apartment complex which includes a clubhouse, pool, and other amenities. The developer shall include any permanent retention or detention pond areas or landscapedcommon areas.

Section 5. PERMITTED USES AND PROHIBITED USES.
The PUD 43 Subdivision allows for the construction of up to 320 residential units in single-unit or multi-unit structures not exceeding four stories. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 43 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 residential uses within the PUD 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 Developer covenants and restrictions. The developer reserves the right to propose commercial uses on the property currently zoned Commercial General (CG) within the City of Cleveland as depicted on Exabit B with the exception of the following uses: Gasoline sales and service, vehicle sales, rental, service, and repair of new or uses automobiles, boats, buses, farm equipment, motorcycles, trucks, recreational vehicles, and mobile homes, flea markets, mini-warehouse facilities or any conditional uses listed. Billboards are prohibited with the exception of the existing billboard located on the property.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibit A) for PUD 43, The Adkisson Drive Multi-family Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on October 18, 2022. The conceptual plan consists of a site plan for the overall development. However additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD 43 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. However, any modification may not increase the total number of dwelling units beyond 320 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 site plans for the PUD development may reflect some alteration in the conceptual plan such as the exact location of each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets or access drives within the PUD 43 development shall be constructed with adequate width to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting.

6.B. PLATS.

One or more plats will be prepared for the PUD43 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; identifylots; and identify easements that are necessary for various purposes within the development such as utilities, access, maintenance, and conservation, etc. These plats shall be consistent in general layout with the conceptual site plan.

6.C. PRIVATE DEVELOPMENT DOCUMENTS.

The Developer shall prepare and implement such master covenants, restrictions, homeowner association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 43 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 43 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.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD43 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R3 Multi-family residential zone or if developed commercially will be those in the GC General Commercial zone, from the City of Cleveland's zoning regulations.

For residential areas, the overall residential development is not to exceed a gross density of 320 maximum units. The front façade of all structures shall contain, on average, a minimum of at least 25% of either brick or stone materials. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick on stone. No blank

walls along street elevations are allowed.

A minimum 30 two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed throughout the development. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff, flooding, and poor water quality. All structures shall be serviced by sidewalks within the development which will connect to Adkisson Drive. The entire frontage of the development shall have sidewalks installed by the developer. Sidewalks should be illustrated on all plats and site plans for review by city staff.

A monument style ground sign shall be installed at the primary entrance(s) to the site. A landscaped berm no smaller than 2.5' in height shall be installed along the primary entrance(s) to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. Open space shall be maintained at proportion no less than 25% of the total buildable area. Site amenities shall be provided by the developer once 50% the structures in the development are established or under construction and shall include a pool and clubhouse. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner's association. 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. All stormwater detention/retention areas will be screened from the public ROW.

Retaining walls as needed for the grading of building pads should maintain a 5-foot setback. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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.

Driveway entrances to the site shall be developed with adequate turning radii for entering and exiting vehicles, including delivery vehicles. 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 site planning for individual developments. With the PUD 43 site being 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. Parking standards shall be comparable to other developments of like nature and in no case have less than 1.5 spaces for every dwelling unit of multi-family developments. All other parking standards shall be the same as required by the City of Cleveland.

The developer shall dedicate right-of-way and construct a left turn lane and a right turn deceleration lane on Adkisson Drive. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements.

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 PUD43 Adkisson Drive Development. 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 THEPUD.
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 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 PUD43, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit A then a revised conceptualplan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD43 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 11Developer" is intended to encompass Morgan Lane Development 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 establishedfor 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 executionof the development order as described above, the public convenience and necessity requiring it.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

Councilman Cassada moved that Zoning Ordinance 2022-46 be approved on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2022-99** – Authorizing the Mayor to sign an engagement letter with Miller and Martin pertaining to eminent domain proceedings for property at 1120 Valley Head Road.

RESOLUTION 2022-99

WHEREAS, the City of Cleveland is in the process of making intersection improvements at the intersection of Paul Huff Parkway and Peerless Road (hereafter referred to as "the project"); and

WHEREAS the intersection improvements are necessary for benefits to the public; and

WHEREAS, the City needs to acquire 108 square feet of land and a temporary construction easement from a parcel owned by Property Holding Group LLC, in order to move forward with the intersection widening project that is reflected of traffic analysis on Park Huff Parkway; and

WHEREAS, the property owned by Property Holding Group LLC, is generally identified as 1120 Valley Head Road, Tax ID Number 034I-B-001.00; and

WHEREAS, an exhibit showing the fee simple conveyance of 108 square feet as well as the temporary construction easement which are both needed for the project is attached to this resolution; and

WHEREAS, at the October 24, 2022, regular City Council meeting, the City Council passed a motion to authorize City staff to offer $7,425.00 to the property owner to purchase the land needed by the City for the project; and

WHEREAS, following the October 24, 2022, regular City Council meeting, after a certified appraisal and a review appraisal, the City offered $7,425.00, which was 10% higher than the appraisals to Property Holding Group LLC to purchase the land needed by the City for the project; and

WHEREAS, the offer made by the City to the property owner has not been accepted at this time; and

WHEREAS, the City Council now desires to authorize eminent domain proceedings by the City in order to acquire the land from the property owner.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council hereby authorizes the City's legal representatives, Miller and Martin, to institute eminent domain proceedings against the property owner in order to acquire the necessary land for the project described herein.

BE IT FURTHER RESOLVED that the Mayor is authorized to sign an engagement letter with Miller and Martin pertaining to this eminent domain proceedings.

This 14th day of November 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Cassada asked if the property owner had any comments. Chris Townsend with Property Holding Group stated he was available for any questions from the Council. Councilman Cassada asked if he wanted to proceed forward. Mr. Townsend responded that was not his decision. He has made himself available for the last year and a half to resolve the need for the city to acquire some property. In fact, on October 25 he sent an email to City Manager Fivas and the City Council indicating that he would like to meet to resolve the issue. He was told, in no uncertain terms by the City Manager, you can talk to our attorney. That's where we stand now, and he is still here willing, able, and happy to discuss the city's acquisition of his property.

Councilman May moved that Resolution 2022-99 be accepted as presented. The motion was seconded by Councilman Webb. Councilman Estes asked Mr. Fivas to verbally say what has transpired since the last meeting. Mr. Fivas stated the Council had an offer; sent a couple of emails to Mr. Townsend suggesting we'd like to get some level of a written response to that; he did send something about asking for a rezoning be on the next agenda for November 28; he didn't receive any offers or counter-offer that he is aware of; Miller & Martin, that you are going to approve, they have heard a request from Property Holding Groups attorney and we hope they can find, which they do 98% of the time, some type of agreement; he thinks that conversation will happen sometime this week; that is as much details as he knows. We did put in the packet what the request is, it is at the corner of Paul Huff and Peerless. It is 108 square feet total, probably about the size of this table. There are some temporary construction easements also, as a part of the value. We did an appraisal and a review appraisal and, like everyone else, we'd like to get it resolved amicably. Councilman Estes asked why we are using Miller & Martin. Mr. Kimball stated this requires an attorney with a licensed title company. Mr. Travis Henry was unavailable, and Miller & Martin has done work for Cleveland Utilities of a similar nature therefore when asked that's who he recommended to Mr. Fivas. Councilman Estes asked if Miller & Martin had already been in contact with Property Holding Group. Mr. Kimball stated yes, they have sent a letter, which was what the Council offered. Upon roll call, the motion unanimously passed.

Councilman May moved to increase the employee Christmas Bonus to a net amount of $150.00 for this year and going forward. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. The next City Council meeting will be Monday, November 28, 2022.

b. City offices will be closed as follows: Thursday, November 24 and Friday, November 25 due to the Thanksgiving Holiday.

There being no future business the meeting was adjourned at 3:31 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
NOVEMBER 28, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, NOVEMBER 28, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brook. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, David May, Tom Cassada, Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Christy Brandon, Assistant City Clerk; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; City Attorney John Kimball; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Hal Taylor with City Schools; Cathy Andrews, CDBG Coordinator; Ben Berry with Berry Engineering; Abby Welch; Charlie Booth; Adam Lewis; Barry Sullivan; Arnold Becker; Kim Brooks with Lee University; Garry Rodgers and Tim Siniard 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 November 14, 2022 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Adam Lewis addressed the City Council and thanked them for the combined efforts with Bradley County to combat homelessness in our community and the use of ARPA funds with Bradley Cleveland Community Services Agency. Mayor Brooks stated he appreciates Mr. Lewis for coming by to express their thanks.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the property owner to rezone 15.54 acres, more or less, from CH/R2 to PUD 44 for property located at Westside Drive (also described as Tax Map 041F Group D Parcel 006.00). Robert Varnell stated this property currently has a double zoning and the PUD will put it all together for an apartment style complex development. The max unit number within the PUD is 336 but we anticipate it to be less, once engineering and site assessment is completed. The PUD includes language to improve infrastructure on Westside Drive, which includes sidewalks, a left turn lane and a right deceleration lane. Also, language for Raben Drive with improvements up to the entrance and allowing the city to have property to finish it out to the back of the property. The PUD has amenities, pool, clubhouse, brick and stone exterior on the first floor, no vinyl siding. It is a high-quality development. After conversations with neighbors, staff proposes an amendment to the PUD to include language for a 50' buffer to be maintained along the southern property line which backs up to 320-346 Vista Drive. This buffer would be required if any structure in that back corner exceed two floors in height. Otherwise, it requires a 25' buffer off the property line, which includes a double row of shrubbery, deciduous trees and a solid fence, regardless of the buffer, along the entire property line. That would address the security and privacy questions of the neighbors. If this property stayed R2, there would be no buffer requirement or infrastructure improvements on Westside or Raben Drive. The Planning Commission approved this item 6:0 with 2 members being absent and 1 recused. Mayor Brooks asked if anyone would like to speak in favor of the rezoning. Mr. Ben Berry with Berry Engineers stated this is a high-quality apartment complex development that they are excited about. It complements what Tom Cate has done next door, in the mixed-use residential area, completing this corner. These are elevator served apartment buildings, with a pool, clubhouse, fitness center and a dog park. All the things a community needs to complete itself. In the PUD there are aesthetic requirements, like brick to the bottom of the buildings and

no vinyl siding. He has meet with a neighbor to listen to their concerns. We will install a solid fence along the southeast corner. They have been working with Mr. Varnell to help satisfy the neighbors' concerns. He doesn't feel leaving it zoned R2/CH is the best approach. The PUD is cohesive, and we can address any concerns. The developers are supportive of the additional staff requirements and are open to additional comments to mitigate any impact to the neighbors. In the PUD the structures are allowed to be four stories. The current plan shows all four stories but the emphasis on construction will be, to clarify front and back, there is a gas pipeline through the property, which is roughly where the R2 zoning is, so the front, closest to Peerless is CH, in that area those will be four story buildings. The building east of the pipeline will be three or four story. The Planning Commission didn't approve a specific buffer language, just the required 20' buffer. Now we are proposing a 50' buffer if it is a four-story building. If it is two story, it would be a 25' buffer. Mayor Brooks asked if anyone would like to speak in opposition of the rezoning. Arnold Becker, who lives at 3030 Vista Drive stated his property is adjacent to the development. He is concerned about the security lighting from the buildings shining into his back yard, along with the traffic on Westside Drive. The two-story building has no impact to speak of, but the fence would help. A four-story building would impact the four adjoining houses, especially the area east of the pipeline. He thanked the Council for their consideration and asked that his letter be included in the minutes. Councilwoman McKenzie asked if he wanted it to stay R2. Mr. Becker stated yes, this PUD allows four-story buildings, which lighting will shine directly into his back yard all year long. Councilwoman McKenzie asked for clarification on the R2 buffer. Mr. Varnell stated if the zoning stayed the same, there are no setback requirements, only the distance in the building code between structures. Basically, 10' off the property line with no buffer or fence. By utilizing the PUD, it gave us the best fit to protecting the neighborhood rather than the existing zoning, which allows for duplexes, quads, townhomes, a number of variations. In the existing zoning he believes the maximum structure height is 40'. Councilman Estes inquired about the lighting. Mr. Varnell stated they have a specific style of light heads that are designed to shine down on the parking lot. It is shielded to push the light down not outward to avoid light pollution. Mr. Varnell continued that he has had conversations with Mr. Becker and understands his concerns. He truly believes what we have in place is better than any alternative that may be proposed in the future. Councilman Hughes asked Mr. Becker how he feels about the lighting. Mr. Becker stated he doesn't feel too comfortable having a 50' building adjacent to his lot. The light fixtures will make a difference, but lighting will still encroach. We still have security concerns for walkers cutting through the properties. Councilman May stated a fence could limit foot traffic. Mr. Becker stated yes, a good sturdy solid fence would help.

