REGULAR SESSION
JANUARY 9, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JANUARY 9, 2023 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; 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; Dr. Russell Dyer; Jodi Riggins, Cindy Geren, Jeff Elliott, Nate Tucker and Hal Taylor with Cleveland City Schools; Cathy Andrews, CDBG Coordinator; Sherry Brown; 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 Nate Tucker, Mayor Brooks asked for a moment of silence for former Councilman Charlie McKenzie, who passed away two years ago today.

The following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on December 12, 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

Mr. Fivas thanked the Public Works, Forestry and Parks & Recreation employees who did a wonderful job clearing the roads during the snow event. Also, thanks to our First Responders for keeping us safe.

HEARING PETITIONS AND COMMUNICATIONS

There were 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; and upon roll call, unanimously passed.

- **Resolution 2023-01** – Authorizing the Cleveland Police Department to apply for the Violent Crime Intervention Fund and the Competitive Collaborative Enhancement Grant through the State of Tennessee Office of Criminal Justice Programs.

RESOLUTION 2023-01

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO APPLY FOR A GRANT UNDER THE VIOLENT CRIME INTERVENTION FUND AND THE COMPETITIVE COLLABORATIVE ENHANCEMENT GRANT WHICH ARE BOTH OFFERED BY THE STATE OF TENNESSEE

WHEREAS, Governor Bill Lee and the Tennessee General Assembly appropriated $100 million in the State 2022-2023 budget for the Violent Crime Intervention Fund (VCIF), which provides grant funds for local law enforcement agencies to implement evidence-based programs, technology, and strategies that will reduce violent crime in our communities; and

WHEREAS, the Cleveland Police Department is requesting approval from the City Council to apply for the Formula Based Grant, which provides funding based on each agency's reported three-year average of reported violent crime. The Cleveland Police Department is eligible to receive up to $515,000 in support funding. This funding would be used to purchase and apply new technologies and equipment, hire and train specialized violent crime investigators and/or units to directly disrupt or prevent violent crimes in the City of Cleveland; and

WHEREAS, the Cleveland Police Department is also requesting the City Council's approval to apply for the Competitive Collaborative Enhancement Grant. The State of Tennessee has allocated up to $2 million for agencies applying for enhancement funds to address regionally specific needs to combat violent crime through a regional/multi-jurisdictional approach. This includes sharing of intelligence and resources to effectively respond to violent crimes. This is a competitive grant and requires a collaborative partnership with at least one other Law Enforcement Agency. The Cleveland Police Department will partner with the Bradley County Sherriff's Office, this funding would be used to purchase and apply new technologies and equipment, hire and train specialized violent crime investigators and/or units to directly disrupt or prevent violent crimes in the City of Cleveland; and

WHEREAS, the deadline to submit the grant proposal is 01/16/2023, and the grant funding contract would be for three years and is a reimbursement grant and it does not require any match funding. If awarded, it would begin in March 2023 and would expire June 2025; and

WHEREAS, information relating to these grant programs is attached hereto; and

WHEREAS, the City Council desires to approve of the City's application for these grants, and to authorize the Mayor and the Chief of Police 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 applications, and to accept the grants if approved.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland that the City of Cleveland is hereby authorized to apply for these grants, and the Mayor and the Chief of Police are hereby further authorized to sign all documents on behalf of the City that may be necessary or appropriate for the completion of the grant applications.

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

This 9th day of January 2023.

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 2023-02** - Approving subrecipient agreement with City Fields for Down Payment Assistance through the CDBG Program.

RESOLUTION 2023-02

WHEREAS, the City of Cleveland Community Development Block Grant Program includes funding within the budget for a Down Payment Assistance Program;

WHEREAS, the Down Payment Assistance Program assists eligible low income families in the purchase of affordable housing within the CDBG target area to be constructed and financed by City Fields, Inc.;

WHEREAS, said Down Payment Assistance funding can be applied to the down payment, closing costs and/or to reduce the principal balance of the loan;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council hereby approves the Sub-recipient agreement with City Fields Inc.;

BE IT FURTHER RESOLVED THAT the City Council hereby approves of the use of CDBG funds for Down Payment Assistance to qualified homebuyers for the amount of $18,000.

This 9th day of January 2023.

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 2023-03** - Approving subrecipient agreement with Habitat for Humanity for Down Payment Assistance through the CDBG Program.

RESOLUTION 2023-03

WHEREAS, the City of Cleveland Community Development Block Grant Program includes funding within the budget for a Down Payment Assistance Program;

WHEREAS, the Down Payment Assistance Program will assist eligible low income families in the purchase of affordable housing within the CDBG target area to be constructed and financed by Habitat for Humanity of Cleveland;

WHEREAS, said Down Payment Assistance funding can be applied to the down payment, closing costs and/or to reduce the principal balance of the loan;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council hereby approves the Sub-recipient agreement with Habitat for Humanity;

BE IT FURTHER RESOLVED THAT the City Council hereby approves of the use of CDBG funds for Down Payment Assistance to qualified homebuyers for the amount of $30,000.

This 9th day of January 2023.

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 2023-04** – Amending the City's Personnel Rules and Regulations to revise Section VIII Miscellaneous Policies, Subsection L. Anti-Harassment Policy.

RESOLUTION 2023-04

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

THAT WHEREAS, the City Council of the City of Cleveland has previously established and adopted by Resolution on April 8, 2019 a revised Personnel Rules and Regulations document entitled "The City of Cleveland Personnel Rules and Regulations"; and

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

WHEREAS, the City Manager, the City's Human Resources Director and the Human Resources, Healthcare and Retirement Committee are recommending the following amendment to the City's Personnel Rules and Regulations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee in Regular Session assembled this 9th day of January 2023, that the document titled "The City of Cleveland Personnel Rules and Regulations" is hereby amended as follows:

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

Section VIII – Miscellaneous Policies

Revise Subsection L to read as follows:

L. HARASSMENT/WORKPLACE VIOLENCE POLICY

The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of Cleveland, including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulation of the City, and employees working under contract for the City. Other forms of harassment based on an employee's membership in a protected class, including race, national origin, religion, color, creed, age or disability or other protected class are also prohibited.

1. DEFINITION

Sexual harassment or unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the City.

The City also prohibits conduct by officials, management persons, supervisors and non-management employees directed toward another employee due to the employee's membership in a protected class including race, national origin, religion, color, creed, age or disability that has the effect of creating a hostile work environment. Such conduct can include verbal or written statements, conduct of an intimidating nature or other conduct that has the effect of demeaning the employee due to the employee's membership in a protected class.

OTHER HARASSMENT

Any employee's conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or creating any intimidating, hostile, or offensive work environment, based on that individual's race, gender, national origin, religion, age, sexual orientation, or disability, is also unlawful and will not be tolerated.

BULLYING

Bullying is defined as a series of persistent, hostile interpersonal interactions that cause substantial distress to another person. It may take the form of deliberate, hurtful repeated behaviors or offenses over a period of time. In contrast, any criticism related to job performance that is given in a dispassionate respectful and non-hostile way is not bullying.

2. MAKING HARASSMENT COMPLAINTS

The City may be held liable for the actions of all employees with regard to harassment and therefore, will not tolerate the harassment of its employees. The City will take immediate, positive steps to stop it when it occurs.

By law, the City is responsible for acts of harassment in the work-place where the City (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the City took immediate and appropriate corrective action. The City may also be responsible for the acts of non-employees, with respect to the harassment of employees in the work-place, where the City (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

Prevention is the best tool for the elimination of harassment. Therefore, the following rules shall be strictly enforced. Any employee who feels he/she is being subjected to harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

a. The employee's immediate Supervisor or another Supervisor within the department.

b. The employee's Department Head.

c. The City's Human Resources Director.

d. The City Manager.

e. The Mayor.

f. Any member of the City Council.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of harassment. The employee should be prepared to provide the following information:

a. Official's or employee's name, department, and position title.

b. The name of the person or persons committing the harassment, including their title/s, if known.

c. The specific nature of the harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.

d. Witnesses to the harassment.

e. Whether the employee has previously reported the harassment and, if so, when and to whom.

3. REPORTING AND INVESTIGATION OF HARASSMENT COMPLAINTS

The Human Resources Director is the person designated by the City to be the investigator of complaints of harassment against employees. In the event the harassment

complaint is against the Human Resources Director, the investigator shall be a City Management level employee appointed by the City Manager.

When an allegation of harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the Human Resources Director or the City Manager. A failure to bring a complaint of harassment to the attention of the Human Resources Director or City Manager shall be grounds for discipline.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings and present them to the City Manager. The report shall include the written statement for the person complaining of harassment, the written statement of witnesses, the written statement of the person against whom the complaint of harassment was made, and all the investigator's notes connected to the investigation.

4. ACTION ON COMPLAINTS OF HARASSMENT

Upon receipt of a report of the investigation of a complaint of harassment the City Manager shall immediately review the report. If the City Manager determines that the report is not complete in some respect, he/she may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation, where one is made, the City Manager shall promptly determine whether the conduct of the person against whom a complaint of harassment has been made constitutes harassment prohibited under the Anti-Harassment Policy. In making that determination, the City Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether harassment occurred will be made on a case-by-case basis. If the City Manager determines that the complaint of harassment is founded, he/she shall take immediate and appropriate action, including disciplinary action against the employee guilty of harassment, consistent with his authority under the City charter, ordinances or rules governing his authority to discipline employees.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the City Manager believes relate to fair and efficient administration of the City, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the City. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis. In every case, the action taken shall be reasonably calculated to prevent further acts of harassment.

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee accused of harassment shall be warned not to retaliate in any way against the person making the complaint of harassment, witnesses or any other person connected with the investigation of the complaint of harassment. Retaliation against any employee making a complaint or participating in an investigation shall subject the individual who engages in retaliatory conduct to disciplinary action, up to and including termination.

In cases where the harassment is committed by a non-employee against a City employee in the workplace, the City Manager in consultation with the City Attorney shall take whatever lawful action against the non-employee is necessary to bring the harassment to an immediate end.

5. OBLIGATION OF EMPLOYEE

Employees are not only encouraged to report instances of harassment, they are obligated to report them. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator.

Disciplinary action may also be taken against any employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment.

It is the policy of the City of Cleveland to promote a safe environment for its employees. The City is committed to working with all employees to maintain a work environment free from workplace violence and harassment. Threats, threatening and abusive behavior, physical or verbal assaults, threats of violence or physical coercion, or other actions where the motive is to cause pain, fear or personal injury against other employees, visitors, vendors, citizens or other individuals will not be tolerated.

Any employee who makes threats, exhibits threatening behavior, or engages in violent acts or harassing behavior shall be removed from the premises as quickly and safely as possible and shall remain off premises pending the outcome of an investigation. Following an investigation, the City will initiate an immediate and appropriate response leading to corrective action up to and including termination of employment and/or referral to appropriate law enforcement agencies for arrest and prosecution.

All employees are responsible for notifying their immediate supervisor or other management personnel of any threatening behavior or workplace violence/harassment that they themselves have been subjected to, or that they have witnessed occurring to other individuals, or that they are told another person has been subjected to or witnessed. Even without a specific threat, all employees should report any action or behavior they have witnessed that they regard as potentially threatening or violent or which could endanger the health or safety of an employee or other individual. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threatening behavior and the person or persons being threatened. Any failure to report an incident of workplace violence/harassment may subject the non-reporting employee to disciplinary action up to termination.

The City understands the sensitive nature of the information required in the reporting of actions of this nature. However, the City will provide all information necessary to the appropriate authorities in order to conduct a full and thorough investigation.

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

Adopted this 9th day of January, 2023.

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 2023-05 –** Authorizing the Mayor to sign contract amendment #1 with Wood/WSP for CEI Services for the LIC North project.

RESOLUTION 2023-05

WHEREAS, the City of Cleveland and Wood Environment & Infrastructure Solutions, Inc. (hereafter Wood) entered into an agreement dated December 15, 2021, for Construction Engineering and Inspection Services (CEI) for the LIC North Project; and

WHEREAS, the construction of the project is still ongoing, and Wood, in conjunction with Thompson Engineering, have been performing CEI services for this project; and

WHEREAS, the original estimate for CEI services was for the contract period from December 15, 2021, through November 30, 2022; and

WHEREAS, construction of the LIC North project is still ongoing; and

WHEREAS, at the last City Council meeting held on December 12, 2021, the City Council approved a Resolution which approved of an extension to the agreement with TDOT for the project to extend the completion time for the LIC North project; and

WHEREAS, the City's contract with TDOT for the LIC North project has now been amended and the completion date for the LIC North project has been extended until April 30, 2023; and

WHEREAS, because the construction completion deadline has now been extended, additional CEI services for the project will also be required; and

WHEREAS, Wood has provided the City with an addendum for the additional CEI services for this project which estimate that the additional CEI services will be an amount not to exceed $109,519.89; and

WHEREAS, the City Council desires to approve of an addendum with Wood for these additional CEI services, and to further authorize the Mayor to execute the addendum for additional CEI services for the project.

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 addendum presented by Wood to the City for additional CEI services for the LIC North project in an amount not to exceed $109, 519.89, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 9th day of January 2023.

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

- **Surplus Property** – Declaring a 1996 Jeep Cherokee as surplus property to be used by the Cleveland Fire Department for training purposes.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **January 9, 2023**
RE: **Surplus Property**

SUMMARY:
Fleet Management has requested the vehicle listed below to be declared surplus property:

- Police Department - 1996 Jeep Cherokee 1J4FJ68SXTL288221

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

UNFINISHED BUSINESS

Councilman Cassada moved that city staff immediately obtain a purchase contract with Cleveland Development Enterprises II, LLC for the purchase of 775 Raider Drive at a price of $759,610.35 to be presented to the owner and his lawyer, and to be approved at the next meeting. The motion was seconded by Vice Mayor Johnson. Councilman Estes asked if this helped Mr. Kimball to pursue the contract. Mr. Kimball replied yes, this is consistent with what was discussed during the work session. Councilman May stated we discussed a contract but also to receive something from the School Board on how they will handle and fund the building. He feels we should wait until we have all the information before a vote. Councilman Estes stated this codifies what we said during the work session. We can't vote on everything if we don't have a contract, it is moot. This is a way to put on paper to direct city staff to do exactly what our sentiment is, it give more gravitas and we are being very clear. We need that and something from the School Board in the next two weeks. Councilman Hughes stated we need it before going forward but doesn't want to vote now. Councilman Estes stated the motion is to offer a contract with the amount. Councilman Hughes added Councilwoman McKenzie requested the figures on how it will all work for the city and school board. Councilman Estes asked not to muddy the water, we have to have an agreement. Councilman Webb asked for clarification of the last statement of the motion, to be approved at the next meeting, is that for approval or consideration. Councilman Cassada stated for consideration and maybe by that time city staff can have something in hand that we can discuss and move forward. Councilman Cassada amended his motion to change the last statement to be approve at the next meeting to for consideration at the next meeting. Councilman Webb asked about Councilwoman McKenzie's request for the numbers. Mayor Brooks asked Mr. Tucker about the meeting schedule for the School Board. Mr. Tucker with the Cleveland City School Board stated their next meeting was tomorrow and based on the direction/vote from the City Council they will discuss getting documents to you for your next meeting. Councilwoman McKenzie asked if the motion could be amended to include both documents for consideration. Councilman Cassada stated he was open to the amendment. Councilman Estes stated one would be a contract, the other a proposal. Mr. Kimball stated you would want something in writing, like a memorandum of understanding or a proposal for clarity. Mayor Brooks asked Mr. Kimball if the motion would take us to the next step needed. Mr. Kimball stated for everyone's clarity he would simply add the city is willing to consider at its next meeting a contract which would sell the property to the city for the price recited, not approving the contract, but willing to consider if it was in fact presented in a way that you could accept it. That is what Councilman Cassada is trying to accomplish. You are not authorizing

acceptance, you are presenting it to them, assuming he signs it, it would then come back to you for approval and signature. Councilman May stated we approved a motion to accept an offer of the building on Raider Drive for free, no strings attached. The vote was 7-0 to accept it. For some reason we did not get a deed. Now, we are voting to give $759,610.35 for the building. He feels funny voting to give that amount of money for a building we already voted to accept for free, that we didn't get. He doesn't know how he will vote on a contract, but he would like a contact and an agreement from the School Board that they want to accept it, how they will fund it and if it will be a tax increase or not. Mayor Brooks asked for the motion to be stated. Ms. Brandon stated the motion is city staff immediately obtain a purchase contract with Cleveland Development Enterprises II, LLC for the purchase of 775 Raider Drive at a price of $759,610.35 to be presented to the owner and his lawyer, and to consider the contact at the next City Council meeting. Mr. Fivas stated he and Dr. Dyer would commit to a draft proposal or understanding that everyone can review. Councilman Webb asked if this does anything different than what we agreed to during the work session. Councilman Estes stated it codifies it on the record. We voted at the last meeting for a letter and that is what we got. Now we need a legal contract. We have to be specific. It is up to the School Board to bring us a proposal if they want the building. We can still vote this up or down in two weeks. Mr. Kimball stated the intent of the motion is that you would like to see a contract for this price, that you can vote up or down at your next meeting. You also want information from your School Board to help you decide. The Council consensus was to have a separate motion addressing documents from the School Board. Upon roll call, Councilman Cassada, Vice Mayor Johnson, Councilwoman McKenze and Councilman Estes voted aye. Councilman May, Councilman Hughes and Councilman Webb voted no. The motion carries 4:3.

Councilwoman McKenzie moved that Mr. Fivas, Dr. Dyer and the City School Board develop a proposal of their intent for 775 Raider Drive to be provided at the next City Council meeting, to possibly clarify and help the City Council know how to proceed with the building. The motion was seconded by Councilman Cassada. Councilwoman McKenzie stated if we could obtain the building, it would be a good thing for the City Schools and if it's not costing the taxpayers and we can work it out, she thinks we should look at it. If not, we can say no. Upon roll call, the motion unanimously passed.

REPORTS OF AND COUNCIL MEMBERS

Mayor Brooks announced today was National Law Enforcement Appreciation Day. He expressed the Council's appreciation to Chief Gibson and the entire department for keeping us safe.

Councilwoman McKenzie stated she was glad to see the downtown Christmas lights still lit throughout the winter months. She encouraged citizens to come and enjoy the lights. Secondly, Keep America Beautiful will be hosting a community clean up event in the College Hill area on January 28. It will encompass 6th Street NE, East Street NE, and Gaut Street NE. If anyone would like to volunteer visit www.keepclevelandandbradleycountybeautiful.org. Also, they will be hosting another tire clean up event at Exit 20 on January 21. Also, a tire clean up event is scheduled in February for the Overhead Bridge Road area. Lastly, thanks to Code Enforcement and Public Works, who will be helping with the clean-up event at College Hill.

Councilman Estes thanked the Mayor and colleagues for recognizing Owen Clemons during the Work Session for his Cross-Country State Championship. Secondly, this year our Public Library will turn 100. Last week the celebration kicked off and appreciates Mayor Brooks and Mr. Fivas representing the City Council. There will be several events throughout the year. Lastly, Lee University classes will begin tomorrow, so prepare for an increase in traffic.

Councilman Cassada welcomed Bradley County Commissioner Tommy Ledford to the meeting. Secondly, we had a new church open this weekend. Redemption of the Nations Church had over 1,100 people in attendance. They have locations in Chattanooga and Athens as well. He then asked Mr. Fivas and city staff to possibly have at the next meeting, a preliminary report on the property across the creek, which the owner is willing to donate to the city for a parking lot

with an access bridge, to help with special event parking and also it could be tied into the Greenway. Lastly, he thanked the Cleveland Fire Department, Station 3 for assisting his mother during an emergency situation. They were very kind and professional and took great care of her before going to the emergency room. We have great First Responders. He would also like to thank the families of First Responders for sharing them with us during the holidays. It is a sacrifice.

Mayor Brooks added he also attended the service of Redemption of the Nations Church. It was amazing to see the transformation of the building and it was a great service.

Councilman Hughes thanked Public Works, Parks& Recreation, Finance, and Administration for the Christmas luncheons. He, Councilwoman McKenzie, Councilman Webb, and Mr. Fivas attended them all. It was good to fellowship with employees.

Councilman Webb inquired about the status of the Greenway cameras. Mr. Fivas stated Kris Miller has been working on the cameras and we have 3 that are currently live. It is good technology, with facial recognition and they will be happy to have a presentation at the next meeting. If the Council is satisfied, we can begin to initiate the next phase.

Vice Mayor Johnson stated he received a call from William Campbell inquiring about the status of the lighting upgrade at 3423 Brighton Blvd and if city staff would follow-up with Cleveland Utilities. He then asked about the status of the Gaut Street sidewalk project. Mr. Fivas responded we are waiting on TDOT for a notice to proceed. Sidewalks will be from Mosby Park down Inman Street, down Gaut Street and back to College Hill Center. Councilman Estes inquired about connecting to the Central Avenue sidewalk. Mr. Fivas stated that portion will be done in-house.

Councilman Hughes welcomed Andy Lay, new City School Board member to the meeting.

Councilwoman McKenzie stated members of the Council attended the grand opening for Sanda Mill today. Mayor Brooks added the owner, developer and contractor all commented that the Cleveland city staff was the nicest and, in their words, the best city in America to work with. They have an area with historical items found in the building during the renovation and encouraged everyone to take a tour. Also, HHM will have their dine and dash on Thursday evening. He is thankful to serve with a forward thinking, revitalization minded Council.

NEW BUSINESS AND ORDINANCES

Mayor Brooks stated the downtown parking agreement with Bank of Cleveland will be discussed at our next meeting. Councilman May stated the agreement with Bank of Cleveland will be a game changer for downtown. He then inquired if staff could begin discussions again with the Elks Lodge for a parking agreement. Mr. Fivas stated he will reach out to them.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- City offices will be closed on Monday, January 16 in observance of Martin Luther King Jr. Day.
- The next City Council meeting will be held on Monday, January 23, 2023.

There being no future business the meeting was adjourned at 3:50 p.m.

_____ Mayor

_____ City Clerk

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JANUARY 23, 2023 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; 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; Patti Pettit, Parks and Recreation Director; Kris Miller, IT Director; Kim Miller, Human Resource Director; Dr. Russell Dyer; Jodi Riggins, Cindy Geren, Jeff Elliott, Peggy Pesterfield; Carolyn Ingram; Kelly Kiser; Caroline Corrigan; Nate Tucker, Hal Taylor and Autumn O'Bryan with Cleveland City Schools; Cathy Andrews, CDBG Coordinator; Sherry Brown; Doug Berry with the Chamber of Commerce; Sharon Marr with Mainstreet Cleveland; Evelyn Bowman; Jeremiah Wanger; Kellye Bender; Roger Jenne; Jimmy Logan 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 9, 2023 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 congratulated Jetport Director Mark Fidler and the Cleveland Jetport who were recognized during today's Work Session on the upcoming 10th Anniversary.

HEARING PETITIONS AND COMMUNICATIONS

There were no hearing petitions and communications.

CONSENT AGENDA

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

- **Resolution 2023-06 -** Adopting the 2022 Updated Bradley County Natural Hazard Mitigation Plan.

RESOLUTION 2023-06

A RESOLUTION TO ADOPT THE 2022 BRADLEY COUNTY NATURAL HAZARD MITIGATION PLAN

WHEREAS, the participating jurisdictions of Bradley County have worked together to develop a strategy known as the Bradley County Hazard Mitigation Plan to improve disaster resistance in the planning area; and

WHEREAS, the Federal Disaster Mitigation Act of 2000 (DMA2000) pursuant 44 CFR Part 201 and the Federal Emergency Management Agency (FEMA) require communities to adopt an approved hazard mitigation plan in order to be eligible to receive pre-disaster and post-disaster federal funding for mitigation purposes; and

WHEREAS, the participating jurisdiction has participated in the hazard mitigation plan by the formation of a Mitigation Planning Committee (MPC); and

WHEREAS, the MPC recommends the formal adoption of the Bradley County Hazard Mitigation Plan dated 12/28/2022 by the passing of this resolution; and

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

Section 1: The City Council of the City of Cleveland, Tennessee hereby approves and adopts the updated hazard mitigation plan in its entirety with projects as adopted by the MPC; and agrees to be governed by the Hazard Mitigation Plan dated 12/28/2022 attached hereto and incorporated.

Section 2: The City Council of the City of Cleveland, Tennessee authorizes the appropriate participating officials to pursue funding opportunities for the implementation of proposals designated therein; and will upon receipt of such funding or other necessary resources, seek to implement the actions contained in the hazard mitigation plan.

Section 3: The City Council of the City of Cleveland, Tennessee will continue to cooperate and participate in the hazard mitigation planning process, holding regular meetings, including reporting progress as required by FEMA, the Tennessee Emergency Management Agency (TEMA), and the MPC.

Adopted this 23rd day of January, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Motion** – Approving the fire hydrant extension project at the Cleveland Jetport for future hangar construction.

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **January 23, 2023**
RE: **Jetport Hangar Construction**

SUMMARY:
In December, City Council approved our capital plan to construct 10 additional hangars at the Cleveland Regional Jetport. This project would require the City to bond to this construction project, and then to be reimbursed over a five year period by a state construction grant and lease fees from these new Hangars.

As part of the necessary infrastructure for hangar development the IFC has changed and we need to extend a fire hydrant to facilitate the development of additional hangars. The cost of this fire hydrant project is approximately $18,000 for the plumbing and around $10,000 for materials.

City staff is recommending that we make this fire hydrant changes immediately, and then include the final actual cost of this capital project for hangars in our future repayment of the bond funds for the hangar construction. We will adopt this repayment plan in the near future when we bid the hangar for construction.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends approval of this fire hydrant project, and for the costs to be included in the future repayment documents between the City and Jetport Authority. The repayment will come from future lease funds for these 10 hangars.

- **Motion** – Approving Addendum A of the Cherokee Hotel Restoration as-built proposal with Studio 323 Architecture and Design to include Roy's Alternator building.

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **January 23, 2023**
RE: **Cherokee Hotel- As-Built Proposal**

SUMMARY:
City staff has been focused on preparing for the redevelopment of the Cherokee Hotel. The City Manager has appointed Bryan Turner as the Project Manager for this redevelopment. The first steps has been to make sure we have As-Built Drawing for the conditions in the Cherokee Hotel and Roy's Alternator's building. The City has accomplished the As Built Drawing's for the Cherokee Hotel, and this proposal would allow Studio 323 to complete the As-Built Drawings for the conditions of Roy's Alternator. This proposal will be $2,850 to complete this task in the next couple months.

City staff has already advertised for the RFQ to hire an Architectural Services.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends approval of this Change Order

UNFINISHED BUSINESS

Dr. Dyer, Director of City Schools stated the Board of Education approved the following motion 7-0 concerning 775 Raider Drive.

The Cleveland City Schools Board of Education has a definite interest in the 775 Raider Drive property as it has the potential to serve the school system in various capacities including as an administrative office, professional development, student learning centers or shared spaces with the City or other entities. However, considering the limited time to evaluate this project, CCS does not have a complete understanding of the development cost or specific use of this property as well as the potential use of properties that may become vacant if the administrative office is consolidated into the Raider Drive building. For the purposes stated above, CCS is open to contributing to the acquisition and renovation costs, in whole or part, though further discussion is necessary once investigation of the property including architectural drawings and

construction costs can be included. However, the School Board supports the acquisition of the property by the City for further discussion and evaluation.

Mayor Brooks thanked Dr. Dyer. He then stated additional closing cost were discussed during the Work Session and if the School Board would be acceptable to contributing to the cost. Dr. Dyer stated he would relay the information to the Board to discuss further. Councilman Hughes stated he had an understanding the City was looking to the School Board to pay the amount to buy the bank building and they had $2.5 million in federal funds to retrofit. He thought something would be presented in writing. Dr. Dyer responded the School Board has expressed interest in the building. They have a list of proposals on ways they can utilize the building, not just for administrative offices but professional development for staff, storage as well as possible academic space. If and when the Council decides to take on the building, that is when the School Board would meet again to have the final decision. They do have one-time unassigned capital funds available for this site. Councilman May asked why won't the Board just commit? Dr. Dyer stated there are unknowns concerning the building and the Board has not had a chance to tour the building as a whole. Our architect did a quick review of the building but, for example, there is a desire to see the mechanics operating, to see exactly what the cost would be and to ensure we have enough funds. There is a desire to pursue this building further and to take the building on as a project, from our previous discussions we are in a good place to moving forward. Councilman Webb asked Dr. Dyer about the noncommitted funds and how far in the foreseeable future does he see before there would reason to commit them to something. Dr. Dyer stated each of you has a copy of their facility study. In the future there will be a need for an intermediate school and renovating the high school. We don't see that need in the next four years but at the same time we can't guarantee next year some emergency could take place but right now we don't see that in the near future. Mayor Brooks stated he understands the current plan would be to move the administrative office but has any study been conducted on the cost of a new facility. Dr. Dyer stated yes, their architect looked at renovating the Denning Center into usable space was $4-4.5 million. To construct a new office facility the estimate was $9-10 million. Councilman Estes asked what was the square footage of the Denning Center? Mr. Taylor replied 20,000 and new construction was comparable.

Mayor Brooks stated the purchase agreement has been presented to the Council for consideration and asked how would the Council like to proceed. Councilman Cassada moved that the City of Cleveland accepts the $759,610.35 also with the 2022 property taxes be a part of that, approximately $33,000 and to include the closing cost with the exception of a title search being done and being clear, that this goes forward. To him, this is a steal on the market for the City. Taking the School Board out of it, the tax roll is $3.6 million and feels the replacement cost is probably around $20 million, where this property is at. He doesn't see how we can walk away from this. We can serve our school system, our students, teachers, even without that we shouldn't pass this up. The motion was seconded by Councilman Estes. Councilwoman McKenzie stated she felt moving forward on this motion would be premature. She clearly asked for cost and something in writing from the School Board, a commitment not a statement we're in favor, a commitment, a memorandum of understanding of what the Schools are willing to do. Councilman Cassada stated Dr. Dyer stated they are willing to move forward but until the Council moves forward, they can't. Mayor Brooks stated we can't expect the School Board to make a commitment until we as a Council make a commitment. Councilman Estes asked if this motion would require a new contract. Mr. Kimball stated yes, you are essentially making an offer to him, a counteroffer. Councilman Estes stated during the Work Session the discussion gave him some perspective. Take the City School Board out of it. We invest pennies in a Jetport. We talk about where we're gong to be in ten years. We spent $6 million on an industrial park and another $6 million to ramp it up. Even the County threw $2 million in. Why? It's about the future. We are proactive. We just bought the Cherokee Hotel. Why, same reason. The Pie Center $33 million, it will pay for itself. A month ago, we were given Moving Cleveland Forward, we're going to invest $136 million, all about the future. We can't buy an $800,000 building. Yes, we can. We can lease it out. We don't need the schools. It's good business sense for the citizens of Cleveland. If the Schools don't want to participate, fine. We can lease it to them. This is what we have been doing for the last decade, thinking forward, thinking ahead. We have a remarkable offer just like a t-hangar way below market value, we jumped on it. We are benefiting from it.