Arnold Becker
3030 Vista Drive
Cleveland, TN 37312

November 27, 2022

Dear City Council Members:

I am writing this to share my concerns regarding the rezoning on CASE: ZON 2022 – PUD44 WESTSIDE DRIVE PUD.

I would like to present my objection to the change from R2 to PUD as this would allow up to a 4-story building to be built adjacent to our residence at 3030 Vista Drive NW and to my nearby neighbors at 3020,3040,3044,3050 Vista Drive NW.

The reasons for our concerns are as follows:

1) *PRIVACY – A three- or four-story building to be built adjacent to my residence at 3030 Vista Drive NW would mean bright security lights shining in my backyard every night as well as the lights from cars entering and leaving the apartment complex.*

2) *NOISE LEVEL – The 50-60 planned unit will mean possibly 200 residents starting their trucks and vehicles each morning. Noise will also come during the night from parties and other activities.*

3) *TRESPASSING – Since our properties will be wide open to the development, the apartment tenants will be cutting through our backyards to walk the short distance to McDonalds, Burger King and other restaurants instead of making the long drive they would have to make on Westside Drive.*

4) *SECURITY - Without any barrier to our yards, we are very concerned about criminal activity that will increase around our houses with 200 apartment tenants living adjacent to our residences.*

I implore you to consider this request to keep the planned area zoned as R2. My wife and I are retired and have invested significant money from savings in our home since we moved to this quiet neighborhood in 2012. We also ask that you install a privacy fence along our property to ensure our safety with any other type of development that is planned in this area.

Sincerely,
Arnie Becker

Vice Mayor Johnson asked how wide Raben Drive would be. Mr. Fivas stated he believes the standard of 22' enough for two vehicles and emergency responders. Mr. Jobe explained further about the history of Raben Drive and bringing it to city standards [inaudible comments]. Councilman Hughes stated there will be additional traffic and it was discussed earlier about adding another lane at the light at 25th/Westside Drive to help traffic flow with turning right. Mayor Brooks asked if anyone else would like to speak in opposition. Barry Sullivan stated he has the same concerns as Mr. Becker with foot traffic. They have numerous unknown walkers during the night. He is all about growth and understands this is an upscale development if it is done correctly. He doesn't see a problem as long as we can control traffic. A sturdy fence and adjusting the security light pollution will help. If everything is addressed, he has no problem with the development. Rick Hockenberry stated he lives in the corner, adjacent to the pipeline. He has nightly walkers through his yard. He was told by the engineering firm that they didn't want to put anything on the other side of the pipeline but were concerned about the overflow pond. The developers want to put five, three-story buildings on the front part of the property. If they kept it on the other side of the pipeline it wouldn't be so bad, especially with a fence. He thinks he will have to install a gate to access the pipeline. If they wouldn't build the building on the other side of the pipeline, he doesn't feel anyone would an issue. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2022-45** – heretofore passed on first reading November 14, 2022 and found in Minute Book 30, page 896; Rezoning .23 acres, more or less, from IH to CBD for property located at 630 Montgomery Avenue NE (also described as Tax Map 049M Group K Parcel 006.00) (Planning Commission: Approved 9-0).
- **Final Passage - Zoning Ordinance 2022-46** – heretofore passed on first reading November 14, 2022 and found in Minute Book 30, page 897; Rezoning 16.5 acres, more or less, from CH to PUD 43 for property located at 3900 Adkisson Drive (also described as Tax Map 033L Group C Parcel 010.00) (Planning Commission: Approved 8:0; 1 Recused).
- **Resolution 2022-101 –** Authorizing the Mayor to sign a lease agreement with Janet Davis pertaining to land owned by the City at 4036 Tomahawk Circle NW.

RESOLUTION 2022-101

WHEREAS, the City of Cleveland previously completed a new intersection connecting the Indian Hills subdivision to Peerless Road across a parcel of real property purchased and owned by the City of Cleveland, which parcel is located at 4036 Tomahawk Circle NW, Tax Identification Number 033L-B-11.00; and

WHEREAS, in connection with these public improvements, representatives of the City have been approached by an adjoining property owner, Janet Elaine Skinner Davis, about the City leasing the unimproved portion of the City's parcel to her; and

WHEREAS, the City Manager and the Director of the City's Development and Engineering Department have met with Janet Elaine Skinner Davis and developed a proposed lease agreement between Janet Elaine Skinner Davis and the City, the terms of which are more fully described in the lease agreement between the parties attached hereto; and

WHEREAS, the City Manager has advised Janet Elaine Skinner Davis that the lease agreement would be presented to the City Council for approval once she has executed the same; and

WHEREAS, Janet Elaine Skinner Davis has now executed the attached lease agreement, and the City Manager is now recommending that the City Council approve of the lease agreement; and

WHEREAS, the City Council now desires to approve of the attached lease agreement with Janet Elaine Skinner Davis, 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 lease agreement with Janet Elaine Skinner Davis, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 28th day of November 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-103** – Authorizing the Mayor to sign an agreement with Bradley Cleveland Community Services Agency for ARPA grant funds for the expansion of the Homeless Shelter.

RESOLUTION 2022-103

WHEREAS, on March 11, 2021, the United States Congress passed the American Rescue Plan Act of 2021 ("ARPA"), which provides fiscal relief funds to State and Local Governments, and other program areas aimed at mitigating the continuing efforts of the COVID-19 Pandemic; and

WHEREAS, Bradley Cleveland Community Services Agency seeks to expand the homeless shelter; and

WHEREAS, the City Council finds that an investment of local fiscal recovery fund dollars to Bradley Cleveland Community Services Agency to help with homelessness is needed; and

WHEREAS, on November 28, 2022, City of Cleveland appropriated one- hundred thousand dollars ($100,000.00) for the expansion of the shelter as allowed by the conditions and terms of the American Rescue Plan Act; and

WHEREAS, the City Council desires to approve of the attached agreement with Cleveland Bradley Community Services Agency for this project and the use of American Rescue Plan Act Funds, and the City Council further desires to authorize the Mayor to execute this 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 Bradley Cleveland Community Services Agency regarding American Rescue Plan Act Funds for this project.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with Bradley Cleveland Community Services Agency on behalf of the City for this project.

This 28th day of November 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-104 –** Authorizing the Mayor to sign Change Order #1 with Summers-Taylor, Inc relating to LIC North project. [It was determined the vote would authorize the Mayor to sign the change order after it is presented to the MPO Committee in December to discuss funding options.]

RESOLUTION 2022-104

WHEREAS, the City has received the attached Supplemental Agreement and/or Request for Construction Change Order Request #1 from the Tennessee Department of Transportation (hereafter "TDOT") for the project described below; and

Project: Local Interstate Connector (LIC) on Pleasant Grove Church Road from
APD 40 to South Lee Highway
Contract Number: 100252
Project Identification Number (PIN): 114573.00
State Project Number: 06LPLM-S3-022

WHEREAS, the City Council desires to enter into the attached Supplemental Agreement and/or Request for Construction Change Order Request #1 with TDOT, and to further authorize the Mayor to execute this 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 Supplemental Agreement and/or Request for Construction Change Order Request #1 from the Tennessee Department of Transportation for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 28th day of November 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilwoman McKenzie stated the Christmas lights downtown are beautiful, as well as the lighting at Lee University. It flows together nicely. She encouraged everyone to come downtown to enjoy them.

Councilman May asked for an update on 20th/Michigan Avenue project and if it was on target. Mr. Jobe stated yes, it is being designed and we are acquiring right-of-way on Minnis Road. Councilman May then asked about the Army Corps detention pond project. Mr. Jobe stated the Army Corps is expecting to begin in March. Lastly, Councilman May stated he visited a local restaurant and had to park about two blocks away. At one time it was discussed with the Elks Lodge about an agreement with the property at 1st/Edwards for parking. Mr. Fivas stated yes, it was tied to the CMAQ grant project. Councilman May asked if we could go back and try to enter into an agreement to create additional parking. Mr. Fivas stated he would reach out to them.

Councilman Hughes stated the Empty Stocking Fund raised $16,000 in the first morning. On December 5th they will be at the old Hardees on Keith Street selling Christmas trees. The funds will go towards education and the Stocking Fund. He encouraged everyone to stop by and purchase a tree. He then thanked Chief Gaylor for sustaining the trees with water to keep them alive.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

ZONING ORDINANCE 2022-47

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 WESTSIDE DRIVE MULTI-FAMILY "PUD 44" ON PROPERTY DESCRIBED AS TAX MAP 041F GROUP D PARCEL 006.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 44; 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 44" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 44 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 44 district are 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 44, Westside Drive Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 041F Group D Parcel 006.00. Exhibit A illustrates the overall Westside Drive Multi-family Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of the Westside Drive development. The project consists of a multi-family apartment complex which includes a clubhouse, pool, and other amenities. The developer shall include any permanent retention or detention pond areas or landscaped common areas.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 44 Subdivision allows for the construction of up to 336 residential units in single-unit or multi-unit structures not exceeding four stories. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 44 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 residential uses within the PUD 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 Developer covenants and restrictions. Billboards are prohibited with the exception of the existing billboard located on the property.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibit A) for PUD 44, The Westside Drive Multi-family Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on November 15, 2022. The conceptual plan consists of a site plan for the overall development. However additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD 44 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. However, any modification may not increase the total number of dwelling units beyond 336 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 site plans for the PUD development may reflect some alteration in the conceptual plan such as the exact location of each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets or access drives within the PUD 44 development shall be constructed with adequate width to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting.

6.B. PLATS.

One or more plats will be prepared for the PUD44 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. These plats shall be consistent in general layout with the conceptual site plan.

6.C. PRIVATE DEVELOPMENT DOCUMENTS.

The Developer shall prepare and implement such master covenants, restrictions, homeowner association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 44 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 44 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.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD44 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R3 Multi-family residential zone from the City of Cleveland's zoning regulations. A 50’ undisturbed buffer shall be maintained along the southern property line which backs up to 3020 through 3046 Vista Drive if building “6” exceeds 2 floors in height.

For residential areas, the overall residential development is not to exceed a gross density of 336 maximum units. The first level of all structures shall contain, on average, a minimum of at least 50% of either brick or stone materials. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick on stone. No blank walls along street elevations are allowed.

A minimum 30 two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed throughout the development. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff, flooding, and poor water quality. All structures shall be serviced by sidewalks within the development which will connect to Westside Drive by way of Raben Drive. The entire frontage of the development shall have sidewalks installed by the developer. Sidewalks should be illustrated on all plats and site plans for review by city staff.

A monument style ground sign shall be installed at the primary entrance(s) to the site. A landscaped berm no smaller than 2.5' in height shall be installed along the primary entrance(s) to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. Open space shall be maintained at proportion no less than 25% of the total buildable area. Site amenities shall be provided by the developer once 50% the structures in the development are established or under construction and shall include a pool and clubhouse. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner's association. 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. All stormwater detention/retention areas will be screened from the public ROW.

Retaining walls as needed for the grading of building pads should maintain a 5- foot setback. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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.

Driveway entrances to the site shall be developed with adequate turning radii for entering and exiting vehicles, including delivery vehicles. 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 site planning for individual developments.

Parking standards shall be comparable to other developments of like nature and in no case have less than 1.5 spaces for every dwelling unit of multi-family developments. All other parking standards shall be the same as required by the City of Cleveland. The developer shall dedicate right-of-way and construct a left turn lane and a right turn deceleration lane on Westside Drive. Raben Drive shall be improved to city standards up to the 2nd entrance of the complex. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements. The developer will dedicate further right-of-way for the remainder of Raben Drive for future improvements by the City.