This is what a good municipal body should do. Councilman Webb clarified the motion is the price of $759,610.35, plus $32,000 for the 2022 taxes. Mr. Kimball stated yes, the purchase price plus the 2022 taxes and closing costs. As the buyer you would also have fees, you'd want to pay like title insurance, approximately $1,000. Councilman Webb stated if the 2022 taxes are in the purchase price, we are adding them again. Mayor Brooks stated this has been a year of discussion, which is why now the 2022 taxes are on the table. The original letter from the seller did not include the 2022 taxes. Councilman May added originally it was offered for free. Vice Mayor Johnson stated out of everything we do our number one obligation is to think what is best for the City of Cleveland. Police and Fire are important to protect our City but for him, education is number one. If our educational system needs this facility, which they have already stated, he doesn't see how we can pass this up. This is to help education our kids. Whatever it takes, he wishes the Council would secure this building for the future. Councilman Estes stated Councilman Webbs' question deserves an answer. His incredulity was the pragmatism in his thinking; the answer is in the email he sent he thought they would walk with $759,610.35 and if we charge them taxes, they don't walk with $759,610.35. How do you get them what we offered. We pay the taxes. The pragmatic part is it's $30,000 in light of a $4 million-dollar building in perpetuity. Councilman Webb stated the summary he'd seen, the way the $759,610.35 was calculated included the 2022 taxes. Councilman Estes stated Mayor Brooks is correct, the offer from Mr. Preston was through the 2021 taxes. He wanted to close in December. We couldn't make that happen. Mayor Brooks stated we have had hearty discussion, comments and commitments from Dr. Dyer. If nothing further, he asked for roll call. Upon roll call, Councilman Cassada, Councilman Estes and Vice Mayor Johnson voted aye. Councilman May, Councilman Hughes, Councilman Webb, and Councilwoman McKenzie voted no. The motion failed 4:3.

Mayor Brooks announced the Council would take a 5-minute recess.

Mayor Brooks called the meeting back to order at 3:45.

Vice Mayor Johnson moved to accept the purchase price of $759,610.35, additional closing cost and not include the 2022 taxes which is approximately $33,000 and that the title search is clear. The motion was seconded by Councilman Cassada. Councilwoman McKenzie stated putting the schools aside, her question still is how we will pay for this and what will the costs be. Councilman Cassada stated we received a "living and breathing document" a few months ago, which contains $20 million in bonds we can use. There are ways to be creative. Councilwoman McKenzie stated we don't know what we are looking at in repairs. There has been no study and we don't know. Councilman Estes asked Mr. Fivas to address her concerns. Mr. Fivas responded a year ago we looked at the building and the three options were about a $1.2 million to get into the building, fixing sewer issues, elevator, all IT conduits redone, cosmetic and ADA compliance. To fully build out the entire building was around $5-6 million. To something more involved with demo and starting with just a shell was around $11-12 million. Councilwoman McKenzie asked if that included windows? Mr. Fivas replied the $11-12 million did. The windows are in okay shape, but it appears the gas inside the windows has evaporated. Energy costs would decrease if you replaced the windows. Councilwoman McKenzie asked how would we pay for it? Where would the money come from? Would it cause a property tax increase? Do those figures include the purchase price of $759,610.35. Mr. Fivas stated it is the School Boards intention, at some point, do their due diligence and take over the renovation costs. If they got the building, they would bare all the renovation costs but he doesn't want to speak form them. Hal Taylor stated they looked at the building and concluded the bathrooms have to be brought up to ADA compliance, the backflow has to be redone, update the fire sprinklers, lighting, electrical, elevator, carpet, code changes and possible unforeseen costs. The chiller is almost new. The roof appears to be in good shape. In discussions with the architect and engineers, who had limits on what they could look at since the building is in a stored condition, so all the water has been drained from the cooling loop but what they could test, they did. They estimate $1.2 million to get the building up and operable, but not finishes. The finishes, like removing wallpaper and add new paint and carpet, you can take and use the offices the way it is, cosmetically. Gas is broken in the windows, but a new boiler system would be better money spent. There are things that could be done but these are just estimates. If we start redesigning and

tearing things out, that will take the price up drastically. We are talking about a building we can get into and use as offices and possibly adding into spaces that are not currently built out. It is a very usable building and for being stored for 10-years it has been taken care of, at lease when they saw it a year ago. Vice Mayor Johnson asked what was the cost of Candies Creek? Mr. Taylor replied $15 million for 100,000 square feet. It was $165 a square foot and currently it would be $300 a square foot. Vice Mayor Johnson stated we are trying to decide if we are going to spend a million dollars on space that will solve a lot of the administrative office problems. They need the space. Do we want to spend a million or $15 million? There is nothing more important than the education he received. He is willing to spend the money and we can do what needs to be done. We are a growing community, and we will need another school in a few years. Councilman Webb asked has it been looked at what this would do to the School Board budget going forward to maintain this building. Mr. Taylor stated the Denning Center and the AOB have no insulation. He doesn't see much of a difference as the systems in the two buildings are not like the rest of our facilities where we have geothermal and chillers that save a lot of money. These are just general heating, air, gas equipment and poor insulation. We do energy savings because we pay attention. You are not going to see that type of expense on this building. We don't expect a tremendous impact to our operating cost. Councilwoman McKenzie stated to Dr. Dyer their letter says they are willing and open to and doesn't say they are defiantly willing to do this, and that is what gives her pause. She would love to see the schools get it, if it can benefit them. Councilman Estes stated he might have a solution. He then asked Vice Mayor Johnson and colleague Cassada, if you'd withdraw your motion, I'd like to make this substitute motion. That we offer the price of $759,610.35, we pay the 2022 taxes, we pay all closing costs, we change Section 21 to March 1st, and we only offer this contract if the City School Board does two things. One, agrees at a called meeting or a regular meeting, votes to reimburse us full cost what that it costs us at closing. Two, pay us $18,000 a year in rent. That's city taxes on that property every year. That way, the building will be paid for, we only offer a contract to this LLC if the City School Board says they will reimburse us for it, and we continue to receive the annual revenue we're getting on it currently through taxes. Mayor Brooks stated Councilman Estes pause please, parliamentary, you are making a substitute motion… Councilman Estes stated well, I was just asking…. Mayor Brooks continued I need to hear from Vice Mayor Johnson and Councilman Cassada if they will withdraw their original motion. Vice Mayor Johnson stated yes, exactly what Dr. Estes said. Councilman Cassada stated yes, I am willing to do that. Mayor Brooks stated I will cross out the Johnson/Cassada motion and a substitute motion by Councilman Estes has been made. Ms. Brandon, I am looking your way to see if you were able to get all of that. Councilman Estes stated I am happy to repeat it. [inaudible comments between McKenzie and Estes] Councilwoman McKenzie said take the 2022 taxes out and it stays in the $759,610.35. Councilman Estes stated okay, we're in public here so tell me why, I'm happy to, but tell me why. Councilwoman McKenzie said I would like to amend Councilman Estes' motion that it not include, that we not pay in addition to the $759,610.35 the 2022 taxes, but that it be included in that price because originally it said that it would include the taxes. Councilman Estes stated so, we are not paying it, we're letting the School Board pay it. It is a total pass through. Councilwoman McKenzie stated okay. Councilman Estes continued we are not paying a lick of it. In fact, we're now with this motion, we are making $18,000 a year in perpetuity, forever and ever. Dr. Dyer stated I can't make an agreement for that but if you pass it, I will be glad to take that to the School Board for a vote. Mayor Brooks stated parliamentary, I have a substitute motion that has not been seconded. Councilman Cassada seconded the motion. Councilman Hughes stated well, Dr. Dyer we can't do anything today then because you're going to take it to the School Board to get approval and $18,000 may not be the price. Mayor Brooks stated Councilman Hughes, this motion included the phrase until March 1, approve this today contingent upon their action prior to March 1. Councilman Estes stated that is the intent of my motion. We offer that for the building only if City Schools meet in public at their regular scheduled meeting and vote to reimburse us at full cost and $18,000 a year. Mayor Brooks stated, and the contract agreement would expire March 1. Councilman May stated $18,000 a year they have it, the full building, they control the full building. Councilman Hughes stated $18,000 a year for 45,000 square feet. Councilman Estes said here's how I came up with that, let me explain how I came up with that Councilman Hughes. We can take it, and we could lease out the 45 but there weren't four votes for that. Councilman May stated nope, but I have a deal for your today. Councilman Estes continued if we are not willing to do it, they're not paying a lease

on Mayfield, they're going to pay a lease on this, at least we are not losing our taxes. We tried to get it where we could have it and Mr. Fivas said $1.2 will fit it out perfectly where we got 45,000 square feet to lease out will get it as good as any commercial real estate in the City. Councilman May stated but we are only leasing to the School Board. Councilman Estes stated we're not, well yes, we are, but no my point is if we're not getting into the commercial real estate business on Raider Drive, then let's let the School District get into it. We lose nothing at all. We lose zero. Councilman Hughes stated let them buy it. Councilman Estes stated they are buying it through us because the offer is to us. Councilman May stated in other words, they take care of all the renovations. Councilman Estes stated it's their call, we are setting it in their lap. Mayor Brooks stated we have a motion by Estes, seconded by Cassada. Councilman Hughes stated so we actually, we buy it, and they buy it from us. Councilman Estes stated they reimburse us for the cost. Mr. Kimball, I think you're right, no not you're right, but we have to own the actual property and the deed, the City does, correct. Mr. Kimball stated typically school properties are deeded City of Cleveland for the use and benefit of the Board of Education. Councilman Estes stated there you go, same thing. Mayor Brooks stated we have a motion by Estes, seconded by Cassada and a hardy discussion. Any other questions. Christy are you clear, glad one of us is. Mr. Clerk, please call the roll. Upon roll call, Councilman Estes, Councilman Cassada, Councilman May, Councilman Hughes, Councilman Webb, Vice Mayor Johnson, and Councilwoman McKenzie all voted aye. The motion carried 7-0.

REPORTS OF AND COUNCIL MEMBERS

Councilman Cassada asked if Hicks Road NE off Old Tasso Road would be paved this year. Mr. Myers response was inaudible. Cassada continued this is an industrial partner that has invested $70 million in the City of Cleveland and provides 140 jobs, 400 feet of pavement that has been siting 3-years that hasn't been paved. Can we get it on the schedule for this year. He then asked Mr. Fivas if he could get a commitment to pave it this year. Mr. Fivas response was inaudible. Cassada asked for an answer in two weeks.

Councilman Hughes stated the Mainstreet Cleveland meeting was excellent today. Mayor Brooks presented the progress of our City and Mr. Fivas answered questions. He then asked about the project by Mr. Sheehan on King Den Drive, has he presented the plans yet, as far as trees, etc. Mr. Jobe replied no, nothing has gone before the Planning Commission yet but it will have tree preservation requirements. Hughes then continued that HHM had their opening and have turned the building it into a gorgeous building. We are proud to have them. They will have 18 employees and the number will grow.

Councilman Webb inquired if the pothole was fixed near Duracell on Mouse Creek Road. Mr. Myers stated yes.

Vice Mayor Johnson inquired if the Brighton Boulevard lights had been upgraded. Mr. Fivas stated yes, according to Cleveland Utilities they had.

Councilwoman McKenzie announced all the tires from Exit 20 have been cleaned up and removed. It is now tire free.

Mayor Brooks thanked Mr. Myers for the quick action of his team to a home that was skipped on brush/debris day. Staff responded in an hour and showed great customer service for our citizens. He then thanked Sharon Marr for the Mainstreet meeting, which was the 3rd highest attendance in her 18-years. He also thanked city staff, Corey Divel and Mr. Fivas for the presentation.

Councilman Estes recognized Kim Lion who is present with her Journalism class from Lee University. Mrs. Lion thanked the Council for making it an exciting meeting.

Councilman Cassada stated in his opinion when it comes to brick and mortar, it's the City or County responsibility to pay for that and not take funds out of the schools. That is for kids' education, training programs, this would impact that. We've always done it. He wants to be clear to the public and the School Board that he does not support the Schools paying for bricks and mortar. It needs to come from the funding body, the City Council.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

RESOLUTION 2023-07

A RESOLUTION APPROVING A PAYMENT-IN-LIEU-OF TAXES (PILOT) SCHEDULE AND DELEGATING AUTHORITY TO ENTER INTO A PILOT AGREEMENT

WHEREAS, the Industrial Development Board of the County of Bradley and the City of Cleveland, Tennessee (the "Board") has recommended a Payment-In-Lieu-Of-Taxes ("PILOT") schedule for SK Food Group, Inc. (the "Company") which has acquired certain property within the City of Cleveland, Bradley County, Tennessee, the construction of real improvements thereon, and the acquisition and installation of certain machinery, equipment and other personal property for use as manufacturing, warehouse, distribution, and related facilities in the City of Cleveland and Bradley County, Tennessee with a capital investment of approximately $205,200,000.00 (the "Project") to be invested in three phases;

WHEREAS, the Project is anticipated to result in the creation of 371 new full-time positions in Phase 1, 342 new full-time jobs in Phase 2, and 132 new direct jobs in Phase 3 with an average annual weighted wage of approximately $44,000.00 for all employees and a benefit package including health insurance, performance based bonus programs, paid time off, 401K match, long-term and short-term disability insurance, and education assistance/scholarships.

WHEREAS, the Company has requested that all real and personal property acquired in connection with the Project (collectively, the "Property") qualify for an arrangement (the "PILOT Arrangement") whereby the Property shall be exempt from all ad valorem property taxes otherwise due thereon (collectively, "property taxes"), and in lieu of the property taxes, the Company shall be required to make annual payments in lieu of taxes equal to (i) 50% of the property taxes otherwise due on the portion of the Property constituting real property during the ten-year period for each phase starting in the first full year of occupancy and continuing through the year 2040; and (ii) the following payment schedule on the Property constituting personal property for a six year period for each phase starting in the first full year of occupancy and continuing through the year 2036:

Year 1 = 22.7273%
Year 2 = 26.6667%
Year 3 = 31.7460%
Year 4 = 40.0000%
Year 5 = 52.6316%
Year 6 = 80.0000%

with such percentage in a given year being the percentage applied to the property taxes otherwise due on the portion of the Property constituting personal property as depreciated, the intent of which is to tax the personal property in an amount equal to the personal property taxes otherwise due if the personal property is appraised at 20% of the acquisition value and taxed at the full tax rate for the portion of the Property constituting personal property;

WHEREAS, the Board has determined that, notwithstanding the PILOT Arrangement, the Project will result in the payment of in lieu of tax payments to the City of Cleveland, Tennessee in an estimated amount of $8,559,537.77 over the term of the PILOT arrangement; and

WHEREAS, the City of Cleveland, Tennessee (the "City") has determined that the proposed PILOT Arrangement is fair, reasonable, and necessary for the continued economic development of the City of Cleveland, Tennessee, and that the payments in lieu of taxes derived from the PILOT Arrangement would be in furtherance of the Board's purposes.

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

Section 1. The City hereby agrees to the PILOT Arrangement and hereby delegates the power and authority to the Board to negotiate a PILOT agreement with the Company to reflect the parties' respective rights and obligations in accordance with the PILOT Arrangement.

Section 2. The City hereby authorizes the Mayor to execute any and all documents necessary for the successful completion of the Project, including but not limited to, all documents related to the PILOT Arrangement.

Section 3. This Resolution shall become effective upon its adoption.

Adopted this 23rd day of January, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Resolution 2023-07 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

ORDINANCE 2023-01

AN ORDINANCE OF THE CITY OF CLEVELAND AMENDING THE CLEVELAND MUNICIPAL CODE TO REVISE THE INTERNATIONAL FIRE CODE, 2018 EDITION APPENDIX D

WHEREAS, on January 13, 2020, the City Council passed Ordinance Number 2019-49 on final reading, which ordinance adopted the International Fire Code, 2018 Edition, including appendix D to that fire code; and

WHEREAS, it is necessary for the City of Cleveland to regulate and govern the adopted fire code; and

WHEREAS, based on the recommendation of City staff, the City Council desires to amend only that portion of Appendix D of the 2018 International Fire Code as adopted by the City of Cleveland to increase the number of dwelling units in a One- or Two- Family Dwelling Development that require two separate and approved fire apparatus access roads.

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

Section 7-205 of the Cleveland Municipal Code titled “Amendments” is hereby amended to add the following new subsection to be numbered 7-205(6) which will amend Appendix D of the adopted 2018 International Fire Code.

Section 1.

7-205. Amendments:

7-205(6)

The International Fire Code, 2018 edition, Appendix D as previously adopted on January 13, 2020, is hereby revised as follows:

1. Section D107.1 Replace "30" with “200”

2. Section D107.1, Exception 1, Replace “30 dwelling units” with “200 dwelling units”

Section 2. This Ordinance shall become effective upon final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Vice Mayor Johnson moved that Ordinance 2023-01 be approved on first reading. The motion was seconded by Councilman Cassada. Councilman Estes asked Mr. Fivas and staff to look at this ordinance one more time. Mr. Fivas replied they will meet with him to discuss further. Upon roll call, unanimously passed.

Mr. Fivas stated he will delay the discussion and possible modifications to employee recruitment until the next meeting.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, February 13, 2023.

ADJOURNMENT

There being no future business the meeting was adjourned at 4:21 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
FEBRUARY 13, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, FEBRUARY 13, 2023 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; 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; Patti Pettit, Parks and Recreation Director; Kris Miller, IT Director; Kim Miller, Human Resource Director; Cindy Geren, Jodi Riggins, and Hal Taylor with Cleveland City Schools, Cathy Andrews, CDBG Coordinator; Sherry Brown; Doug Berry with the Chamber of Commerce; Jeremiah Million; Robert Cannatella; Dennis Duggins; Lynn Voelz, 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 23, 2023 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

There were no special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting was being held as a public hearing to hear public comments concerning a request by J. Paul Wagner, Ronald Locke, Patrick Chapman, Daniel Bowles, and Cynthia Dees for consideration of a plan of service for about 2.28 acres, more or less, for property located at Benjamin Circle and includes a portion of Tax Map 033 Parcel 008.00. Robert Varnell stated the residents bought the lots behind them to make their existing lots bigger. The Planning Commission approved the item 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting was being held as a public hearing to hear public comments concerning a request by J. Paul Wagner, Ronald Locke, Patrick Chapman, Daniel Bowles, and Cynthia Dees for consideration to annex about 2.28 acres, more or less, for property located at Benjamin Circle and includes a portion of Tax Map 033 Parcel 008.00. Robert Varnell stated he had no comments. The Planning Commission approved the item 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting was being held as a public hearing to hear public comments concerning a request by J. Paul Wagner, Ronald Locke, Patrick Chapman, Daniel Bowles, and Cynthia Dees for consideration to zone about 2.28 acres, more or less, from unincorporated county to R-1 Single Family Residential and includes a portion of Tax Map 033 Parcel 008.00. Robert Varnell stated he had no comments. The Planning Commission approved the item 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting was being held as a public hearing to hear public comments concerning approval of a Plan of Service for about 6.78 acres, more or less, for property located at Cove Lake Drive and includes Tax Map 033G Group A Parcels 034.00 and 034.01. Robert Varnell stated this is in an existing subdivision which was left out in the original annexation several years ago. The plan is to construct a home on the site. The zoning will be R1, which matches the subdivision. The Planning Commission approved the item 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting was being held as a public hearing to hear public comments concerning a request by Marilyn Workman and Jonna Davis to annex about 6.78 acres, more or less, for property located at Cove Lake Drive and includes Tax Map 033G Group A Parcels 034.00 and 034.01. Robert Varnell stated he had no comments. The Planning Commission approved the item 7-0 with 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting was being held as a public hearing to hear public comments concerning a request by Marilyn Workman and Jonna Davis to rezone about 6.78 acres, more or less, from unincorporated county to R-1 Single Family Residential and includes Tax Map 033G Group A Parcels 034.00 and 034.01. Robert Varnell stated he had no comments. The Planning Commission approved the item 7-0 with 2 members 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 to the rezoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting was being held as a public hearing to hear public comments concerning a request by Joel Simpkins for consideration of an ordinance to zone about .46 acres, more or less, for property located at 10th Street NW from R1 Single Family Residential to R3 Multi Family Residential and includes Tax Map 049F Group M Parcel 002.02. Robert Varnell stated R3 surrounds the area with similar uses. The applicant will plant buffers for the remaining R1 parcels. The Planning Commission approved the item 7-0 with 2 members being 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 to the zoning request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated today's meeting was being held as a public hearing to hear public comments concerning a request by City of Cleveland for consideration of an ordinance to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 2.10.1 Uses allowed, and 2.11.1 Uses allowed to remove mini-warehouse facilities and include them in section 2.10.2 Conditional Uses, and 2.11.2 Conditional Uses. Robert Varnell stated this is removing the climate-controlled storage/mini-warehouses from uses allowed by right and adds standards on architectural detail based on the surrounding commercial neighborhoods to ensure any impact is reviewed through the process. This adds a level of staff review. The Planning Commission approved the item 7-0 with 2 members 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 to the amendment. 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, unanimously passed.

- **Final Passage - Ordinance 2023-01** – heretofore passed on first reading January 23, 2023 and found in Minute Book 31, Page 20; amending the Municipal Code Title 7, Chapter 2, Section 7-204 to revise the International Fire Code, 2018 Edition Appendix D.
- **Resolution 2023-08** – Supporting the principles of the 303 Project and the James Dustin Samples Act.

RESOLUTION 2023-08

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 13th Day of February, 2023 as follows:

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

Passed and adopted this 13th day of February, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2023-09** – Authorizing the Mayor to sign a Professional Services Agreement with Kimley Horn for consulting services for Jim Sharp Park.

RESOLUTION 2023-09

WHEREAS, the City's parks and recreation department has received the attached agreement from Kimley-Horn and Associates, Inc. for professional services relating to the construction of Jim Sharp Park on Candies Lane; and

WHEREAS, City staff are requesting that the City Council approve of the attached agreement between the City and Kimley-Horn and Associates, Inc. for this project; and

WHEREAS, the City Council now desires to approve of the attached agreement with Kimley-Horn and Associates, 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 agreement with Kimley-Horn and Associates, Inc. for this project, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 13th day of February 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2023-10** – Authorizing the Mayor to sign a contract extension with NexTraq for equipment/vehicle tracking services.

RESOLUTION 2023-10

WHEREAS, the City's Fleet Maintenance Program utilizes a vehicle/equipment tracking service under an agreement with NexTraq; and

WHEREAS, the City's Fleet Management staff received the attached agreement from NexTraq which extends the City's existing agreement with NexTraq; and

WHEREAS, the City's Fleet Management staff are recommending that the City enter into this agreement with NexTraq; and

WHEREAS, the City Council desires to approve of this agreement with NexTraq, 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 NexTraq, and the City Council further authorizes the Mayor to execute this agreement with NexTraq on behalf of the City.

This 13th day of February 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Bid Summary** – HVAC Service/Maintenance.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **February 13, 2023**
RE: **Bid Summary – HVAC Service/Maintenance**

SUMMARY:
The City advertised to accept sealed bids on February 2, 2023, for HVAC service and maintenance for City facilities. Bids are listed below:

- Hoffman Mechanical Solutions **$36,736.25**
- Icon Air & Mechanical **$43,131.00**
- Interstate Mechanical **$62,941.00**
- Jake Marshall Service **$48,550.00**
- Lee Company **$45,946.00**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff recommends award to low bidder, Hoffman Mechanical Solutions.

- **Bid Summary** – Fire Station #1 Roofing Project.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **February 13, 2023**
RE: **Bid Summary – Fire Station #1 Roofing Project**

SUMMARY:
The City advertised to accept sealed bids on February 3, 2023, for re-roofing fire station #1. Bids are listed below:

- Eskola, LLC **$217,950.00**
- Tennessee Roofing and Construction, Inc. **$151,070.00**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff recommends award to low bidder, Tennessee Roofing and Construction, Inc.

- **Surplus Property** – Declaring various items from several city departments as surplus property, to be used for Fire Department training or sold on GovDeals.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **February 13, 2023**
RE: **Surplus Property**

SUMMARY:
The following City departments have requested the City Council declare the assets listed below as surplus property to be used for Fire Department training or sold on GovDeals:

Landscaping

- 2015 Dvorak Spider Serial # 1LD0205071EX-00343
- Woodmax Flail Model FM-78H Serial # 30988
- 1995 Chevrolet C3500 VIN 1GBJC34K1SE242766
- 1999 Chevrolet K1500 VIN 1GCEK14V1XE151308
- 2002 John Deere 370 Flail Mower Serial # P00370X002566
- 2002 Chevrolet Trailblazer VIN 1GNDT13S522302149

Public Works

- (2) Snow Plows
- 1999 Tarrant TTL4 Serial # L-22-14-A-6070-L02-11/99
- 1994 Tarrant TTL4 Serial # L-22-2-A-3406F-L00B-1194

Police Department

- 2012 Dodge Charger VIN 2C3CDXAGXCH305077
- 2006 Chevrolet Tahoe VIN 1GNEC13Z96R143876

Fleet Management

- 1976 Clark C500 Forklift VIN Y685-344-3410

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

- **Street Light Recommendation** – 804 Martin Drive NW (Cleveland Utilities does not recommend additional lighting be installed, as it meets city guidelines, and the nearest pole is outside of the municipal boundary. The existing HPS fixture can be upgraded to an LED equivalent for $146.70 if desired by Council.
- **Motion** – Approving the 775 Raider Drive Purchase Agreement.

UNFINISHED BUSINESS

Councilman Estes moved to fully fund the pilot study/phase 1, from Church of God Headquarters to Greenway Park for the Greenway security camera project as presented by IT Director Kris Miller (Cost estimates $75,000 for cameras and $22,000 for Cleveland Utilities). The motion was seconded by Councilman May; upon roll call, the motion unanimously passed.

REPORTS OF AND COUNCIL MEMBERS

Councilman Hughes congratulated the Cleveland High School Boys and Girls Wrestling teams for winning against Bradley 265/263. The girls team won the first State Championship for females from the area. He then asked they attend a Council meeting to be recognized in approximately four weeks, after the individuals in two weeks.

Vice Mayor Johnson asked for an update on Martin Drive streetlight. Mr. Fivas stated yes, Cleveland Utilities will be upgrading the lighting in the area soon.

Councilman Estes thanked Mr. Fivas for the work on the land banks. Also, thanks to Mr. Myers on the quick work filling the potholes. He then asked if we were up to date on the crypto mining, regarding changing the ordinances. Mr. Varnell stated yes, they are conditional uses in Heavy Industrial zoning. He then reminded everyone of the 65Roses next month, and this will be the year the Police Department wins the Community Shield.

Mayor Brooks also thanked Mr. Myers for quick action getting the pothole filled on Chambliss.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution 2023-11** – A request by J. Paul Wagner, Ronald Locke, Patrick Chapman, Daniel Bowles, and Cynthia Dees for consideration of a plan of service for about 2.28 acres, more or less, for property located at Benjamin Circle and includes a portion of Tax Map 033 Parcel 008.00 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-11

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

PROPERTY SOUTH OF BENJAMIN CREST (Portion of 033 008.00)

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 February 13, 2023, 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 lot 10 of Benjamin Crest Subdivision, as recorded in BCROD plat book 11 page 9, said point being a corner of the existing city limits; thence leaving the existing city limits south 23 degrees 20 minutes 50 seconds west, 251.10 feet to an iron pin; thence north 66 degrees 39 minutes 10 seconds west, 397.49 feet to an iron pin; thence north 22 degrees 46 minutes 0 seconds east, 247.29 feet to a point, said point being the southwest corner of lot 13 of Benjamin Crest Subdivision and a point in the existing city limits; thence with the existing city limits south 67 degree 14 minutes 0 seconds east, 400 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

JANUARY 17, 2023
BENJAMIN CREST-REX WAGNER
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 2.28 acres located south of Benjamin Circle 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 2023.

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.

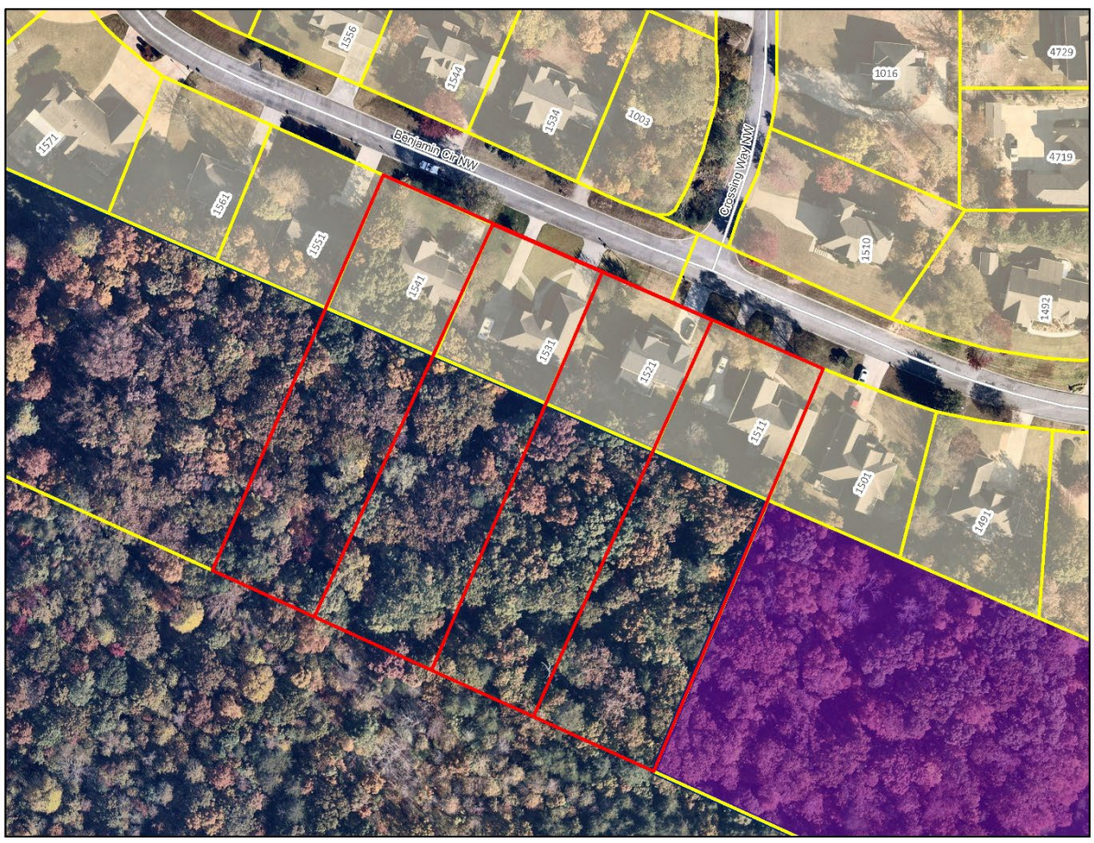
Introduction

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 one portion of a parcel, approximately 2.28 acres. The annexation would zone the property as R-1 Single Family Residential and Lots 10-14 will each absorb approximately .57 acres of the annexation as shown on a provided plat. The property is described as Tax Map 033 Parcel 008.00.