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 PUD44 Westside Drive Development. 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 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 PUD44, 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. If the overall development layout differs greater than 20% from the site plan shown in exhibit A then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission.

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 PUD44 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 11Developer'' is intended to encompass Westside Drive Development 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 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Zoning Ordinance 2022-47 be approved on first reading. The motion was seconded by Councilman May. Mr. Fivas stated you are voting on one that has not been changed, but we will bring back a final version with the amendments for the final vote. Councilman Estes asked if we were very clear on a super nice fence and directed lighting. Mr. Berry stated yes. Upon roll call, unanimously passed.

The following Resolution was presented in full:

RESOLUTION 2022-105

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE EQUIPMENT, PRODUCTS, OR SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING CONTRACT #031121-ODB, AS AMENDED, WHICH IS ADMINISTERED BY SOURCEWELL A STATE OF MINNESOTA LOCAL GOVERNMENT AGENCY AND SERVICE COOPERATIVE.

WHEREAS *Tennessee Code Annotated* § 12-3-1205 provides that any municipality may participate in, sponsor, conduct, or administer a "cooperative purchasing agreement" for the procurement of any supplies, services, or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants, including governmental entities outside this state; and

WHEREAS, the Master Intergovernmental Cooperative Purchasing Agreement ("MICPA") to provide equipment, products or services between Old Dominion Brush Company ("Company") and Participating Entities in cooperation with Sourcewell a State of Minnesota local government agency and service cooperative on behalf of Participating Entities, which may include the City of Cleveland, Tennessee, meets the authorized public bidding requirements for the State of Tennessee and allows governmental purchases of equipment, products or services pursuant to this MICPA at discounted contract prices, as permitted by *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City of Cleveland is authorized to participate in this Master Intergovernmental Cooperative Purchasing Agreement provided that it adopts a resolution accepting the terms of the Contract and the City of Cleveland as a participant acquires and maintains documentation that the purchasing entity that procured the bid complied with the purchasing requirements for the City of Cleveland pursuant to *Tennessee Code Annotated* § 12-3-1205; and

WHEREAS, the City Manager has determined that the Master Agreement shall be construed in accordance with and governed by the laws of the State in which the City of Cleveland exists as a participating agency and that the City of Cleveland has registered with Sourcewell which allows the City of Cleveland to enter into this MICPA and which is intended to allow the City of Cleveland to meet applicable legal requirements and facilitate access to the Master Agreement and the Company under Contract #031121-ODB, as amended, held by Sourcewell as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE that the City of Cleveland be and is hereby authorized to purchase equipment, products or services as a participating public agency under MICPA Contract #031121-ODB, as amended, held by Sourcewell as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through Sourcewell to be used by the Public Works Department for the City of Cleveland.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2022-105 be accepted as presented and to purchase a new leaf truck for Public Works at a cost of $117,124.80. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

Councilman May moved to approve the street light recommendation for David Conley, Sr at 6 18th Street SE, Cleveland Utilities does not recommend additional lighting, as it meets guidelines. However, the two existing fixtures be upgraded to a 41-watt LED cobra fixture and a 133-watt LED at a cost of $293.52. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed. Councilman May stated Mr. Conley has done a great job with the South Ocoee area and anyway we can help him, we should.

Councilman Hughes moved to change the December 12 Work Session from 1:00 p.m. to 10:00 a.m. and be held in the Jetport Conference Room for the Strategic Planning Session. The 3:00 Regular Session would still be held in the Council Chambers. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. The next City Council meeting will be held on Monday, December 12, 2022.

There being no future business the meeting was adjourned at 3:52 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
DECEMBER 12, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, DECEMBER 12, 2022 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 Bill Estes, David May, Tom Cassada, Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Mayor Kevin Brooks was absent from the meeting. Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Christy Brandon, Assistant City Clerk; Beverley Lindsey, Assistant to the City Manager; City Attorney John Kimball; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Hal Taylor with City Schools; Cathy Andrews, CDBG Coordinator; Ben Berry with Berry Engineering; Jeff Elliott; Connie Gatlin; Melissa Woody; Brian Beck; Alex Staup; Doug Berry with the Chamber of Commerce; Sharon Marr with Mainstreet Cleveland and Tim Siniard with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Marshall Stinnett, 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 November 28, 2022 and approve them as written. The motion was seconded by Councilman Estes; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

City Manager Joe Fivas and Human Resource Director Kim Miller distributed the 2022 Service Awards to the following employees.

20 YEARS	25 YEARS	30 YEARS	35 YEARS
SANDRA BOWLES	CHRIS MCROBERTS	MIKE HARRIS	KIMBERLY MILLER
BRIAN BECK	ERIC MCAMIS	BEVERLEY LINDSEY	GENE SMITH
MAURICE PARKS	JOSEPH GREENLEAF	BUDDY MITCHELL	
CHRISTI LONG	MARK GIBSON	ROBERT (Bobby) GAYLOR	
NICHOLAS OSBORNE	MARK DARNELL	SUSAN JERFIE	
JOSHUA ENSLEY	MATTHEW JENKINS	JIMMY TATUM	

Connie Gatlin with Art is Here addressed the City Council about the four years they have been established and the accomplishments they have achieved since February 2019. She also thanked Corey Divel and Paul Wyrick for their help with events. The entire arts community has changed over the years with concerts, theatre experiences, visual arts, and they are working towards an Arts Center for the community. Melissa Woody then spoke about the Arts Economic Survey and asked the Council and audience to participate in the survey today. This will help establish future funding requests with Lynhurst Foundation. Cleveland is amazing and it deserves an art center. They thanked the City Council for their time today.

Mr. Fivas welcomed Leadership Cleveland and thanked them for their participation learning about local government. When asked they all agreed Cleveland needs a better meeting space, a performance arts center and additional childcare facilities.

HEARING PETITIONS AND COMMUNICATIONS

There were no hearing petitions and communications.

CONSENT AGENDA

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

- **Final Passage – Zoning Ordinance 2022-47** – heretofore passed on First Reading November 28, 2022 and found in Minute Book 30, Page 909; Rezoning 15.54 acres, more or less, from CH/R2 to PUD 44 for property located at Westside Drive (also described as Tax Map 041F Group D Parcel 006.00) (Planning Commission: Approved 6-0; 2 absent, 1 Recused).
- **Resolution 2022-106** – Authorizing the Mayor to sign an agreement with the Cleveland Bradley Regional Museum pertaining to the use of ARPA Funds.

RESOLUTION 2022-106

WHEREAS, on March 11, 2021, the United States Congress passed the American Rescue Plan Act of 2021 ("ARPA"), which provides fiscal relief funds to State and Local Governments, and other program areas aimed at mitigating the continuing efforts of the COVID-19 Pandemic; and

WHEREAS, the Cleveland Bradley Regional Museum seeks to:

i. Repair the roof over the Culture Center,
ii. Repair the roof over service areas,
iii. Replace and upgrade needed Signage,
iv. Replace dome windows; and

WHEREAS, the City Council finds that an investment of local fiscal recovery fund dollars to the Cleveland Bradley Regional Museum to complete the four projects; and

WHEREAS, on December 12, 2022, City of Cleveland appropriated fifty thousand dollars ($50,000.00) for the completion of the four projects as allowed by the conditions and terms of the American Rescue Plan Act; and

WHEREAS, the City Council desires to approve of the attached agreement with the Cleveland Bradley Regional Museum for this project and the use of American Rescue Plan Act Funds, and the City Council further desires to authorize the Mayor to execute this 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 the Cleveland Bradley Regional Museum regarding American Rescue Plan Act Funds for this project.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with the Cleveland Bradley Regional Museum on behalf of the City for this project. [agreement on file in the City Clerk's Office.]

This 12th day of December 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

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Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-107** – Authorizing the Mayor to sign a contract amendment for a contract extension date with TDOT for the LIC North project (PIN 114573.00).

RESOLUTION 2022-107

WHEREAS, the City of Cleveland and the Tennessee Department of Transportation (TDOT) are parties to an existing agreement relating to the project generally identified as LIC North-Pleasant Grove Church Road from APD-40 (US-74/SR-311) to South Lee Highway(US-11/SR-2) (TDOT PIN 114573); and

WHEREAS, the construction of the project is ongoing, and the City's Department of Development and Engineering has requested an amendment to the existing contract with TDOT for this project to extend the completion date for this project; and

WHEREAS, the City's development and engineering staff anticipates that it will receive the amendment to the contract from TDOT after the December 12, 2022, City Council meeting, but before the end of the calendar year; and

WHEREAS, the City Council desires to go ahead and approve of an amendment to the existing agreement with TDOT for the purpose of extending the completion date for the project, and to further authorize the Mayor to execute an amendment to this agreement for that purpose on behalf of the City of Cleveland once the amendment has been provided to the City by TDOT.

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 an amendment to the existing agreement with TDOT for this project for the purpose of extending the project completion date, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland once the amendment has been provided to the City by TDOT.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-108** – Authorizing the Mayor to sign contact amendment #3 with TDOT for a contract extension date for the Gaut Street Sidewalk construction project (PIN 123116.01).

RESOLUTION 2022-108

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

Projects: Various Streets in Cleveland as described in the amendment attached hereto.
Agreement Number: 170087
Project Identification Number: 123116.01
State Project #: 06LPLM-F3-056
Federal Project #: TAP/STP-M-9203(23)

WHEREAS, the City Council desires to enter into the attached contract amendment number 3 with TDOT for the projects described in the amendment, 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 projects described herein and in the amendment, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 12th day of December 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

- **Resolution 2022-109** – Authorizing the Mayor to sign a contract amendment for a contract extension date with TDOT for the Dalton Pike/Wildwood Sidewalk construction project (PIN 120322.00).

RESOLUTION 2022-109

WHEREAS, the City of Cleveland and the Tennessee Department of Transportation (TDOT) are parties to an existing agreement relating to the project generally identified as Dalton Pike/Wildwood MMA Grant (TDOT PIN 120322.00; State Project 06LPLM-S3-049); and

WHEREAS, the construction of the project is ongoing, and the City's Department of Development and Engineering has requested an amendment to the existing contract with TDOT for this project to extend the completion date for this project; and

WHEREAS, the City's development and engineering staff anticipates that it will receive the amendment to the contract from TDOT after the December 12, 2022, City Council meeting, but before the end of the calendar year; and

WHEREAS, the City Council desires to go ahead and approve of an amendment to the existing agreement with TDOT for the purpose of extending the completion date for the project, and to further authorize the Mayor to execute an amendment to this agreement for that purpose on behalf of the City of Cleveland once the amendment has been provided to the City by TDOT.

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 an amendment to the existing agreement with TDOT for this project for the purpose of extending the project completion date, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland once the amendment has been provided to the City by TDOT.

This 12th day of December 2022

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Motion** - Authorizing the Mayor to sign two TN Seasonal Retailer Fireworks Permit Renewals for Mid America Distributors, Inc for the two existing locations permissible within the city limits of Cleveland.

UNFINISHED BUSINESS

No unfinished business.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Vice Mayor Johnson reported he received a call from Robert Thomas at 804 Martin Drive requesting a streetlight at his location. Ms. Brandon replied she would submit a request to Cleveland Utilities.

Councilwoman McKenzie thanked Keep America Beautiful, ROTC, local schools, sports teams, and all volunteers for helping with this year with tire cleanup in our community. 10,660 tires have been removed throughout the city so far, with no new dump sites inside the city limits. Also, thanks to Public Works for cleaning up the abandoned homeless campsites. She then asked Chief Gibson for extra patrol at 20th/Harle stop sign that people are running.

Councilman Estes asked which department Codes was under. Mr. Jobe stated Development and Engineering. Councilman Estes continued he notices a real difference and the great work Meshell Lesniewski is doing. He asked staff to look at the house on 8th Street NE, he believes they know the house and issues. Next, the Mainstreet Christmas Parade, the Blythe Oldfield area, the downtown lights, there are a lot of good things happening in Cleveland. Third, kudos to Arnold Schools Trash-Can Band and their performance during UTs halftime game. Lastly, he asked that Owen Clemons, State Cross Country Champion, a freshman from Cleveland High School to be recognized at an upcoming Council meeting.

Councilman Cassada stated he appreciates the work of Codes Enforcement and staying on top of things. Currently, the Third District only has two open violations. He then recognized Bradley County Commissioner Tommy Ledford and thanked him for attending the meeting.

Councilman May wished everyone a Merry Christmas. He enjoys serving with this Council and hopes everyone has a great holiday.

Councilman Hughes stated this mornings Strategic Planning Session was very informative and appreciates the Build Cleveland's Future Initiative and all employees who participated. He then asked Mr. Jobe about the 40 plus single-family houses and across the road where Mr. Suites was going to put nine houses. Is anything in the mill to start the action on the property. Mr. Jobe's comments were inaudible. Lastly, he was given a map in October 2021 of developable properties in Cleveland and asked how much that has changed. Mr. Fivas stated it probably has changed and a revised map will be distributed.

Councilman Webb thanked staff for the annual Christmas Employee Appreciation luncheon. We had a good turnout. He appreciates the time and effort.

Vice Mayor Johnson thanked all city employees for information and feedback. They are always quick to respond since the call don't quit.

NEW BUSINESS AND ORDINANCES

The following document was presented in full:



BUILD CLEVELAND'S FUTURE INITIATIVE

CITY MANAGER REPORT

DECEMBER 12, 2022



7-Year Highlights and Accomplishments of City Council

- Invest $50,000,000 directly into Cleveland Infrastructure.
- 7-miles of new sidewalk.
- Our entire Park System will be renovated by 2023.
- Change economic climate in Downtown.
- Add 2 miles of new Greenway and 3 new parks.
- Fire Department: ISO Rating of 2/2x, increased Fire budget from $8.1 million to $11.653, $7.3 million in capital purchases.
- Police Department: CALEA Accreditation increase Police budget from $9.1 million to $12.6, and capital purchases of $6 million.
- City Schools: Construction of $15 million new Elementary Schools.
- Significant investment in lower income areas.
- Significant success in industrial recruitment.



BUILD CLEVELAND'S FUTURE

3-YEAR TOTAL PROJECT OVERVIEW THROUGH JAN 1, 26

- Total Investment: $136,705,000
- Build Cleveland's Future Highlights:
  - Invest $130,000,000 directly into Cleveland Infrastructure.
  - Our entire Park System has been renovated.
  - Change economic climate in Downtown.
  - Add 4 miles of new Greenway and 3 new parks.



BUILD CLEVELAND'S FUTURE

3-YEAR TOTAL PROJECT OVERVIEW THROUGH JAN 1, 26

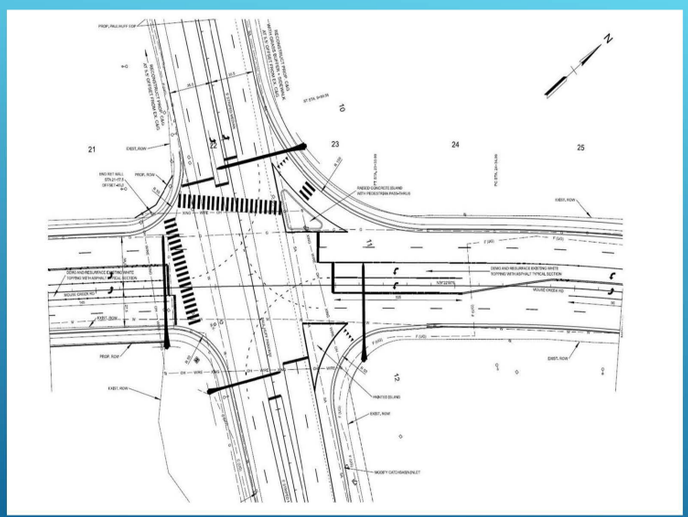
- Total Investment: $138,705,000
  - Bond Investment: $21,975,000
  - General Fund Investment: $10,100,000
  - ARPA Investment: $7,000,000
  - Stormwater Investment: $4,855,000
  - State & Federal Investment: $92,025,000
  - CDBG Investment: $650,000
  - Federal Tax Credit: $1,000,000
  - Property Sale & Private: $1,100,000



BUILD CLEVELAND'S FUTURE

INFRASTRUCTURE & ECONOMIC DEVELOPMENT OVERVIEW

- Total Investment: $29,875,000
  - Bond Investment: $13,125,000
  - ARPA: $7,000,000
  - General Fund: $4,950,000
  - Stormwater: $3,900,000
  - Federal Tax Credit: $1,000,000
  - Property Sale & Private: $900,000



PAUL HUFF PKWY/MOUSE CREEK INTERSECTION

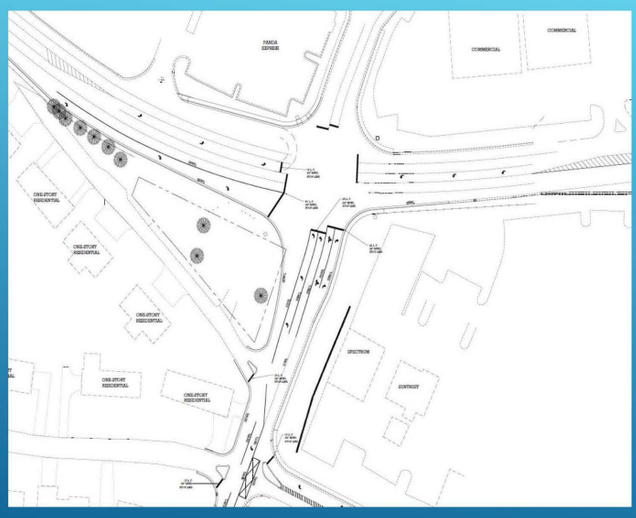
Project Description: General widening of Paul Huff Parkway/Mouse Creek Road. Including new mast arm traffic light poles, and traffic signals.

Funding: $1,375,000 (Total Estimate)

FY 23: $650,000 (General Fund)

FY 23: $250,000 (Stormwater Fund)

FY 24: $475,000 (General Fund)



PAUL HUFF PKWY/PEERLESS ROAD INTERSECTION

Project Description: General widening of Paul Huff Parkway/Peerless Road. Including new mast arm traffic light poles, and traffic signals.

Funding: $1,000,000 (Total Estimate)

FY 23: $400,000 (Bond)

FY 23: $150,000 (Stormwater Fund)

FY 24: $500,000 (Bond)



PAUL HUFF PKWY/ADKISSON ROAD INTERSECTION

Project Description: General widening of Paul Huff Parkway/Adkisson Road. Including new mast arm traffic light poles, and traffic signals.

Funding: $1,000,000

FY 23: $400,000 (Bond)

FY 23: $150,000 (Stormwater Fund)

FY 24: $500,000 (Bond)



SOUTH LEE HWY SIDEWALK PROJECT

Project Description: Construct a sidewalk from Cedar Lane to 3rd Street.

Funding: $450,000 (Total)

FY 24: $100,000 (Bond)

FY 25: $100,000 (Bond)

FY 25: $150,000 (Stormwater)



ADKISSON SIDEWALK & STORMWATER PROJECT

Project Description: The City will work with Cleveland State Community College to construct a sidewalk from Norman Chapel intersection to Paul Huff Pkwy.

Funding: $550,000 (Total)

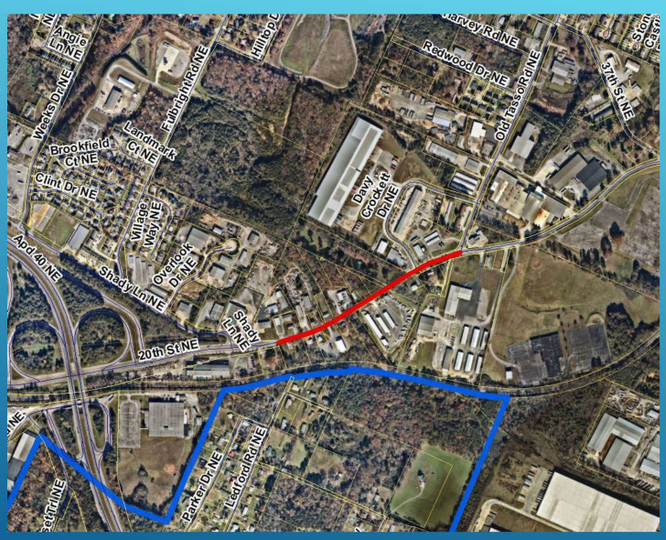
FY 23: $10,000 (Stormwater)

FY 24: $50,000 (Bond)

FY 24 $150,000 (Stormwater)

FY 25: $250,000 (Bond)

FY 25: $90,000 (Stormwater)



OCOEE BYPASS & REPAVING PROJECT

Project Description: 20th Street will be widened from APD interchange to Old Tasso Rd. This whole corridor will be repaved to Stuart Road.

Funding: $600,000 (Total)

FY 24: $50,000 (General Fund)

FY 25: $50,000 (Stormwater)

FY 25: $300,000 (Bond)

FY 25: $200,000 (General Fund)



PUBLIC SAFETY INFRASTRUCTURE INVESTMENT

Project Description: Over the next three years, the City will allocate funds for new Fire Ladder Truck, Police Vehicles, Fire Vehicles, Fire Radio System, Police Radio System, Police LPR System, new Public Safety Command Center, and new Police Body Camera's

Funding: $3,750,000 (Total Estimate)

FY 23: $800,000 (ARPA)

FY 23: $1,450,000 (General Fund)

FY 24: $750,000 (General Fund)

FY 25: $750,000 (General Fund)

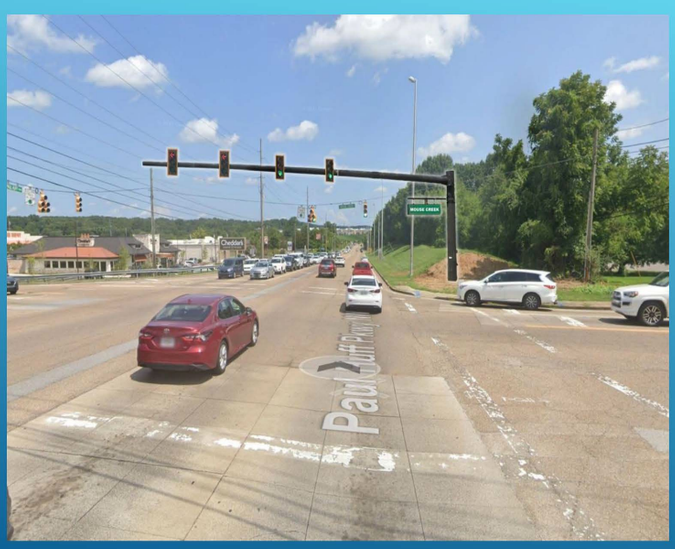


25TH STREET/WESTSIDE DR WIDENING

Project Description: This stormwater project will also widen the right hand turn lane north on 25th Street.

Funding: $50,000 (Total Estimate)

FY 25: $50,000 (Stormwater Fund)



MOUSE CREEK TURN LANE PROJECT

Project Description: Construct turn lanes on Mouse Creek Road at Robin Hood Lane and Mohawk Drive in FY 24. Then, connect a turn lane at Soccer Complex entrance in FY 25.

Funding: $400,000 (Total)

FY 24: $175,000 (Bond)

FY 24: $175,000 (Stormwater)

FY 25: $25,000 (Stormwater)

FY 25: $25,000 (Bond)

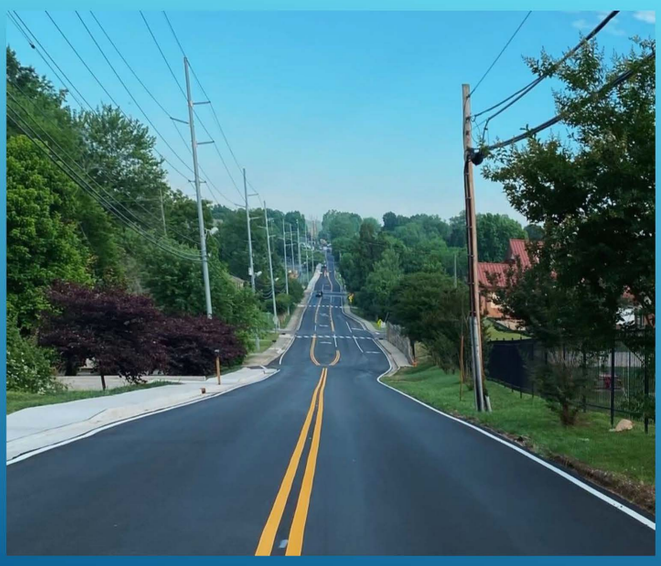


INDUSTRIAL PARK DEVELOPMENT PLANNING

Project Description: The next 5 years the City will not have any industrial park property to attract new manufacturers.