Benjamin Crest Annexation Map



Legal Description

Beginning at the southeast corner of lot 10 of Benjamin Crest Subdivision, as recorded in BCROD plat book 11 page 9, said point being a corner of the existing city limits; thence leaving the existing city limits south 23 degrees 20 minutes 50 seconds west, 251.10 feet to an iron pin; thence north 66 degrees 39 minutes 10 seconds west, 397.49 feet to an iron pin; thence north 22 degrees 46 minutes 0 seconds east, 247.29 feet to a point, said point being the southwest corner of lot 13 of Benjamin Crest Subdivision and a point in the existing city limits; thence with the existing city limits south 67 degree 14 minutes 0 seconds east, 400 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 could service this area immediately with our existing Station 2 without any impact to the budget.

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

A. Domestic Water---The annexed area will be absorbed by 4 lots in Benjamin Crest Subdivision. Domestic water service is presently available to this parcel via a 6" water main along Benjamin Circle. See Figure 1—Existing Water and Sewer Locations.

B. Sanitary Sewer--- The annexed area will be absorbed by 4 lots in Benjamin Crest subdivision. Sewer service is presently available to the parcel via an 8-inch gravity sewer main along Benjamin Circle. See Figure 1—Existing Water and Sewer Locations.

C. Fire Protection--- Benjamin Circle currently has fire protection

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Near Benjamin Circle (033 008.00)	$0	$0	$0	$0

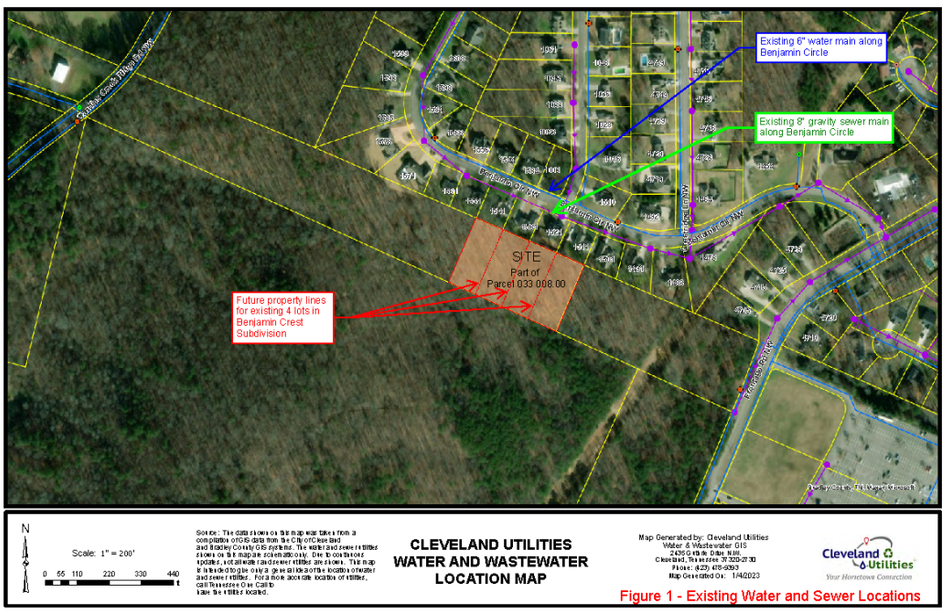


Figure 1 - Existing Water and Sewer Locations

4. Electric Service

The electric division has power to the property and can serve customers as needed.

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

This annexation will have no impact on the City School System.

7. Planning and Zoning

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

B. This property is currently zoned FAR Forestry/Agricultural/Residential 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

Total revenue generated per lot as a result of this annexation would be approximately **$176.50**

Total revenue generated by this annexation is **$706.00**

Councilman Estes moved that Resolution 2023-11 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 2023-12** - A request by J. Paul Wagner, Ronald Locke, Patrick Chapman, Daniel Bowles, and Cynthia Dees for consideration of a resolution to annex about 2.28 acres, more or less, for property located at Benjamin Circle and includes a portion of Tax Map 033 Parcel 008.00 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-12

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

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 lot 10 of Benjamin Crest Subdivision, as recorded in BCROD plat book 11 page 9, said point being a corner of the existing city limits; thence leaving the existing city limits south 23 degrees 20 minutes 50 seconds west, 251.10 feet to an iron pin; thence north 66 degrees 39 minutes 10 seconds west, 397.49 feet to an iron pin; thence north 22 degrees 46 minutes 0 seconds east, 247.29 feet to a point, said point being the southwest corner of lot 13 of Benjamin Crest Subdivision and a point in the existing city limits; thence with the existing city limits south 67 degree 14 minutes 0 seconds east, 400 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 Hughes moved that Resolution 2023-12 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 2023-02** - A request by J. Paul Wagner, Ronald Locke, Patrick Chapman, Daniel Bowles, and Cynthia Dees for consideration of an ordinance to zone about 2.28 acres, more or less, from unincorporated county to R-1 Single Family Residential and includes a portion of Tax Map 033 Parcel 008.00 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-02

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 County FAR Agriculture District to R-1 Single Family Residential Zoning District.

Approximately 2.28 acres, more or less, located south of Benjamin Circle as shown on the attached map.

For reference, same property is being shown on a portion of Tax Map 033 Parcel 008.00, 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.

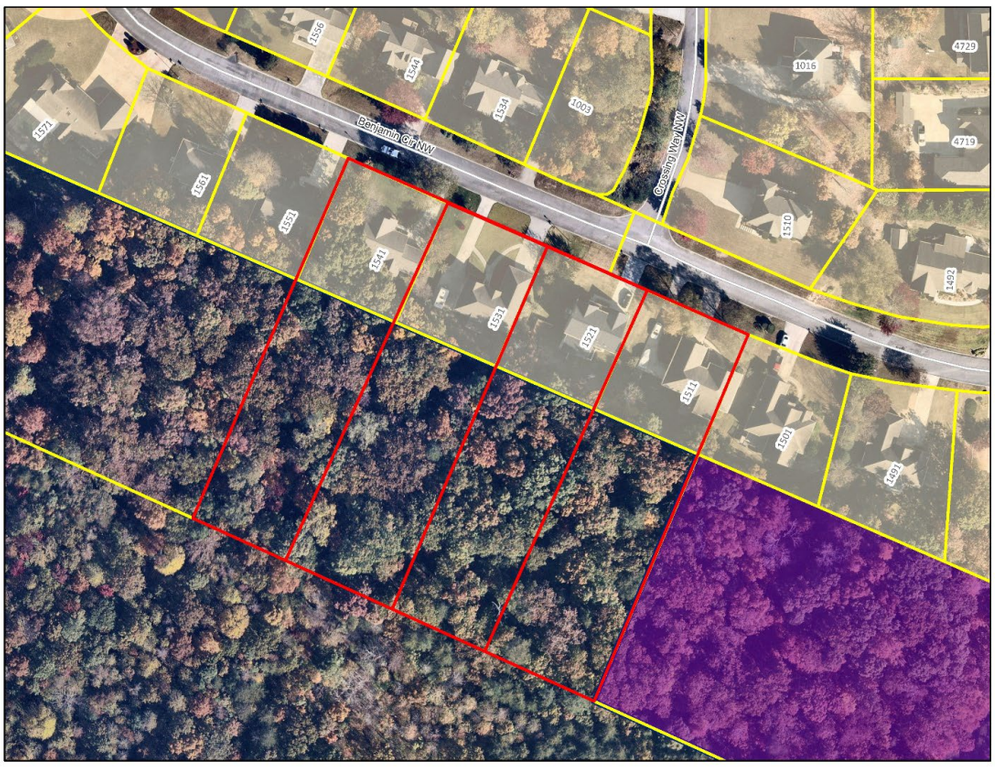
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Vice Mayor Johnson moved that Zoning Ordinance 2023-02 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 2023-13** – Approving a Plan of Service for about 6.78 acres, more or less, for property located at Cove Lake Drive and includes Tax Map 033G Group A Parcels 034.00 and 034.01 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-13

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

COVE LAKE DRIVE (033G A 034.01)

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 February 13, 2023, at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning at an iron pin located at the southwest corner of the lands of Marilyn Workman, as recorded in BCRD deed book 386 page 900; thence north 21 degrees 57 minutes 32 seconds east, 537.24 feet to an iron pin located at the northwest corner of the lands of Workman; thence south 69 degrees 18 minutes 35 seconds east, 169.28 feet to an iron pin; thence south 70 degrees 48 minutes 47 seconds east, 216.00 feet to an iron pin; thence north 22 degrees 20 minutes 10 seconds east, 29.77 feet to an iron pin; thence south 78 degrees 36 minutes 00 seconds east, 1212.24 feet to an iron pin, said point being the northeast corner of the lands of Workman, said point also being a corner in the lands of Jonna and Clinton Davis, as recorded in BCROD deed book 2947 page 84; thence with the lands of Davis south 78 degrees 36 minutes 00 seconds east, 87.39 feet to an iron pin; thence north 25 degrees 16 minutes 00 seconds east, 85.60 feet to an iron pin; thence south 73 degree 57 minutes 00 seconds east, 32.4 feet, more or less, to a point where the existing City Limits crosses the lands of Davis; thence with the existing City Limits in a southwesterly direction 690.6 feet, more or less, to a point where the existing City Limits intersects a southern line of the lands of Davis; thence leaving the existing City Limits and with the southern line of the lands of Davis in a westerly direction 4 feet, more or less, to an iron pin located at the southeast corner of the lands of Workman; thence north 72 degrees 29 minutes 41 seconds west, 170.17 feet to an iron pin; thence north 72 degrees 29 minutes 41 seconds west, 287.60 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

JANUARY 17, 2023
COVE LAKE DRIVE-MARILYN WORKMAN
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 6.78 acres located on Cove Lake Drive, 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 2023.

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 includes “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. The annexation would zone the property as R-1 Single Family Residential. The property is described as Tax Map 033G Group A Parcel 034.01.

Cove Lake Drive Map



Legal Description

Beginning at an iron pin located at the southwest corner of the lands of Marilyn Workman, as recorded in BCRD deed book 386 page 900; thence north 21 degrees 57 minutes 32 seconds east, 537.24 feet to an iron pin located at the northwest corner of the lands of Workman; thence south 69 degrees 18 minutes 35 seconds east, 169.28 feet to an iron pin; thence south 70 degrees 48 minutes 47 seconds east, 216.00 feet to an iron pin; thence north 22 degrees 20 minutes 10 seconds east, 29.77 feet to an iron pin; thence south 78 degrees 36 minutes 00 seconds east, 1212.24 feet to an iron pin, said point being the northeast corner of the lands of Workman, said point also being a corner in the lands of Jonna and Clinton Davis, as recorded in BCROD deed book 2947 page 84; thence with the lands of Davis south 78 degrees 36 minutes 00 seconds east, 87.39 feet to an iron pin; thence north 25 degrees 16 minutes 00 seconds east, 85.60 feet to an iron pin; thence south 73 degree 57 minutes 00 seconds east, 32.4 feet, more or less, to a point where the existing City Limits crosses the lands of Davis; thence with the existing City Limits in a southwesterly direction 690.6 feet, more or less, to a point where the existing City Limits intersects a southern line of the lands of Davis; thence leaving the existing City Limits and with the southern line of the lands of Davis in a westerly direction 4 feet, more or less, to an iron pin located at the southeast corner of the lands of Workman; thence north 72 degrees 29 minutes 41 seconds west, 170.17 feet to an iron pin; thence north 72 degrees 29 minutes 41 seconds west, 287.60 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 could service this area immediately with our existing Station 5 without any impact to the budget.

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

A. Domestic Water---A 2-inch water main is existing along Cove Lake Road. See Figure 1—Existing Water and Sewer Locations.

B. Sanitary Sewer--- An 8-inch gravity sewer main is existing along Cove Lake Drive. Figure 1—Existing Water and Sewer Locations

C. Fire Protection--- There is an existing fire hydrant along Cove Lake Drive.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Cove Lake Drive (033G A 034.01)	$0	$0	$0	$0

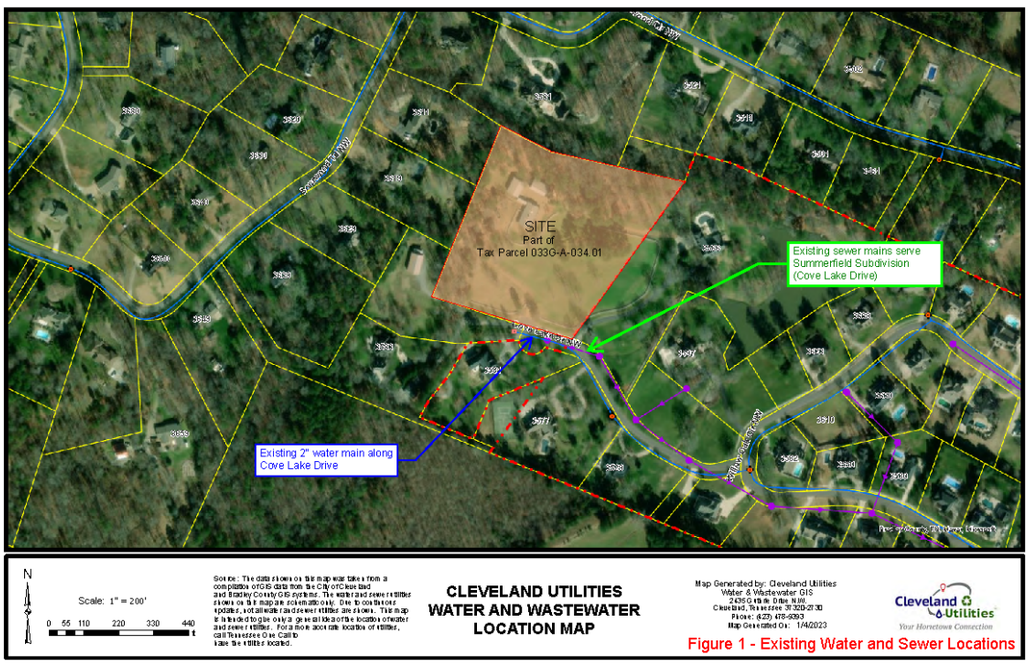


Figure 1 - Existing Water and Sewer Locations

4. Electric Service

The electric division has power to the property and can serve customers as needed.

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

This will cause no impact to the City School System.

7. Planning and Zoning

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

B. This property is currently zoned FAR Forestry/Agricultural/Residential 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 would result in approximately **$2,650.50** in property tax revenue.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2023-13 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 2023-14** - A request by Marilyn Workman and Jonna Davis to annex about 6.78 acres, more or less, for property located at Cove Lake Drive and includes Tax Map 033G Group A Parcels 034.00 and 034.01 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-14

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

COVE LAKE DRIVE 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 February 13, 2023.

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

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

Beginning at an iron pin located at the southwest corner of the lands of Marilyn Workman, as recorded in BCRD deed book 386 page 900; thence north 21 degrees 57 minutes 32 seconds east, 537.24 feet to an iron pin located at the northwest corner of the lands of Workman; thence south 69 degrees 18 minutes 35 seconds east, 169.28 feet to an iron pin; thence south 70 degrees 48 minutes 47 seconds east, 216.00 feet to an iron pin; thence north 22 degrees 20 minutes 10 seconds east, 29.77 feet to an iron pin; thence south 78 degrees 36 minutes 00 seconds east, 1212.24 feet to an iron pin, said point being the northeast corner of the lands of Workman, said point also being a corner in the lands of Jonna and Clinton Davis, as recorded in BCROD deed book 2947 page 84; thence with the lands of Davis south 78 degrees 36 minutes 00 seconds east, 87.39 feet to an iron pin; thence north 25 degrees 16 minutes 00 seconds east, 85.60 feet to an iron pin; thence south 73 degree 57 minutes 00 seconds east, 32.4 feet, more or less, to a point where the existing City Limits crosses the lands of Davis; thence with the existing City Limits in a southwesterly direction 690.6 feet, more or less, to a point where the existing City Limits intersects a southern line of the lands of Davis; thence leaving the existing City Limits and with the southern line of the lands of Davis in a westerly direction 4 feet, more or less, to an iron pin located at the southeast corner of the lands of Workman; thence north 72 degrees 29 minutes 41 seconds west, 170.17 feet to an iron pin; thence north 72 degrees 29 minutes 41 seconds west, 287.60 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 Webb moved that Resolution 2023-14 be accepted as presented. 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 2023-03** - A request by Marilyn Workman and Jonna Davis to rezone about 6.78 acres, more or less, from unincorporated county to R-1 Single Family Residential and includes Tax Map 033G Group A Parcels 034.00 and 034.01 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-03

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 County FAR Agriculture to R-1 Single Family Residential Zoning District.