Funding: $50,000 (Total Estimate)

FY 24: $50,000 (Bond)



LOCAL NEIGHBORHOOD STREET PAVING

Project Description: Paving of local streets in neighborhoods. We will fund the worst streets in order according to our 'Street Paving Analysis.

Funding: $750,000 (Total)

FY 24: $750,000 (Bond)



CLEVELAND GATEWAY & SIDEWALK IMPROVEMENT

Project Description: On 25th Street the sidewalk will be extended to the I-75 overpass. This will also beautify this Gateway for the City. Some stormwater improvements will also be needed for this project. This will also connect the two 25th Street grant projects for a 10-foot multi-path to Keith Street.

Funding: $200,000 (Total)

FY 25: $100,000 (Bond)

FY 25: $100,000 (Stormwater)



SOUTH LEE HWY REDEVELOPMENT PLAN

Project Description: The City would fund a South Lee Highway Corridor Study & Redevelopment Plans.

Funding: $100,000 (Total Estimate)

FY 24: $100,000 (Bond)



17TH ST & GEORGETOWN INTERSECTION

Project Description: Construct turn lane at 17th Street and Georgetown Road

Funding: $100,000 (Total Estimate)

FY 24: $100,000 (Unfunded)



HARRISON PIKE SIDEWALK IMPROVEMENTS

Project Description: Connect a sidewalk from Keith Street to Fletcher Park.

Funding: $1,000,000 (Total)

FY 26: $1,000,000 (Unfunded-Grant Option)



GEORGETOWN SIDEWALK & ROUNDABOUT IMPROVEMENTS

Project Description: Connect a sidewalk on Georgetown Road from 25th Street to Harrison Pike. The first construction will begin on 20th Street to support Stuart Elementary School. Then, each year we will build back towards both directions.

Funding: $1,800,000 (Total)

FY 25: $200,000 (Bond)

FY 26: $200,000 (Unfunded)

FY 27: $1,200,000 (Unfunded)

FY 28: $200,000 (Unfunded)



BUILD CLEVELAND'S FUTURE

8 DOWNTOWN PROJECTS

1) Downtown Beautification
2) City Centre Park & Amphitheater & Performing Arts & Downtown Greenway
3) 3rd Street Corridor
4) Whirlpool Redevelopment
5) Inman Street Streetscaping
6) 270 Inman Street Purchase
7) Central Ave Streetscape
8) 1st Street Streetscape
9) City Hall Renovation
10) Johnston Park Renovation



DOWNTOWN BEAUTIFICATION PROGRAM

Project Description: Downtown Beautification Program would facilitate improvements to beautify the downtown area. The funds would be used to develop a downtown Christmas light program, flower basket program, repair broken sidewalks and curb, replace trash cans, bike racks, monument signs at downtown entrances, façade improvement grants, and streetscaping.

Funding: $900,000 (Total Estimate)

FY 23: $200,000 (Bond)

FY 24: $500,000 (General Fund)

FY 25: $200,000 (Mainstreet) (Private Grants)



CITY CENTRE PARK & AMPHITHEATER & PERFORMING ARTS PLAN & DOWNTOWN GREENWAY

Project Description:

Funding: $2,800,000 (Total Estimate)

FY 24: $1,800,000 (Bond)

FY 25: $1,000,000 (Stormwater Fund)



3RD STREET CORRIDOR & REDEVELOPMENT

Project Description: The City will begin the redevelopment of widening and redeveloping 3rd Street to provide more economic Development options and an additional transportation options.

Funding: $1,400,000 (Total Estimate)

FY 24: $400,000 (Bond)

FY 25: $1,000,000 (Stormwater Fund)



WHIRLPOOL REDEVELOPMENT

Project Description: Whirlpool Redevelopment would assist in making the property shovelready for the future development of the 'Cleveland Sportsplex' or recreation area mixed use. This funding would assist with property purchase and property remediation.

Funding: $2,500,000 (Total Estimate)

FY 24: $1,750,000 (Bond)



INMAN STREET SIDEWALK & STREETSCAPING PROJECT

Project Description: Rehabilitation of sidewalk and streetscape of Inman Street from Broad Street to Wildwood Avenue. The City will work with the TDOT to put a street diet on Inman Street to slow traffic and widening the sidewalks.

Funding: $1,250,000 (Total)

FY 24: $650,000 (Bond)

FY 24: $100,000 (Stormwater)

FY 25: $400,000 (Bond)

FY 25: $100,000 (Stormwater)



270 INMAN PURCHASE IMPROVEMENTS

Project Description: City purchase of 270 Inman Street.

Funding: $375,000 (Total Estimate)

FY 23: $375,000 (Bond)



CENTRAL AVENUE SIDEWALK PROJECT

Project Description: Construct a sidewalk and streetscape from Gaut Street to Broad Street.

Funding: $550,000 (Total)

FY 24: $400,000 (Bond)

FY 24: $150,000 (Stormwater)



1ST STREET SIDEWALK PROJECT

Project Description: Construct a new sidewalk and streetscape from Starbuck's Connector to Broad Street.

Funding: $200,000 (Total)

FY 25: $150,000 (Bond)

FY 25: $50,000 (Stormwater)



CHEROKEE HOTEL RENOVATION TO CITY HALL

Project Description: Redevelop the Historic Cherokee Hotel into City Hall. We would return the property to the hub of activity in the downtown area, and restore the historic components of this important City property. The property is on the Historic Registry which could allow us to use Federal Tax Credits that would be valued up to 25% of what is spent on the property. We would perform a cost/benefit analysis on this issue. This would allow the Police Department to expand into the current municipal building in the future, and we could sell the DES Building.

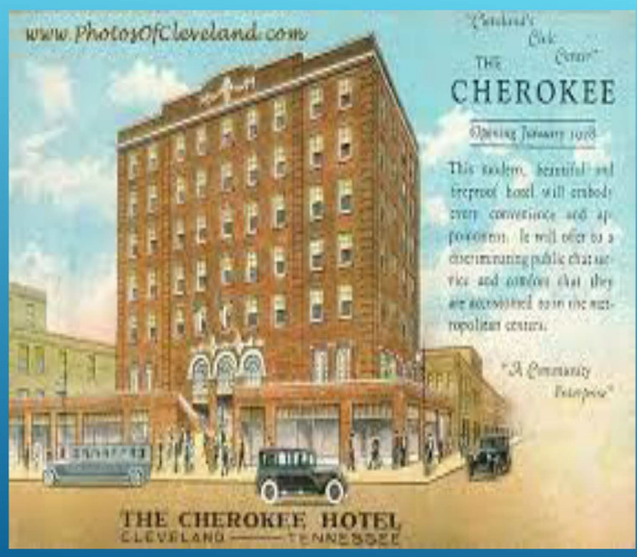
Funding: $6,200,000 - $9,900,000 (Total Estimate)

FY 24: $6,200,000 (ARPA)

FY 24: $2,000,000 (bond)

FY 24: $1,000,000 (Federal Tax Credits) (Potential)

FY 24: $700,000 (Property Sale)



CHEROKEE HOTEL RENOVATION TO CITY HALL

Redevelopment Vision:

- Floors 3,4,5 will be office space.
- Floors 1,2 may not be built-out, but used as extra office space and storage. City staff can grow into the building.
- We will recruit a new deli or restaurant in the lower ground space for off-the-street customers and also to cater civic group meetings.
- The first floor veranda (or Community Front Porch) will be used for Civic Groups and restaurant customers.
- In the front, we will remove the stucco, and have ground to floor windows in the front where the One-Stop Shop will be located, along with additional office space.



CHEROKEE HOTEL RENOVATION TO CITY HALL

Redevelopment Vision:

- Restore the Cherokee Room to original design.
- Restore Lobby to the original design.
- We believe all of our parking needs have been met for the public and city staff parking.
- Front streetscape replaced.
- Johnston Park will be renovated.



CHEROKEE HOTEL RENOVATION TO CITY HALL

Cleveland The Beautiful page 346:

Mayor Park and the alderman took out an ad in Banner for the Grand Opening, and said, "They were not commemorating the occasion of the completion of a mere building of brick and steel. They reported they saw "the spirit of the Old South and the New South joining hands to build a new empire rich in its traditions and glorious in its future."

"Cleveland has within a year become so used to the Hotel-it has become such an important fixture in Cleveland's life that it is regarded almost as it always been there."

Cleveland The Beautiful, pages 370-374:

The Kiwanis Club, the Rotary Club, and Lion's Club, and many other charitable organizations, met regularly at the Cherokee Hotel.



CHEROKEE HOTEL RENOVATION TO CITY HALL

Reasons for Cherokee Hotel into City Hall:

1) Community made an error in razing the old Court House. This historical renovation would allow the community to use this important facility for next 100 years.
2) It gives CPD space to grow into our current Municipal Buildings. Allows space for training center, and space for new Real-Time Crime and Data Intelligence Center for Transportation and CPD staff.
3) Consolidation of staff into one more functional space. Consolidates four buildings into one.
4) Allows us to develop a One-Stop Shop for residents to do all city transactions at one location. (Pay Taxes, Development Permits, Recreation Permits, Building Permits, etc)
5) Allows Non-Profits and Civic Clubs a prominent location to meet.



CHEROKEE HOTEL RENOVATION TO CITY HALL

Reasons for Cherokee Hotel into City Hall:

6) We have a deficit of office space in our four buildings. We do not have offices for four approved staff positions in these four buildings.

7) Creates a fresher Council Meeting space and the it will allow us to update the technology for our meetings.

8) It will act as a catalyst for development over on the other side of Inman Street.

9) City has very limited Conference Room space.

10) Buildings are in need of renovation.



CHEROKEE HOTEL RENOVATION TO CITY HALL

If approved by the City Council:

- Staff would act very quickly due to time limits to spend the ARPA funds.
- City staff already has a 'Structural Analysis' that shows the building is in structurally in good condition.
- City staff already has about 25% of the design completed with work previously done on the structure.
- City staff would begin with an RFQ for Architectural Services. City staff would do substantial work on Preliminary Designs before we hire an architect.
- City staff would place an RFP for environmental work and demolition of floors 1-5.



CHEROKEE HOTEL RENOVATION TO CITY HALL

If approved by the City Council:

- City staff would work with City Council and architect to have construction designs and demolition completed and ready for bid by a target date of August 1st, 2023.
- Construction completed by approximately September 1st, 2024.



BUILD CLEVELAND'S FUTURE

STATE/FEDERAL GRANT OVERVIEW

- **Total Investment: $99,725,000**
  - **General Fund: $5,025,000**
  - **Bond Investment: $2,000,000**
  - **Stormwater: $675,000**
  - **State & Federal Funding: $92,025,000**

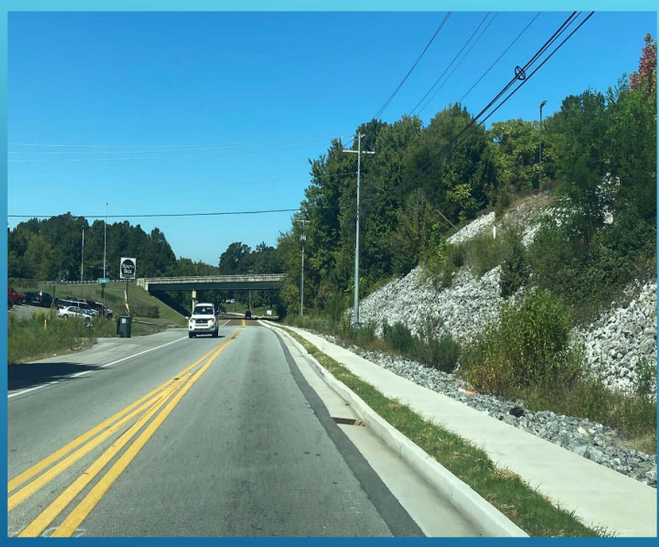


JETPORT HANGER CONSTRUCTION PROJECT

Project Description: The City has 65 potential customers who have expressed interest in leasing T-Hangar space. City is proposing to construct 10 hangars at the Jetport. TDOT-AERO has a new grant program that would provide $295,000 over the next five years for a total of $1,475,000 with a 10% match. The City would loan the Airport Authority the funds to construct the 10-hangars, and the Airport Authority will reimburse the City before December 31, 2028 years with TDOT-AERO Grant and hangar lease fees.