Approximately 6.78 acres, more or less, located at Cove Lake Drive as shown on the attached map.

For reference, same property is being shown on Tax Map 033G Group A Parcel 034.01 and portion of 034.00, 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 2023-03 be approved on first reading. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2023-04** - A request by Joel Simpkins for consideration of an ordinance to zone about .46 acres, more or less, for property located at 10th Street NW from R1 Single Family Residential to R3 Multi Family Residential and includes Tax Map 049F Group M Parcel 002.02 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-04

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 R-1 Single Family Residential Zoning District to R-3 Multi-Family Residential Zoning District.

Approximately .45 acres, more or less, located 10th NW as shown on the attached map.

For reference, same property is being shown on Tax Map 049F Group M Parcel 002.02, 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.

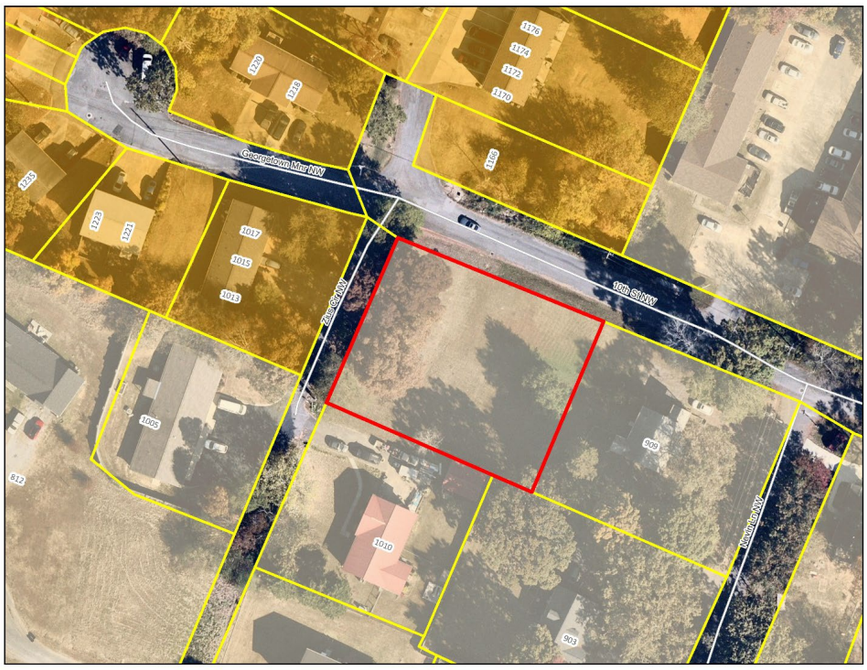
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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 2023-04 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 2023-05** – Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 2.10.1 Uses allowed, and 2.11.1 Uses allowed to remove mini-warehouse facilities and include them in section 2.10.2 Conditional Uses, and 2.11.2 Conditional Uses (Planning Commission: Approved 7-0; 2 absent).

ORDINANCE 2023-05

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 14 CHAPTER 2, ZONING REGULATIONS, BE AMENDED BY REVISING SECTIONS 2.10.1 L AND 2.11.1 L SO AS TO AMEND THE PERMITTED USES WITHIN THE CG GENERAL COMMERCIAL AND 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 permitted uses within the CG General Commercial and CH Highway Commercial Zoning Districts; and

WHEREAS, the current uses permitted within the CG General Commercial Section L and CH Highway Commercial section L referenced within the zoning ordinance is no longer in effect; and

WHEREAS the City Council has determined that the existing ordinance should be revised to clarify that the Mini-warehouse facilities uses currently permitted within CG General Commercial and CH Highway Commercial Zoning Districts shall be Conditional Uses; and

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

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 2.10.1 L be deleted and 2.10.2 D be amended as follows:

D. Mini-warehouse facilities provided that storage units are accessed internally from within the building and that the facilities meet the following criteria:

1. Any façade facing the public right-of-way must be composed of a minimum 50% brick or stone or other city approved masonry material and meet or exceed the commercial development elements of the surrounding properties. No metal shall be used on the front or side elevation, or any portion of the structure visible from the public Right-of-way.

2. Must not create any significant adverse effect on surrounding parcels or neighborhoods. Must show the proposed use would be compatible with existing or proposed development in the area.

3. Must show that the site an intensity of the use is appropriate on a given site.

4. For "Warehousing," "Storage Yard," and other storage uses not intended for individual access by the public, please review the Light Industrial Zoning District. For businesses proposed to engage primarily in the outdoor storage of vehicles and/or equipment, please review the Light Industrial Zoning District.

Section 2. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 2.11.1 L be deleted and 2.11.2 C be amended as follows:

C. Mini-warehouse facilities provided that storage units are accessed internally from within the building and that the facilities meet the following criteria:

1. Any façade facing the public right-of-way must be composed of a minimum 50% brick or stone or similar and meet or exceed the commercial development elements of the surrounding properties. No metal shall be used on the front or side elevations, or any portion of the structure visible from the public Right-of-way.

2. Must not create any significant adverse effect on surrounding parcels or neighborhoods. Must show the proposed use would be compatible with existing or proposed development in the area.

3. Must show that the site an intensity of the use is appropriate on a given site.

4. For "Warehousing," "Storage Yard," and other storage uses not intended for individual access by the public, please review the Light Industrial Zoning District. For businesses proposed to engage primarily in the outdoor storage of vehicles and/or equipment, please review the Light Industrial Zoning District.

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

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

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Webb moved that Ordinance 2023-05 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 2023-15** – Amending the Personnel Policies, Section VIII, Miscellaneous Policies.

RESOLUTION 2023-15

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

THAT WHEREAS, the City Council of the City of Cleveland has previously established and adopted by Resolution on April 8, 2019 a revised Personnel Rules and Regulations document entitled "The City of Cleveland Personnel Rules and Regulations"; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee in Regular Session assembled this 13th day of February, 2023 that the document titled "The City of Cleveland Personnel Rules and Regulations" is hereby amended as follows:

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

SECTION VIII - MISCELLANEOUS POLICIES

A. SOLICITATION

The City believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore, solicitation shall be limited to as few visits as necessary during the course of the year.

B. TECHNOLOGY POLICY (Computers, Internet, Email, Cell Phone)

Technology is a critical mechanism for business communications at the City of Cleveland. However, use of City of Cleveland's technology and services (computers, internet, email, cell phone) as well as the use of personal technology while at work or during work hours, are a privilege, not a right, and therefore must be used with respect and in accordance with the goals of the City of Cleveland.

The objectives of this policy are to outline appropriate and inappropriate use of the City of Cleveland's technology and services, as well as the use of personal technology while at work or during work hours, in order to minimize disruptions to services and activities, as well as comply with applicable policies and laws.

Scope

This policy applies to all technology including, but not limited to, computers, internet, email and cell phones owned by the City of Cleveland. Also, this policy applies to all personal technology, including, but not limited to, computers, internet, email and cell phones used by employees while at work or during working hours.

Acceptable Uses of Technology

Employees accessing City-owned technology or personal technology while at work or during working hours, are representing the City of Cleveland. All technologies and communications should be primarily for professional reasons. Employees are responsible for assuring that the City-owned technology is used in an effective, ethical, and lawful manner.

Unacceptable Uses of Technology

The use of technology should not interfere with productivity. Users will not violate the policies of any network accessed through technology. Technology use at the City of Cleveland will comply with all federal and state laws, all City of Cleveland policies, and all City of Cleveland contracts. This includes, but is not limited to, the following:

1. City-owned technology may not be used for illegal or unlawful purposes, including, but not limited to, copyright infringement, obscenity, libel, slander, fraud, defamation, plagiarism, harassment, intimidation, forgery, impersonation, illegal gambling, soliciting for illegal pyramid schemes, office pools, and computer tampering (e.g. spreading computer viruses).

2. City-owned technology may not be used in any way that violates City of Cleveland's policies, rules, or administrative orders. Use of City-owned technology in a manner that is not consistent with the mission of the City of Cleveland, misrepresents the City of Cleveland, or violates any City of Cleveland policy is prohibited.

3. City-owned technology may not be used to download or view any content that is obscene or pornographic in nature. This includes pictures, video files, and streaming video.

4. Brief and occasional personal use of technology while at work or during work hours is permissible as long as it is not excessive or inappropriate and does not violate any of the prohibitions listed in this policy.

5. City-owned technology should not be used for personal gain or advancement of individual views. Solicitation of non-company business, or any use of any City-owned technology for personal gain, is strictly prohibited.

6. Employees may not copy, alter, or destroy data, software, documentation, or data communications belonging to the City of Cleveland without authorized permission from the IT Director.

7. Employees may not download information, material, or music from the internet that is in violation of copyright laws.

8. Actions and/or activities that may damage or otherwise disrupt the City network, servers, workstations, or peripherals are not allowed.

Security

For security purposes, users may not share account or password information with another person except City IT personnel. Internet accounts are to be used only by the assigned user of the account for authorized purposes. Attempting to obtain another user's account password is strictly prohibited. Users are required to obtain a new password if they have reason to believe that any unauthorized person has learned their password. Users are required to take all necessary precautions to prevent unauthorized access to all City-owned technology.

Monitoring and Filtering

The City of Cleveland may monitor any technology-based communication or activity occurring on City-owned equipment. Even though employees may have their own passwords for accessing e-mail, the Internet, and computers issued to them, company computers and the information that is received or transmitted through them is the property of the City of Cleveland. The City of Cleveland reserves the right to monitor the use of City-owned technology by employees and employees should have no expectation of privacy with regard to any information contained on technology to which they have access. If the City of Cleveland discovers activities which do not comply with applicable law or departmental policy, the records retrieved may be used to document the wrongful content.

Any correspondence of the employee in the form of electronic mail may be a public record under the Public Records Law and may be subject to public inspection.

Failure to Comply

Violations of this policy will be treated like other allegations of misconduct at the City of Cleveland. Allegations of misconduct will be handled according to established procedures. Discipline for inappropriate use of technology may include, but are not limited to, one or more of the following:

1. Temporary or permanent revocation of access to some or all computing and networking resources and facilities;

2. Disciplinary action according to applicable City of Cleveland policies;

3. Legal action according to applicable laws and contractual agreements.

C. SOCIAL MEDIA POLICY

The City of Cleveland recognizes the importance social media has in improving communication and interaction with the public while reaching new and broader audiences from traditional media sources. The City supports an appropriate use of social media outlets to create, share, and exchange information and ideas with the public to promote the goals of the City and expand traditional communication methods.

Purpose

The purpose of this policy is to provide guidelines for social media uses for the City of Cleveland. The City's use of social media is intended to convey information about the City and its events, activities, projects, programs and information to the public for dissemination.

For purposes of this policy, social media is content created by individuals using accessible and scalable technologies through the internet. Examples of social media include but are not limited to: Facebook, blogs, RSS, YouTube, Snap Chat, Twitter, LinkedIn, discussion forums, and online collaborative information and publishing systems that are accessible to internal and external audiences (i.e. wikis, including Wikipedia).

This policy also ensures that the City's social media outlets maintain the professional image of the City of Cleveland and meet legal standards.

Scope

This policy applies to City of Cleveland employees. Employees who violate the terms of this policy are subject to discipline up to and including termination.

This policy does not apply to an individual employee or official's personal use of social media. Please refer to the City's Technology's Policy contained in the City's Personnel Rules and Regulations on Acceptable Uses of Technology i.e. Facebook, Twitter, Instagram.

Administration of Social Sites

The Assistant to the City Manager/Communications Coordinator or City Manager's designee must be able to immediately add, edit or remove content from all City sanctioned social media sites/accounts, including but not limited to access in a crisis situation. The Assistant to the City Manager/Communications Coordinator or City Manager's designee will:

1. Maintain a list of social media tools that are approved for use for City business.

2. Maintain a registry of all City social media accounts, including log-in and password information.

3. Monitor content on City social media sites to ensure compliance with the City's Social Media Policy and the interests and goals of the City.

4. Create style and usage standards for specific social media tools as appropriate.

5. Work directly with departments to coordinate social media strategies and tactics, including digital communications for specific events and programs.

6. Set standards for measuring effectiveness of social media, working with departments to establish reporting techniques and success metrics.

7. Accounts inactive for 30 days will be subject to deactivation.

Departments Heads may designate an employee(s), or any person acting on behalf of the department, as persons authorized to establish, monitor, and publish information to social media sites.

Employee Responsibilities

Any Employee authorized to post items on any of the City's social media sites shall review, be familiar with, and comply with the City's Social Media Policy, the social media sites' use policies and terms and conditions and any related guidelines issues by the Assistant to the City Manager/Communications Coordinator or City Manager's designee. By posting on the City's sites, an employee may be granting to the City an irrevocable, perpetual, non-exclusive license to use and distribute content for any purpose, commercial, advertising, or otherwise.

Any employee authorized to post items on any of the City's social media sites shall sign a document stating they have read and understand policy guidelines. Postings on any of the City's social media sites shall be by an authorized City employee designated by the Department Head and approved by the City Manager and shall only reflect the views or concerns of the City.

General

At this time, social media use will be routed through the Assistant to the City Manager/Communications Coordinator or City Manager's designee to maintain consistency and accuracy of content across departments and city wide. All new social media sites or administrative changes to existing sites shall be managed by the Assistant to the City Manager/Communications Coordinator or City Manager's designee and approved by the City Manager.

1. The City will utilize social media to engage, build relationships with, and provide useful information to the City's residents, partners and stakeholders. To build awareness of the City's mission through providing relevant and timely information and opportunities for interaction.

2. Our goals in using social media include:

   a. Expanding visibility and outreach;

   b. Increasing credibility with the public by posting credible, relevant information and transparency;

   c. Creating a media presence that positively promotes the City and or its departments and programs;

   d. Increasing engagement with residents/visitors/businesses/stakeholders/members;

   e. Disseminating time-sensitive information efficiently and quickly.

3. The City's website (www.clevelandtn.gov) is the City's predominate internet presence.

   a. Where appropriate, content posted to City social media sites will also be available on the City's official website.

   b. Where appropriate, content posted to City social media sites should contain links directing users back to the City's official website for further information and services.

4. All official social media presences are to be listed on the City of Cleveland website to assist the public in identifying official social media presences.

5. Accounts and pages should, where possible, feature the official City of Cleveland name and logo. The City's social media platforms are also encouraged to use the official City of Cleveland Graphic Identity Standards for color, logo, seal, type font, marks, etc.

6. All City social media sites shall comply with usage rules and regulations provided by the site provider, including privacy policies as well as local, state and federal laws.

7. The City reserves the right to terminate any City social media site at any time without notice.

Creating Social Media Accounts

Staff must obtain their Department Head's and Assistant to the City Manager/Communications Coordinator or City Manager's designee approval prior to creating a social media site or account before an official request to the City Manager is made.