Funding: $1,475,000 (Total Estimate)

FY 24: $1,475,000 (General Fund) (Reimbursed)



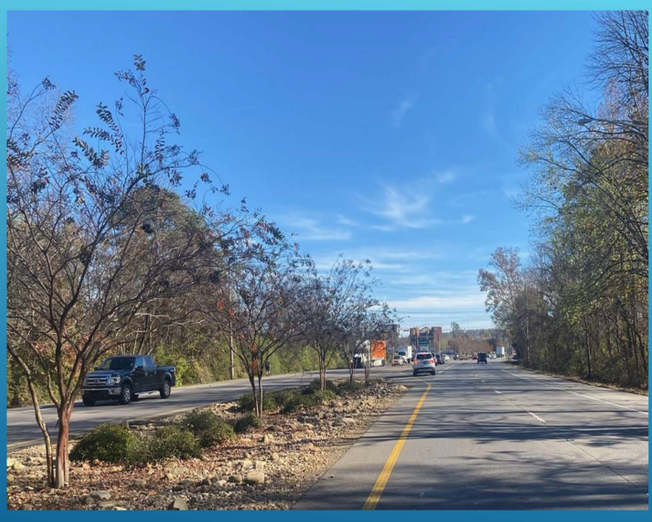
MMA- DALTON PIKE SIDEWALK PROJECT

Project Description: Partially funded by a Multi-Model Accessability (MMA) Grant which pays for 95% of the construction costs with a 5% city match. Construction of a sidewalk on Wildwood Ave and Dalton Pike from Walmart North to connect to the County Health Department

Funding: $1,450,000 (Total Estimate)

FY 23: City Reimbursed $870,000

FY 23: City Match $580,000 (General Fund)



MMA-25TH STREET MULTI-PATH PROJECT

Project Description: Partially funded by a Multi-Model Assessability (MMA) Grant which pays for 95% of the construction costs with a 5% city match. Project would construct a multi-path (10 feet) from Georgetown Road to Peerless Road on 25th Street.

Funding: $1,250,000 (Total Estimate)

FY 23: $25,000 (GF) for NEPA & Design(80/20 MPO)

FY 24: $25,000 (GF) for Design & ROW (80/20 MPO)

FY 25: City Reimbursed $950,000

FY 25: City Match $250,000 (GF)(95/5 under $1M)

FY 25: City Match $50,000 (Stormwater)



TA-25TH STREET MULTI-PATH PROJECT

Project Description: Partially funded by a Transportation Alternative (TA) Grant which pays for 75% of the construction costs with a 25% city match. Project would construct a multi-path (10 feet) from Peerless Road to Keith Street on 25th Street.

Funding: $1,250,000 (Total Estimate)

FY 23: $25,000 (GF) for NEPA & Design(80/20 MPO)

FY 24: $25,000 (GF) for Design & ROW (80/20 MPO)

FY 25: City Reimbursed $1,000,000

FY 25: City Match $200,000 (General Fund)

FY 25: City Match $50,000 (Stormwater)



TA-GAUT STREET SIDEWALK PROJECT

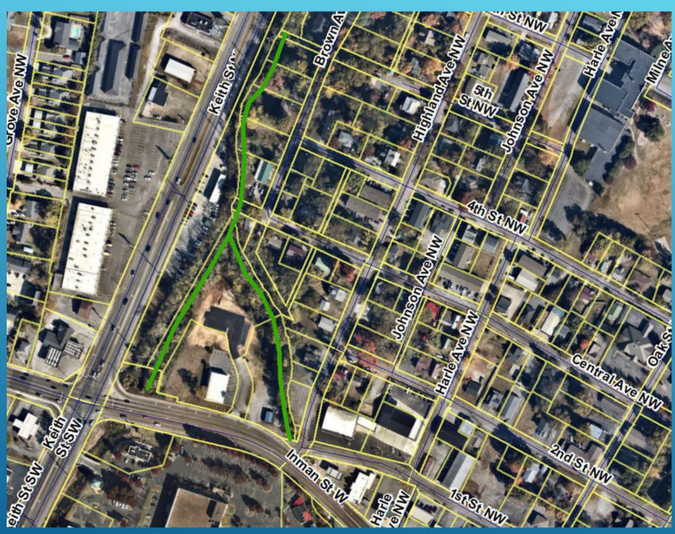
Project Description: Partially funded by a Transportation Alternative (TA) Grant which pays for 75% of the construction costs with a 25% City match. The NEPA, design, & ROW are completed. Project would construct a sidewalk from Central Avenue to the College Hill Recreation Center, then on Gaut Street to Inman Street and Inman Street from Gaut Street to Mosby Park.

Funding: $900,000 (Total Estimate)

FY 23: City Reimbursed $675,000

FY 23: City Match $175,000 (General Fund)

FY 23: City Match $50,000 (Stormwater)



TA-STARBUCK'S CONNECTOR PROJECT

Project Description: Partially funded by a Transportation Alternative (TA) Grant which pays for 75% of the construction costs with a 25% city match. The project would extend the Greenway from Willow Street to under the Inman Street bridge.

Funding: $2,000,000 (Total Estimate)

FY 23: $25,000 (GF) for Design & ROW (80/20 MPO)

FY 24: $25,000 (GF) for Design & ROW (80/20 MPO)

FY 24: City Reimbursed $1,500,000

FY 24: City Match $500,000 (General Fund)



LIC- LIC NORTH PROJECT

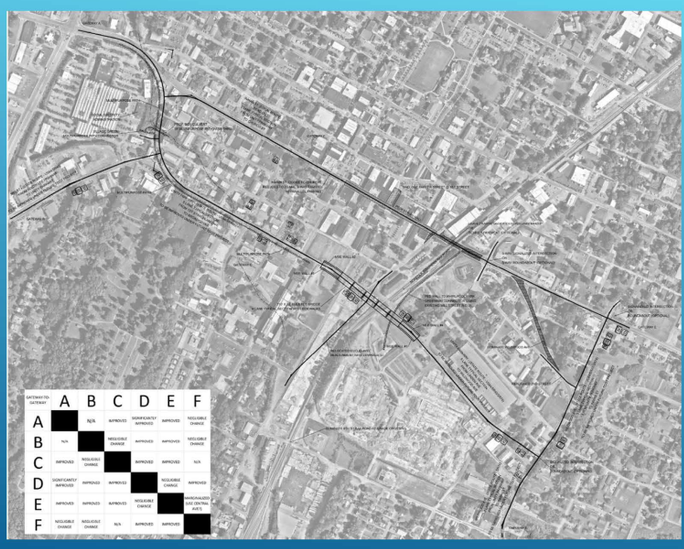
Project Description: This is the second phase of a State Local Interstate Connector Project (LIC) to connect Spring Branch Industrial Park to Pleasant Grove Road. LIC projects are funded with an 50% of funding from the TDOT and 25% from Bradley County and 25% from city of Cleveland.

Funding: $2,150,000 (Total Estimate)

FY 23: $675,000 (State)

FY 23: $200,000 (Bradley County)

FY 23: $975,000 (General Fund)

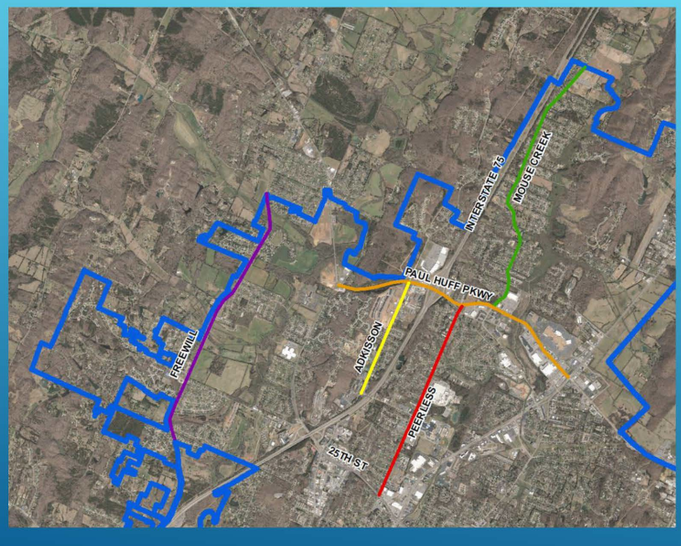


MPO-RAISE GRANT PROJECT

Project Description: Partially funded by federal RAISE Grant.

Funding: $100,000 (Total Estimate)

FY 23: City Match $25,000 (GF) (80/20)



MPO-PAUL HUFF PKWY REPAVING PROJECT

Project Description: Partially funded by a MPO project which pays for 80% of the construction costs with a 20% city match. Repaving Paul Huff Pkwy from Hwy-60 to Keith Street (past Hobby Lobby).

Funding: $2,500,000 (Total Estimate)

FY 23: $25,000 (GF) (80/20 MPO)

FY 24: City Reimbursement $1,980,000

FY 24: City Match $495,000 (General Fund)



MPO-ADKISSON REPAVING PROJECT

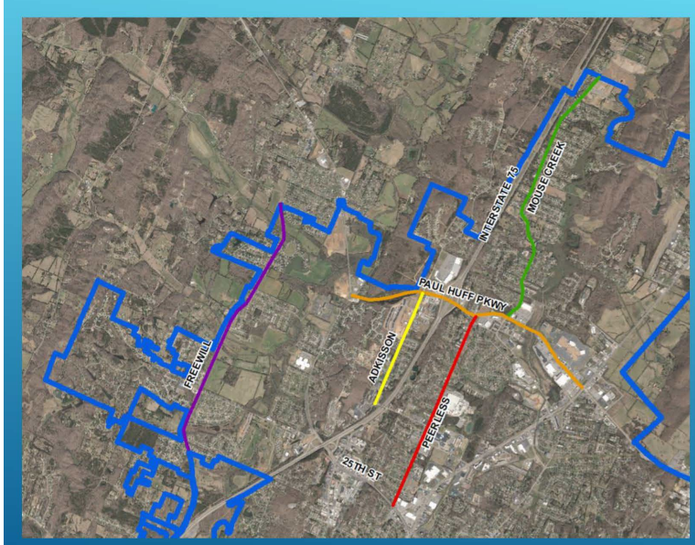
Project Description: Partially funded by a MPO project which pays for 80% of the construction costs with a 20% city match. Repaving on Adkisson Drive from Norman Chapel Drive to Paul Huff Pkwy .

Funding: $1,025,000 (Total Estimate)

FY 24: $25,000 (GF) (80/20 MPO)

FY 25: City Reimbursement $800,000

FY 25: City Match $200,000 (General Fund)



MPO-PEERLESS ROAD REPAVING PROJECT

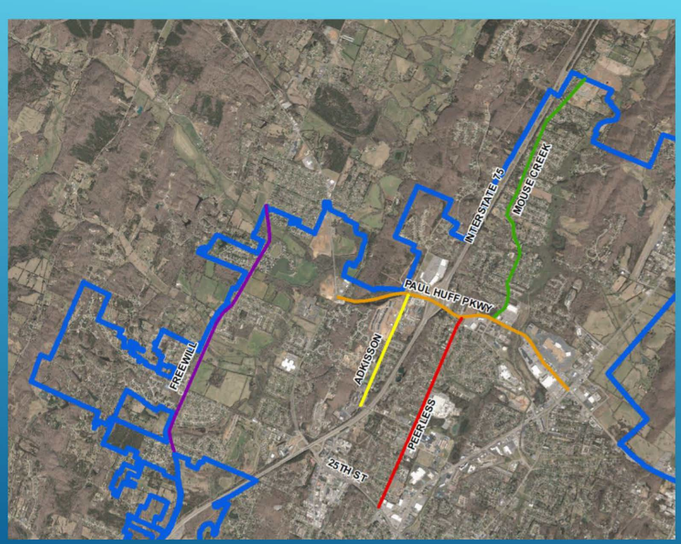
Project Description: Partially funded by a MPO project which pays for 80% of the construction costs with a 20% city match. Repaving on Peerless Road from Paul Huff Pkwy to 25th Street.