Before creating a social media site or account, the Department Head will consider whether social media is appropriate and/or useful to the Department.

All City social media sites shall utilize official City contact information for account set-up, monitoring, and access. The use of personal email accounts or phone numbers by any City employee is not allowed for setting up, monitoring or updating a City social media site.

All City social media sites directly or indirectly representing that they are an official site or statement of the City must be created pursuant to this policy and be approved by the City Manager or a designee appointed in writing by the City Manager.

Content Guidelines for Third Parties

The content of the City of Cleveland social media sites shall pertain to City sponsored or City endorsed programs, services and events or other content as approved by the City Manager or designee. Content includes but not limited to information, photographs, videos and hyperlinks.

The City reserves the right to restrict or remove any content that is deemed to be inappropriate or inconsistent with this policy. Content prohibited on the City's social media includes, but is not limited to, the items listed below:

1. Personal information or attacks of any kind;

2. Language that is profane, obscene, threating, or harassing;

3. Obscene images;

4. Content that promotes, fosters, disparages, or perpetuates discrimination on the basis of race, creed, color, age, religion, sexual orientation, gender, marital status, status regarding public assistance, disability status, national origin, physical or mental disability or veteran status;

5. Content meant to threaten or defame any person or organization;

6. Content that is hateful, incites violence, or is harassing;

7. Conduct of illegal activity;

8. Sexual content or links to sexual content;

9. Solicitation of commerce, including but not limited to advertising of any business or product for sale;

10. Information that may compromise the safety or securing of the public or public system;

11. Links to third party sites and platforms; or

12. Content that violates a legal ownership interest of any other party.

These guidelines shall be posted as a disclaimer and are made available on the city's website.

Rights and permissions must be secured before posting, sharing or distributing copyrighted materials, including but not limited to: music, art, copyrighted photographs or texts, portions of copyrighted video, or information considered proprietary by a City employee, vendor, affiliate or contractor. Authorized employees must secure written permission prior to using/incorporating any copyrighted or proprietary materials except when such material is covered under Fair Use provisions.

An employee must not post content on City sites and platforms that might be embarrassing to an individual or that could be construed as placing a customer, employee or other individual in a negative or false light. An employee must not post content that might cause someone to believe that his/her name, image, likeness or other identifying aspect of his/her identity is being used, without permission, for commercial purposes. Employees shall not post any content to a city's social media site or platform for their financial gain or for the financial gain of any other person or entity. A City employee posting on a City social media site or platform shall take reasonable care not to disclose any confidential information in any posting.

Public Records

All City social media sites and platforms are subject to the Tennessee's Public Records Act (T.C.A. § 10-7-101, et seq.), and no social media site or platform shall be used to circumvent or otherwise violate this law. All lawful records requests for information contained on a City social media site or platform shall be directed to the City Clerk's Office and will be fulfilled by any employee whose assistance is necessitated. Every social media site or platform shall contain a clear and conspicuous statement referencing the state law. All official postings on a City social media site or platform shall be preserved to the extent possible in each platform in accordance with any applicable retention policy. All City social media sites shall comply with all other applicable City policies, including the City's Technology Policy.

A social media site or platform shall also contain a clear and conspicuous statement that the purpose of the site or platform is to serve as a mechanism for communication between the City and its citizens/customers and that all postings are subject to review and deletion by the City, to the extent permitted by law. City of Cleveland social media sites and platforms shall include a disclaimer notifying the public that their images may be captured and included on the sites and platforms.

D. EMERGENCY EVENT TELECOMMUTING

This policy defines the City's use of telecommuting and establishes guidelines and rules for telecommuting when it is a viable work arrangement. Telecommuting is intended to create flexible conditions that will help employees accomplish their work effectively without disruption to City services especially leading up to, during and/or immediately after emergency events. Telecommuting may be appropriate for some employees and jobs but not for others. Telecommuting is not an entitlement, it is not a companywide benefit, and it in no way changes the terms and conditions of employment with the City of Cleveland.

In the event of a wide scale emergency, as declared by the City Manager or an authorized designee, the City of Cleveland realizes a need to develop a formal process to implement telecommuting to preserve the environment and for the safety and wellbeing of our employees and citizens of the community.

Definitions

Telecommuting – an arrangement in which an employee regularly performs work at an alternative work site for a specified portion of the work week. Occasional work off-site, including work while traveling on City of Cleveland business, does not constitute telecommuting and does not require the formal arrangement specified in this policy.

Telecommuter – an employee who has an approved telecommuting work arrangement agreement on file and working from approved alternate work site.

Alternate Work Site – an employee will establish an appropriate work site within their home for work purposes. The City of Cleveland will not be responsible for the costs associated with the initial setup of the employee's home office such as remodeling, furniture, etc.

Scope

Certain requirements for all telecommuting arrangements are set forth in this policy and are intended to ensure that such arrangements comply with all applicable laws, as well as to prevent losses and claims. Aside from the requirements, and with the caveat that careful consideration must be given to the issues presented in this policy, the intent is to allow telecommuting arrangements as an alternative to working at the employee's normal worksite in the event that there is a wide scale catastrophic event, in order to maintain the City's essential services.

A telecommuting arrangement is not an entitlement and in no way changes the terms and conditions of employment with the City of Cleveland. Telecommuting is not a formal, universal employee benefit or a condition of employment, but rather an alternate method of meeting the needs of both the City and the employee. The City of Cleveland considers telecommuting to be a viable work arrangement in certain cases where job characteristics are best suited to such an arrangement.

The duties, responsibilities and conditions of employment remain the same as if the employee were working at the normal work site. The employee will continue to comply with City of Cleveland policies and procedures while working at the alternate work site.

The employee understands telecommuting is a mutually agreed upon work alternative between the City and the employee and will be required to complete a Telecommuting Work Arrangement Agreement. The City, with or without cause, can revoke or modify the employee's participation as a telecommuter at any time.

Telecommuting by one employee should not negatively affect the workload or productivity of others either by shifting burdens or creating delays and additional steps in the workflow. Telecommuting will not affect an employee's compensation, benefits, work status or work responsibilities. A telecommuting arrangement shall not result in any additional cost to the City of Cleveland.

PROCEDURES & RESPONSIBILITIES

Procedures

Emergency Event

In the event of a wide scale emergency that could impact our community, the City of Cleveland City Manager or an authorized designee, can declare the City in an emergency event status and activate the ability to utilize this policy. All employees must be ready to assist in managing the crisis and will be considered essential for the continuity of governmental operations.

Eligibility

Before entering into any telecommuting agreement, the Employee and Director, with the assistance of the Human Resources Department, will evaluate the suitability of such an arrangement, reviewing the following areas:

- Employee suitability. The employee and department head will assess the needs and work habits of the employee, compared to traits customarily recognized as appropriate for successful telecommuters.

- Job responsibilities. The employee and department head will discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement.

- Equipment needs, workspace design considerations and scheduling issues. The employee and department head will review the physical workspace needs and the appropriate location for the telework.

- Tax and other legal implications. The employee must determine any tax or legal implications under IRS, state and local government laws, and/or restrictions of working out of a home-based office. Responsibility for fulfilling all obligations in this area rests solely with the employee.

An appropriate level of communication between the telecommuting employee and department head will be agreed upon as part of the discussion process and will be at a level consistent with employees working at the office or in a manner and frequency that is appropriate for the job and the individuals involved. Once all details are agreed to and formalized in the Telecommuting Work Arrangement Agreement, the Department Director and Director of Human Resources must approve and sign the form.

Equipment

On a case-by-case basis, City of Cleveland will determine, with information supplied by the employee and the department head, the appropriate equipment needs (including hardware, software, modems, phone and data lines and other office equipment) for each telecommuting arrangement. The Human Resources and Information Technology Departments will serve as resources in this matter. Equipment supplied by the organization will be maintained by the organization. Equipment supplied by the employee, if deemed appropriate by the organization, will be maintained by the employee. City of Cleveland accepts no responsibility for damage or repairs to employee-owned equipment. City of Cleveland reserves the right to make determinations as to appropriate equipment, subject to change at any time. Equipment supplied by the organization is to be used for business purposes only. The telecommuter must sign an inventory of all City of Cleveland property received and agree to take appropriate action to protect the items from damage or theft. Upon the end of the emergency period, all City property will be returned to the City.

The employee will establish an appropriate work environment within their home for work purposes. City of Cleveland will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space.

Security

Consistent with the organization's expectations of information security for employees working at the office, telecommuting employees will be expected to ensure the protection of City information accessible from their home office. Steps may include the use of locked file cabinets and desks, regular password maintenance, and any other measures appropriate for the job and the environment.

Safety

Employees are expected to maintain their home workspace in a safe manner, free from safety hazards. Injures sustained by the employee in a home office location and in conjunction with his or her regular work duties are normally covered by the City's workers' compensation policy. Telecommuting employees are responsible for notifying the employer or such injuries according to the policy. The employee is liable for any injuries sustained by visitors to his or her home worksite.

Telecommuting is not designed to be a replacement for appropriate childcare. Although an individual employee's scheduled may be modified to accommodate childcare needs, the focus of the arrangement must remain on job performance and meeting business demands. Prospective telecommuters are encouraged to discuss expectation of telecommuting with family members prior to entering an agreement.

Time Worked

Telecommuting employees who are not exempt from the overtime requirement of the Fair Labor Standards Act will be required to accurately record all hours worked. Hours worked in excess of those scheduled per day and per workweek require the advance approval of the Telecommuter's department head. Failure to comply with this requirement may result in the immediate termination of the Telecommuting Work Arrangement Agreement.

E. DRUG AND ALCOHOL TESTING/ABUSE POLICY

The City of Cleveland is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any City of Cleveland employee illegally uses drugs on or off the job, comes to work under the influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Therefore, the City of Cleveland has established the following policy, pursuant to T.C.A. Section 50-9-100 et. seq:

1) It is a violation of policy for any employee to use, possess, sell, trade, offer to sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job.

2) It is a violation of policy for any employee to report to work under the influence of or while possessing in her or her body, blood or urine, illegal drugs in any detectable amount.

3) It is a violation of policy for any employee to report to work under the influence or impaired by alcohol.

4) It is a violation of policy for any employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications.

5) Violations of this policy are subject to disciplinary action up to and including termination.

It is the responsibility of the supervisor and/or department head to counsel an employee whenever they see changes in performance or behavior that suggest an employee has a drug problem. Although it is not the supervisor nor department heads' job to diagnose personal problems, the supervisor and/or department head should encourage employees to seek help and advise them about viable resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at the City of Cleveland.

As a condition of employment, employees must abide by the terms of this policy and must notify the City of Cleveland in writing of any conviction of a violation of a criminal drug statute occurring in the workplace, no later than five calendar days after such conviction.

Employee Assistance Program (EAP)

The City of Cleveland offers an Employee Assistance Program (EAP) benefit for employees and their dependents. The EAP provides confidential assessment, referral and short-term counseling for employees who need or request it. If an EAP referral to a treatment provider outside the EAP is necessary, or an employee chooses a treatment provider outside the EAP, costs may be covered by the employee's medical insurance; but the cost of such outside services are the employees' responsibility.

Confidentiality is assured. NO information regarding the nature of the personal problem will be made available to the City of Cleveland, nor will it be included in the permanent personnel file.

Participation in the EAP will not affect an employee's career advancement or employment, nor will it protect an employee from disciplinary action if substandard job performance continues. The EAP is a process used in conjunction with discipline, not a substitute for discipline.

The EAP can be accessed by an employee through self-referral or through referral by a supervisor and/or department head. We will distribute information about the EAP to employees for their confidential use.

Confidentiality

The confidentiality of any information received by the employer through a substance abuse testing program shall be maintained, except as otherwise provided by law.

Job Applicant Drug Testing

All job applicants for safety-sensitive positions at the City of Cleveland will undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed positive test result will be denied employment.

Applicants will be required to submit voluntarily to a drug test at a laboratory chosen by the City of Cleveland, and by signing a consent agreement that will release the City of Cleveland from liability.

If the physician, official or lab personnel has reasonable suspicion to believe that the job applicant has tampered with the specimen, the applicant will not be considered for employment.

The City of Cleveland will not discriminate against applicants for employment because of a past-history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that the City of Cleveland will not tolerate.

Employee Drug & Alcohol Testing

The City of Cleveland has adopted testing practices to identify employees who illegally use drugs on or off the job or who abuse alcohol on the job. In all instances, both a quick test and laboratory testing will be conducted. All positive results of the quick test will be reported to the Human Resources Director or his/her designee as well as the designated laboratory. Upon receiving notification of a positive drug screen or breath alcohol level above the cutoff, the Human Resources Director will immediately notify the City Manager and Department Head. The Department Head shall immediately acknowledge receipt of the notification. The City Manager, Human Resources Director and Department Head will then schedule a meeting as soon as possible to discuss the drug and/or alcohol test results. The laboratory shall report drug test results only to the designated Medical Review Officer, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Cleveland. A positive quick test will result in the employee being removed from the job until a confirmed positive or negative is received by the facility and Medical Review Officer. It shall be a condition of employment for all employees to submit to drug and alcohol testing under the following circumstances:

1. When there is reasonable suspicion to believe that an employee is illegally using drugs or abusing alcohol. “Reasonable Suspicion” is based on a belief that an employee is using or has used drugs or alcohol in violation of this policy drawn from specific objective and articulable facts, behavior and reasonable inferences drawn from those facts considering experience and training. It is the employee’s responsibility to inform the proper supervisory personnel of his/her use of any legally prescribed medication and/or over-the-counter medication that may adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. All supervisors will be provided annual training on reasonable suspicion testing. It is the responsibility of the supervisor to apply their required training for reasonable suspicion to observe employees, and to the best of their training and ability, assure employees are not impaired before they go on duty or perform any work. Among other things, such facts and inferences may be based upon, but not limited to, the following:

a) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to drug or alcohol abuse;

b) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

c) A report of drug or alcohol abuse provided by a reliable and credible source;

d) Evidence that an individual has tampered with any drug or alcohol test during his or her employment;

e) Information that an employee has caused or contributed to an accident while at work; or

f) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs or alcohol while working or while on the employers' premises or while operating the employer's vehicle, machinery or equipment.

Any employee reporting to work visibly impaired will be deemed unable to perform required duties and will not be allowed to work. The employee's supervisor will properly document their specific reasons and observations in writing to the Human Resources Director immediately upon the decision to test, for review and scheduling.

If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by some means of safe transportation alternative – depending on the determination of the observed impairment - and accompanied by the supervisor or another employee if necessary. A drug or alcohol test may be in order. An impaired employee will not be allowed to drive.

2. When employees have caused or contributed to an on-the-job accident/incident that resulted in damage to city-owned or private property or involved a third-party; or an injury that resulted in a loss of worktime, which means any period during which an employee stops performing the normal duties of employment and leaves the place of employment to seek care from a licensed medical provider. It is the responsibility of the supervisor to contact the Human Resources Director and arrange testing within a two-hour period, following an accident or incident. Post-accident (post-incident) drug testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system.

Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 2 hours must be fully documented by the attending medical personnel.

3. As part of a follow-up program to treatment for drug and/or alcohol abuse. Any employee of the City of Cleveland who has violated the prohibited drug or alcohol conduct standards or has voluntarily entered a drug and/or alcohol rehabilitation program, must submit to a return-to-duty test. Follow up tests will be unannounced and at least 2 tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. All return-to-duty and follow up testing costs will be paid by employee.