Funding: $1,025,000 (Total Estimate)

FY 24: $25,000 (GF) (80/20 MPO)

FY 25: City Reimbursement $800,000

FY 25: City Match $200,000 (General Fund)



MPO-FREEWILL ROAD REPAVING PROJECT

Project Description: Partially funded by a MPO project which pays for 80% of the construction costs with a 20% city match. Repaving on Freewill Road from city limits to Cumberland Hills neighborhood.

Funding: $1,025,000 (Total Estimate)

FY 23: $25,000 (GF) (80/20 MPO)

FY 24: City Reimbursement $800,000

FY 24: City Match $200,000 (General Fund)



MPO-MOUSE CREEK ROAD REPAVING PROJECT

Project Description: Partially funded by a MPO project which pays for 80% of the construction costs with a 20% city match. Repaving on Mouse Creek Road from Paul Huff Pkwy to city limits.

Funding: $1,025,000 (Total Estimate)

FY 24: $25,000 (GF) (80/20 MPO)

FY 25: City Reimbursement $800,000

FY 25: City Match $200,000 (General Fund)



STATE PROJECT-25TH STREET/OCOEE ST INTERSECTION PROJECT

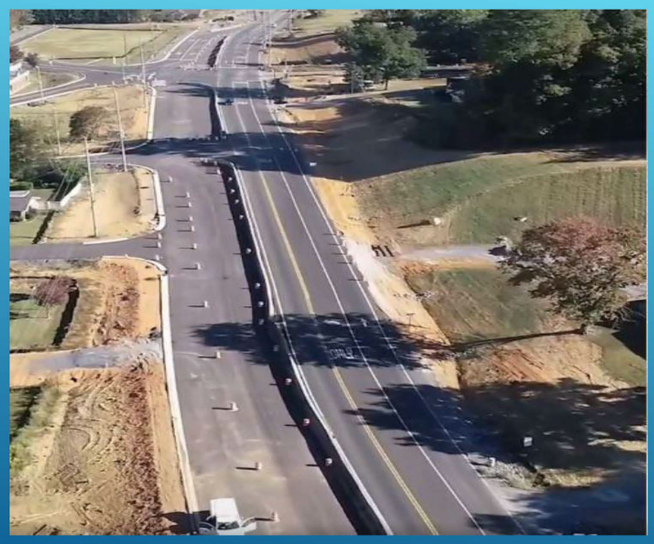
Project Description: Widening of 25th Street/North Ocoee Street Intersection.

Funding: $17,000,000 (Total Estimate)

FY 23: $450,000 City contribution (Bond)

FY 24: $1,500,000 City contribution (Bond)

FY 25: $15,000,000 (State Funds)

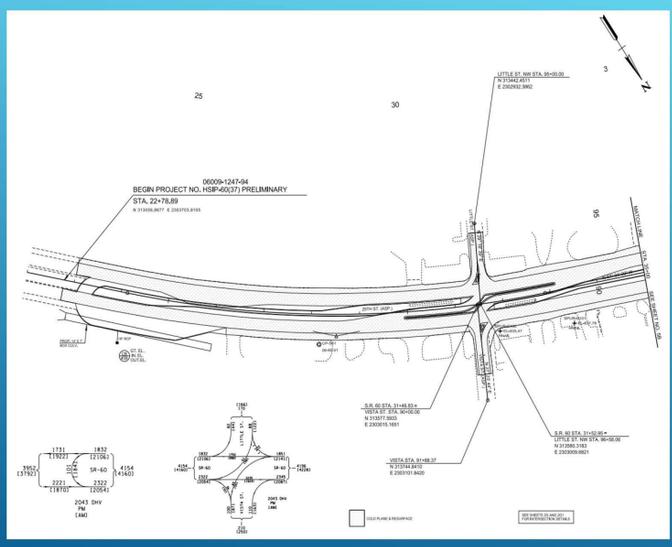


STATE PROJECT-GEORGETOWN ROAD WIDENING PROJECT

Project Description: Widening of Georgetown Rd from Eureka Road to Cleveland Middle School.

Funding: $54,000,000 (Total Estimate)

FY 23: No City Funds



STATE PROJECT- 25TH ST J-TURN SAFETY PROJECT

Project Description: This state safety project will make safety improvements on 25th Street from Georgetown Road to 200 feet past Little Street.

Funding: $3,400,000 (Total Estimate)

FY 23: No City Funds



STATE PROJECT- EXIT 27 IMPROVEMENTS PROJECT

Project Description:

Funding: $750,000 (Total Estimate)

FY 23: No City Funds



STATE PROJECT- INMAN ST BRIDGE SAFETY PROJECT

Project Description:

Funding: $400,000 (Total Estimate)

FY 23: No City Funds



MICHIGAN AVE/MINNIS RD STORMWATER PROJECT

Project Description: Project will fix stormwater issues around Michigan Avenue, 20th Street, Minnis Road.

Funding: $1,950,000 (Total)

FY 23: $250,000 (TDEC Grant)

FY 23: $25,000 (Stormwater)

FY 24: $1,200,000 (TDEC Grant)

FY 24: $250,000 (Stormwater Fund)

FY 24: $250,000 (General Fund)



CAROLINA POND STORMWATER RETENTION PROJECT

Project Description: Large retention pond by Carolina Street. The Project will reduce flooding in down stream area in the _____ stream basin. Project designed and bid by Army Corps Engineers.

Funding: $850,000 (Total Estimate)

FY 23: $750,000 (TDEC Grant)

FY 24: $100,000 (Stormwater Fund)



25TH ST/PEERLESS RD STORMWATER PROJECT

Project Description: Replacement of culvert which will result in the widening of this intersection.

Funding: $1,000,000 (Total Estimate)

FY 23: $850,000 (TDEC Grant)

FY 24: $150,000 (Stormwater Fund)



FTA-BUS STOP PROJECT

Project Description: Partially funded by Federal Transportation Administration at 80% federal and 20% city match. Grant would construct 10 bus stops in Cleveland.

Funding: $200,000 (Total Estimate)

FY 23: $20,000 (FTA Grant)

FY 23: $5,000 (City Match)

FY 25: $125,000 (FTA Grant)

FY 25: $45,000 (City Match)



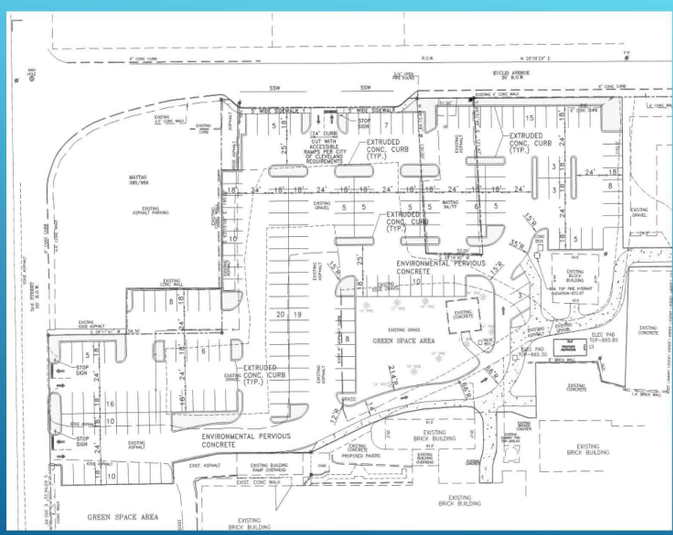
MPO-MICHIGAN AVE TRANSPORTATION AND ECONOMIC DEVELOPMENT STUDY PROJECT

Project Description: The City and County will partner on a planning study to look our transportation and development needs on the Michigan Avenue area. The Plan will evaluate economic development, industrial, commercial and residential opportunities while reviewing our future transportation needs.

Funding: $150,000 (Total Estimate)

FY 23: $25,000 (MPO Funding)

FY 24: $125,000 (State Funding)



CMAQ-PARKING LOT PROJECT

Project Description: Partially funded by federal CMAQ Grant which is a 80% federal and 20% city match. Project would construct a park and ride facility near Old Woolen Mill.

Funding: $1,700,000 (Total Estimate)

FY 24: $25,000 (GF) (80/20 MPO)

FY 25: $25,000 (GF) (80/20 MPO)

FY 26: $400,000 General Fund



BUILD CLEVELAND'S FUTURE

QUALITY OF LIFE OVERVIEW

- Total Investment: $8,825,000
  - Bond: $6,850,000
  - General Fund: $125,000
  - CDBG: $650,000
  - Grant Funding: $720,000
  - Stormwater Funding: $280,000
  - Private Funding: $200,000



TINSLEY PARK REHABILITION

Project Description: Complete construction on the rehabilitation on Tinsley Park parking lot, construct new Pickleball Courts, Greenway Plaza Area, rehabilitation of pavilions, rehabilitation of softball facility, and walking paths. The Tinsley Pool will remain operational until a new pool facility is constructed Whirlpool Recreation location.

Funding: $2,350,000 (Total Estimate)

FY 23: $2,100,000 (Bond)

FY 24: $250,000 (Stormwater)



JIM SHARP PARK

Project Description: Complete construction of new park on Candies Lane. State grant to fund 50% of construction.

Funding: $1,400,000 (Total Estimate)

FY 23: $100,000 (GF)

FY 24: $625,000 (State Grant)

FY 24: $625,000 (City Match) (Bond)

FY 25: $25,000 (State Grant)

FY 25: $25,000 (City Match) (Bond)

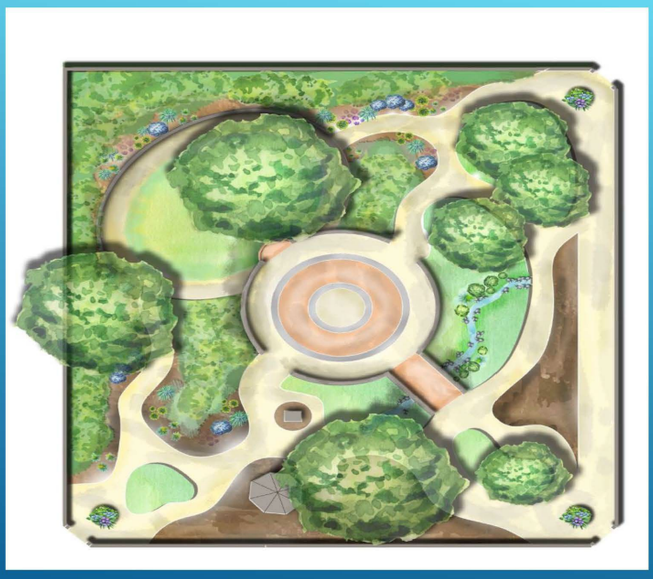


CIVITAN INCLUSIVE PARK

Project Description: Complete construction on the Civitan Inclusive Park.

Funding: $500,000 (Total Estimate)

FY 23: $500,000 (Bond)



JOHNSTON PARK REHABILITION

Project Description: Complete rehabilitation construction on Johnston Park.

Funding: $500,000 (Total Estimate)

FY 25: $500,000 (Bond)



MOSBY PARK PROJECT

Project Description: Construct a new playground, picnic areas, basketball courts, and other amenities.

Funding: $675,000 (Total Estimate)

FY 23: $20,000 (General Fund)

FY 23: $650,000 (CDBG)



SOCCER COMPLEX PROJECT

Project Description: Construct improvements for Soccer Complex.

Funding: $1,200,000 (Total Estimate)

FY 25: $1,200,000 (Bond)



EAST CIRCLE GREENWAY CONNECTION

Project Description: Complete construction of new Greenway connection north of Mohawk Parking Lot.

Funding: $100,000 (Total Estimate)

FY 24: $100,000 (Bond)



GREENWAY & PARK SAFETY PROJECT

Project Description: Develop camera system for all strategic location on Greenway and Parks in Cleveland.

Funding: $700,000 (Total Estimate)

FY 23: $100,000 (Public Safety Grant)

FY 24: $600,000 (Bond)



CANDIES GREENWAY PROJECT

Project Description: Construct a Greenway walking path from Candies Lane to I-75. Also, includes connections from Nature Walkway to Candies Lane sidewalk, additional parking on Freewill Road, and connection to Jim Sharp Park.

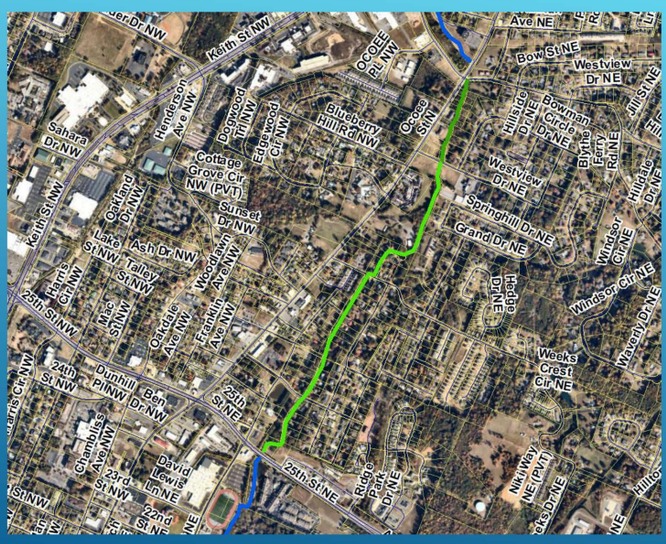
Funding: $300,000 (Total Estimate)

FY 23: $100,000 (Private Donation)

FY 23: $70,000 (HCI Grant)

FY 23: $100,000 (Bond)

FY 24: $30,000 (Stormwater)

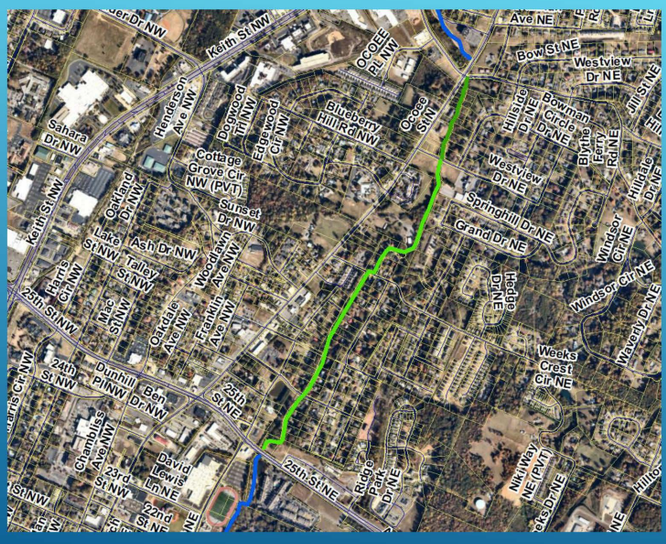


FILLAUER GREENWAY-WESTVIEW CONNECTION

Project Description: Complete greenway extension from Janice Casteel Greenway to Westview Drive.

Funding: $30,000 (Total Estimate)

FY 24: $30,000 (Private Donation)



JIM SHARP PARK GREENWAY CONNECTION

Project Description: Complete greenway extension from Jim Sharp Park to Candies Greenway.

Funding: $20,000 (Total Estimate)

FY 24: $20,000 (Private Donation)



CANDIES NATURE PARK PROJECT

Project Description: Make improvements to current walkway to include educational signs, repair walkway, benches, parking area, and stormwater improvements.

Funding: $30,000 (Total Estimate)

FY 26: $30,000 (Unknown)



DISC GOLF PROJECT

Project Description: The City will construct a new Disc Golf Course.

Funding: $20,000 (Total Estimate)

FY 24: $20,000 (Private)

FY 24: $5,000 (General Fund)



CANDIES CREEK GREENWAY-FLETCHER CONNECTION

Project Description: Complete greenway construction from Greenway Bridge to Fletcher Park.

Funding: $1,000,000 (Total Estimate)

FY 24: $50,000 (Bond)

FY 25: $50,000 (Bond)

FY 26: $1,000,000 (Unfunded)

Mr. Fivas stated this document entitled Build Cleveland's Future Initiative is a living breathing document that is meant to be amended. Potentially, there will be things that the Council will want to alter, moving project timelines or removing projects. It will be helpful, at least the Finance Department position, to be able to take these funds and put them in the system so all the projects are funded. It can be changed by motion at any meeting. We would appreciate the go-ahead to start working on the things we can. The document will be discussed every few meetings on how we are doing and community involvement. Councilman Cassada moved to table item a - Capital Projects and Build Cleveland's Future Initiative until the January meeting. He then stated he would like to table the three motions on the agenda until January, as the document does not include funding for the Raider Drive building. Mr. Fivas asked that the Council address each motion individually. Councilman Cassada then asked to add an item to the agenda for additional discussion on the Raider Drive building. Councilman Estes then stated he would also like to add an item for the Council's MPO project preferences. Mr. Fivas stated item a - Capital Projects and Build Cleveland's Future Initiative is approving the document so Finance can enter the projects in the appropriate funds. It is a living, breathing document that can be amended at any time. Councilman Cassada then withdrew his motion to table the items.

Councilman May then moved to approve the document title Build Cleveland's Future Initiative, which includes capital projects and downtown redevelopment. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

Councilman Webb moved to proceed with the conversion of the Cherokee Hotel and the city owned property adjacent to the Cherokee into City Hall in accordance with the terms and conditions, including funding discussed at the December 12, 2022 Work Session held at the Cleveland Regional Jetport. Included as part of this motion, is the renovation and upgrade of Johnston Park as presented at the same session. The motion as seconded by Councilman Hughes; and upon roll call, unanimously passed.

Mr. Fivas stated we have a resolution prepared, which allocates ARPA funds to be used for the renovation of the Cherokee Hotel, relating to Councilman Webb's previous motion that will need to be approved.

RESOLUTION 2022-110

RESOLUTION FOR AMERICAN RESCUE PLAN ACT (ARPA) ALLOCATION

WHEREAS, on March 11, 2021 the President of the United States signed into law the American Rescue Plan Act (ARPA) to provide continued relief from the impact of the COVID-19 pandemic; and

WHEREAS, the ARPA program appropriates funds to assist state, local, tribal and territory governments in responding to the COVID-19 pandemic; and

WHEREAS, the Coronavirus State and Local Fiscal Recovery Funds provide needed fiscal relief for recipients that have experienced revenue loss due to the onset of the COVID-19 public health emergency; and

WHEREAS, Treasury presumes that up to $10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund "government services."; and

WHEREAS, Recipients may elect a "standard allowance" of $10 million to spend on government services through the period of performance; and

WHEREAS, All recipients may elect to use this standard allowance instead of calculating lost revenue using the formula provided by US Treasury, including those with total allocations of $10 million or less; and

WHEREAS, the City of Cleveland has the need to fund government services while in the recovery phase of the COVID-19 pandemic.

NOW, THEREFORE IT BE RESOLVED, the City Council of the City of Cleveland, Tennessee, authorize the following:

Section 1. The following allocation of ARPA funding to fund government services under the replacing lost public sector revenue spending category as follows:

1. Appropriating up to $6,192,929 for the renovation of the Cherokee Hotel located at 44 Inman Street E into a City Hall, and mixed-use venue, up to $2,000,000 in bond funds for non-Cherokee Hotel construction costs, and any proceeds from the sale of DES building.

Section 2. City staff is hereby authorized to proceed with the procurement of an architectural firm to create architectural designs and construction documents for a City Hall, to receive bids for environmental remediation and demolition, proceed with any other consultants or contractors necessary for the renovation. City staff will bring back bids for construction to the Mayor and City Council for review before the execution.

Adopted this 12th day of December, 2022.

APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

Councilman Webb then amended his motion to include the approval of Resolution 2022-110. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

Councilman Estes moved that the City Council of the City of Cleveland set its number one MPO priority is the intersection of 25th/N. Ocoee Street project. The motion was seconded by Councilman May. Councilman Hughes stated this is tied to TDOT and asked where we stand. Mr. Fivas stated TDOT is requesting we rank three projects, 25th/N Ocoee Street intersection, widening I-75 from White Oak Mountain to Exit 20, and the extension of Hwy 60 to Hwy 58. Upon roll call, the motion unanimously passed.

Councilman Cassada asked if the Council could receive a letter from the property owner of 775 Raider Drive outlining the purchase terms. The City Schools have shown interest in the building as well. If we as a Council move away from this property, the adjacent property will be gone with no negations. Dr. Jeff Elliot with Cleveland City Schools stated they do have a high level of interest in the property, which is a great location for programming, professional development and for the central office facility. There has not been a formal vote by the School Board, but we wanted to share our interest in the property. Vice Mayor Johnson stated he would like comments from Mr. Fivas. Mr. Fivas stated the Mayor has been the point person for this item, but all staff needs to know is what the next step is from Council. The last action the Council took was it was going to be a gift and to prepare paperwork. The contract documents were drawn up and it has not been signed by the property owner. The deed of gift was signed but not notarized. Councilman May stated we voted to accept the building, free, no strings attached and assumed it was a done deal. Councilman Estes stated he thought the same but then it was no its not going to happen. He joined the Mayor and met with Mr. Preston and it's not the deal that he wants, so here we are. He asked him point-blank will you give this piece of property to the City with no strings attached and he stated no, that's not the deal I have. Councilman May asked why we voted that way then. Councilman Estes stated that is what we were presented. Councilman Hughes stated we voted that way because we had a letter that stated it was a gift with no strings. Councilman Estes stated going forward he encouraged Councilman Cassada to present a motion that city staff approach Mr. Preston, ask his new terms in writing and bring it

back in January. Mr. Kimball stated yes, that is the best way, so you know what you are voting on. He is presenting it to you in writing. It sounds like Mr. Preston has changed his mind and wants to sell it, you need to get the terms in writing. Councilman Cassada moved city staff request a letter from Mr. Preston which outlines any purchase terms so the Council can review and discuss further at the January 9th meeting. The motion was seconded by Vice Mayor Johnson. Upon roll call, Councilman Cassada, Vice Mayor Johnson, Councilwoman McKenzie, and Councilman Estes voted aye. Councilman May, Councilman Hughes and Councilman Webb voted no. The motion carries 4:3.

Councilman Hughes explained if you're given an opportunity and have a letter of a gift, you vote on that and then you wait several months and it comes back, and the rules have changed. What happened during this time? You have a gift and now they want us to pay for it. How much? Vice Mayor Johnson stated that is why we are doing what we are doing. We don't have anything documented in our hands, to show what changed. This Council wants something in black and white to decide. This is the proper way to do it. Councilman Estes stated maybe third time is a charm. He wants to see a dollar figure for us to weight up or down and decide is it in the best interest for the City or not. Councilwoman McKenzie stated she would like to see costs, not purchase price, but what we are looking at, if we acquire the building, what it will cost to renovate and where the funds will come from. Councilman Webb stated there are times that you just have to vote your conscience and principals. We voted a year ago and worked to get a 7-0 consensus. He thought the issue was put to rest over a year ago but apparently, we haven't. Councilman Estes stated negotiations change all the time. If this is part of negotiations, things change so let's see what comes back. We have to follow State Law to discuss this openly, so it will take time going back and forth.

ANNOUNCEMENTS

Vice Mayor Johonson announced the following:

a. City offices will be closed as follows:

   - Friday, December 23 and Monday, December 26 for the Christmas Holiday. The December 26 Council meeting will be cancelled.

   - Friday, December 30 and Monday, January 2, 2023 for the New Year's Holiday.

b. The next City Council meeting will be held on Monday, January 9, 2023.

c. The 44th Old Timers Hall of Fame Banquet will be on January 13, 2023 at the Museum Center. Tickets are $25.00 each and must be purchased by January 6.

There being no future business the meeting was adjourned at 4:09 p.m.

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Mayor City Clerk

REGULAR SESSION
DECEMBER 26, 2022
3:00 P.M.
MINUTE BOOK 30

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MET IN A REGULAR SESSION THIS MONDAY, DECEMBER 26, 2022 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING DUE TO THE CHRISTMAS HOLIDAY.

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Mayor City Clerk