4. Random testing is unannounced. Only employee of the City of Cleveland holding a safety-sensitive positions are subject to random drug and alcohol testing. "Safety-sensitive positions" include any employee considered a first responder, such as fire and police personnel; who acts as a dispatcher for first responders; who is required to have a CDL; who is required by their position to drive a city-owned vehicle as part of their regular work day; any motor equipment operator who operates equipment within the rights of way and any employee responsible for the care and safety of children. It is the policy of the City of Cleveland to perform annual drug testing for at least 50 percent of the total number of safety sensitive employees. It is the policy of the City of Cleveland to perform annual alcohol testing for at least 10 percent of the total number of safety sensitive employees.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random drug and/or alcohol testing and the actual presentation for specimen collection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Cleveland may omit that employee from random testing or await the employee's return to work.

Prohibited Drugs

Substance abuse testing for job applicants and employees will include a drug screen for the following drugs:

Drug

- Opiates

- Phencyclidine
- Benzodiazepines
- Methadone
- Marijuana
- Cocaine
- Amphetamines
- Barbiturates
- Methamphetamine
- Ecstasy

(Evidential Breath Testing conducted for alcohol tests)

Alcohol 0.02% BAL 0.04% BAL

The local government may test for additional substances listed under the Tennessee Drug Control Act of 1989 (as amended). The drug panel may vary as the FDA approved 10 panel drug screen changes and is updated. The City policy will follow the panel tested by the contracted testing company.

Drug Testing Procedures

All collected urine samples will be sent to an authorized laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel will take the employee(s) to the testing site within 2 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a “primary” and a “split” specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee’s protection, the results of the analysis will be confidential except for the testing laboratory. After the Medical Review Officer has evaluated a positive test result, the employee will be notified, and the Medical Review Officer will notify the Human Resources Director.

All oral samples will be sent to an authorized laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS). All samples will be processed in a manner that meets all federal regulations.

Employee Alcohol Testing Procedures

All breath alcohol testing conducted for the City of Cleveland will be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel will take the employee(s) to the testing site within 2 hours where proper testing procedures will be administered.

For the employee’s protection, the results of the analysis will be confidential except for the testing personnel. After the personnel has evaluated a positive test result, the employee will be notified, and the testing personnel will notify the Human Resources Director.

Opportunity to Contest or Explain Test Results

Employees who have a positive confirmed drug or alcohol test may explain or contest the result to the Medical Review Officer within five (5) working days after receiving notification of the test result from the Medical Review Officer; if an employee's explanation or challenge is unsatisfactory to the Medical Review Officer, the Medical Review Officer shall report a positive test result back to the City of Cleveland; a person may contest the drug test result pursuant to rules adopted by the Tennessee Department of Labor.

Refusal to Submit

Failure to submit to a required drug and/or alcohol test is a violation of this policy and shall be subject to discipline up to and including termination.

Important Information for Job Applicants and Employees

When an employee or job applicant submits to a drug and/or alcohol test, they will be given a form by the testing facility that contains a list of common medications and substances which may alter or affect the outcome of a drug or alcohol test. This form will also have a space for the donor to provide any information that he/she considers relevant to the test, including the identification of currently or recently used prescription or non-prescription medication or other relevant information. The information form will be kept at the testing facility. If the job applicant or employee has a positive confirmed test result a medical review officer will attempt to contact the individual in order to privately discuss the findings with that person. The medical review officer will take this information into account when interpreting any positive confirmed test results. The information provided shall be treated as confidential and will not be given to the employer. Employees and job applicants have the right to consult with a medical review officer for technical information regarding prescription and non-prescription medication.

F. FIGHTING/HORSEPLAY/DAMAGING CITY PROPERTY

Fighting, horseplay, and intentionally defacing or damaging City property is not permitted. Employees engaging in these activities will be subject to disciplinary action which could include termination.

G. PARKING

Parking is generally provided for City employees. Employees working in congested areas, where parking is scarce, should try to pool their transportation. The City does not assume responsibility for loss or damage at any time to employees' vehicles or their contents.

H. PROPERTY INSPECTIONS

The retention of personal items in containers or facilities is at the risk of the employees and the City will not be responsible for any losses. Further, upon reasonable suspicion of misconduct, all assigned City properties shall be subject to entry, search, and inspection at any time by the Department Head or designee without prior notice to the employee.

City owned properties and all personal items contained therein are subject to entry and inspection without notice, even if the employee has placed a personally owned lock on the City property. Therefore, employees should not have an expectation of privacy.

I. GRIEVANCE PROCEDURES

The most effective accomplishment of the work of the City requires prompt consideration and equitable adjustments of employee grievances. A grievance is defined as an employee's feeling of dissatisfaction, a difference, disagreement, or dispute arising between an employee and his supervisor and/or employer with some aspect of his/her employment, application, or interpretation of regulations and policies, or some management decision affecting him/her. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or an administrative order involving the

employee's health, safety, physical facilities, equipment or material used, employee evaluation, or position classification. Such misunderstandings, complaints, points of view and opinions will be considered a grievance except the following matters, which are not subject to the grievance procedure: (1) pay, (2) verbal warnings, (3) written reprimand, (4) appointment, (5) promotions, (6) transfers, (7) demotion, (8) suspension, (9) dismissal.

It is the desire of the City to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances which will be resolved only after a more formal process.

Accordingly, the following grievance process is established: to ensure fair and impartial review:

STEP ONE: The employee makes a written presentation of the grievance to the immediate Supervisor within 5 working days from the incident which prompted the grievance. It shall be the supervisor's responsibility to promptly investigate the grievance and take action if possible. The Supervisor shall inform the employee in writing of the decision and any action taken within 7 working days from the date the grievance was filed.

STEP TWO: If the grievance cannot be resolved between the employee and the Supervisor during Step 1, the employee may request that the written statement be delivered to the Department Head within 3 working days of receipt of the Supervisor's response. If the employee is not satisfied with the response of the Department Head, he or she must proceed to Step 3.

STEP THREE: If the grievance is not resolved with the Department Head, the employee may request, in writing within 3 working days of the Department Head’s response, review by the Human Resources, Health Care and Retirement Committee. The Committee shall make such investigation and obtain the information sufficient to review the grievance within 7 working days and will respond to the employee and the employee's Department Head in writing.

STEP FOUR: If the employee is not satisfied with the Human Resources, Health Care and Retirement Committee's response, the employee may, within three (3) working days of receiving the Committee's response, request in writing a review of the grievance by the City Manager. The City Manager shall have ten (10) calendar days to complete the review, after which a written response shall be made to the employee with copies to the immediate Supervisor and the appropriate Department Head. The decision of the City Manager shall be final.

J. BULLETIN BOARDS

The City maintains bulletin boards at numerous locations on which important information connected with an employee's work is posted from time to time. Cooperation is needed in protecting the posted material. All material to be placed on the bulletin boards must be approved by the appropriate Supervisor before it is posted.

K. TRAVEL REIMBURSEMENT

A. In the interpretation and application of City Ordinance, the term “traveler” or “authorized traveler” means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with the ordinance. “Authorized traveler” shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under the ordinance.

B. Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the City Manager. Under certain conditions, entertainment expenses may be eligible for reimbursement.

C. Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the City Manager to initiate action to recover any undocumented travel advances.

D. Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

E. The travel expense reimbursement form will be used to document all expense claims.

F. To qualify for reimbursement, travel expenses must be: Directly related to the conduct of the city business for which travel was authorized; and actual, reasonable and necessary under the circumstances. The City Manager may make exceptions for unusual circumstances. Expenses considered excessive will not be allowed.

G. Claims of $5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee and other reimbursable costs.

H. Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recover of fraudulent travel claims and/or advances.

I. Mileage and lodging expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement.

Travel Reimbursement Rate Schedules – Authorized travelers shall be reimbursed according to the Federal travel regulation rates. The City's travel reimbursement rates will automatically change when the Federal rates are adjusted. The municipality may pay directly to the provider for expenses such as meals, lodging and registration fees for conferences, conventions, seminars and other education programs.

L. USE OF CITY VEHICLES AND EQUIPMENT

All City vehicles and equipment are for official use only. No person other than a City employee may operate a City vehicle or piece of machinery.

Personnel designated by department heads and approved by City Manager are authorized to take assigned vehicles home, if their residence is in Bradley County or within 15 road miles of their department's facility. Department heads may request and receive authorization from the City Manager for exceptions to this requirement for personnel on a case-by-case basis.

Official Use Only is defined as including a direct commute (if a take home car is authorized) either from home to work, or work to home; normal use in carrying out one's assigned job while working a normal shift, or authorized overtime, including meal breaks; and de-minimus personal use as defined by administrative policy.

Vehicles and equipment shall be marked with a City insignia and equipped with GPS unless it is for de minimus use and approved by the City Manager.

All employees should operate City vehicles and equipment in a safe and responsible manner. Department heads have access to GPS monitoring software and may be alerted to unsafe driving notifications. Should a department head investigate these notifications and find an employee is operating a vehicle or equipment in an unsafe manner, the driving/operating privileges may be removed from the employee by the department head. The employee may also be subject to disciplinary action.

Employees shall report immediately any accident incurred during the operation of a city vehicle or equipment to the Human Resources Director and Supervisor or Department Head and take such first aid or medical treatment as deemed necessary by medical personnel.

M. HARASSMENT/WORKPLACE VIOLENCE POLICY

The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of Cleveland, including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulation of the City, and employees working under contract for the City. Other forms of harassment based on an employee's membership in a protected class, including race, national origin, religion, color, creed, age or disability or other protected class are also prohibited.

1. DEFINITION

Sexual harassment or unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the City.

The City also prohibits conduct by officials, management persons, supervisors and non-management employees directed toward another employee due to the employee's membership in a protected class including race, national origin, religion, color, creed, age or disability that has the effect of creating a hostile work environment. Such conduct can include verbal or written statements, conduct of an intimidating nature or other conduct that has the effect of demeaning the employee due to the employee's membership in a protected class.

Other Harassment

Any employee's conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or creating any intimidating, hostile, or offensive work environment, based on that individual's race, gender, national origin, religion, age, sexual orientation, or disability, is also unlawful and will not be tolerated.

Bullying

Bullying is defined as a series of persistent, hostile interpersonal interactions that cause substantial distress to another person. It may take the form of deliberate, hurtful repeated behaviors or offenses over a period of time. In contrast, any criticism related to job performance that is given in a dispassionate respectful and non-hostile way is not bullying.

2. MAKING HARASSMENT COMPLAINTS

The City may be held liable for the actions of all employees with regard to harassment and therefore, will not tolerate the harassment of its employees. The City will take immediate, positive steps to stop it when it occurs.

By law, the City is responsible for acts of harassment in the work-place where the City (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the City took immediate and appropriate corrective action. The City may also be responsible for the acts of non-employees, with respect to the harassment of employees in the work-place, where the City (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

Prevention is the best tool for the elimination of harassment. Therefore, the following rules shall be strictly enforced. Any employee who feels he/she is being subjected to harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

a. The employee's immediate Supervisor or another Supervisor within the department.

b. The employee's Department Head.

c. The City's Human Resources Director.

d. The City Manager.

e. The Mayor.

f. Any member of the City Council.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of harassment. The employee should be prepared to provide the following information:

a. Official's or employee's name, department, and position title.

b. The name of the person or persons committing the harassment, including their title/s, if known.

c. The specific nature of the harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.

d. Witnesses to the harassment.

e. Whether the employee has previously reported the harassment and, if so, when and to whom.

3. REPORTING AND INVESTIGATION OF HARASSMENT COMPLAINTS

The Human Resources Director is the person designated by the City to be the investigator of complaints of harassment against employees. In the event the harassment complaint is against the Human Resources Director, the investigator shall be a City Management level employee appointed by the City Manager.

When an allegation of harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the Human Resources Director or the City Manager. A failure to bring a complaint of harassment to the attention of the Human Resources Director or City Manager shall be grounds for discipline.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings and present them to the City Manager. The report shall include the written statement for the person complaining of harassment, the written statement of witnesses, the written statement of the person against whom the complaint of harassment was made, and all the investigator's notes connected to the investigation.

4. ACTION ON COMPLAINTS OF HARASSMENT

Upon receipt of a report of the investigation of a complaint of harassment the City Manager shall immediately review the report. If the City Manager determines that the report is not complete in some respect, he/she may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation, where one is made, the City Manager shall promptly determine whether the conduct of the person against whom a complaint of harassment has been made constitutes harassment prohibited under the Anti-Harassment Policy. In making that determination, the City Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether harassment occurred will be made on a case-by-case basis. If the City Manager determines that the complaint of harassment is founded, he/she shall take immediate and appropriate action, including disciplinary action against the employee guilty of harassment, consistent with his authority under the City charter, ordinances or rules governing his authority to discipline employees.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the City Manager believes relate to fair and efficient administration of the City, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the City. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis. In every case, the action taken shall be reasonably calculated to prevent further acts of harassment.

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee accused of harassment shall be warned not to retaliate in any way against the person making the complaint of harassment, witnesses or any other person connected with the investigation of the complaint of harassment. Retaliation against any employee making a complaint or participating in an investigation shall subject the individual who engages in retaliatory conduct to disciplinary action, up to and including termination.

In cases where the harassment is committed by a non-employee against a City employee in the workplace, the City Manager in consultation with the City Attorney shall take whatever lawful action against the non-employee is necessary to bring the harassment to an immediate end.

5. OBLIGATION OF EMPLOYEE

Employees are not only encouraged to report instances of harassment, but they are also obligated to report them. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator.

Disciplinary action may also be taken against any employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment.

It is the policy of the City of Cleveland to promote a safe environment for its employees. The City is committed to working with all employees to maintain a work environment free from workplace violence and harassment. Threats, threatening and abusive behavior, physical or verbal assaults, threats of violence or physical coercion, or other actions where the motive is to cause pain, fear or personal injury against other employees, visitors, vendors, citizens, or other individuals will not be tolerated.

Any employee who makes threats, exhibits threatening behavior, or engages in violent acts or harassing behavior shall be removed from the premises as quickly and safely as possible and shall remain off premises pending the outcome of an investigation. Following an investigation, the City will initiate an immediate and appropriate response leading to corrective action up to and including

termination of employment and/or referral to appropriate law enforcement agencies for arrest and prosecution.

All employees are responsible for notifying their immediate supervisor or other management personnel of any threatening behavior or workplace violence/harassment that they themselves have been subjected to, or that they have witnessed occurring to other individuals, or that they are told another person has been subjected to or witnessed. Even without a specific threat, all employees should report any action or behavior they have witnessed that they regard as potentially threatening or violent or which could endanger the health or safety of an employee or other individual. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threatening behavior and the person or persons being threatened. Any failure to report an incident of workplace violence/harassment may subject the non-reporting employee to disciplinary action up to termination.

The City understands the sensitive nature of the information required in the reporting of actions of this nature. However, the City will provide all information necessary to the appropriate authorities in order to conduct a full and thorough investigation.

N. POLITICAL ACTIVITY

Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in any election.

City employees shall enjoy the same rights as other citizens of Tennessee to become a candidate for any state or local political office, except City employees are not allowed to run for election to the following offices: (1) City Mayor, (2) City Council, (3) City School Board.

City employees shall enjoy the same rights as other Tennessee citizens to participate in political activities by supporting or opposing political parties, political candidates, and petitioning government entities, as long as the employee exercises these rights when the employee is off duty and out of uniform.

City employees are prohibited from engaging or participating in any of the following political activities while on duty or in uniform:

1. Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions or other funds for a candidate for any office;
2. Organizing, selling tickets to, promoting or actively participating in a fund-raising activity of a candidate for any elected office;
3. Taking an active part in managing a political campaign for a candidate for any elected office;
4. Soliciting votes in support of or in opposition to a candidate for any elected office;
5. Acting as a recorder, watcher, challenger or similar officer at the polls on behalf of a candidate for any elected office;
6. Driving voters to the polls on behalf of a candidate for any elected office;
7. Endorsing or opposing a candidate for any elected office in a political advertisement, broadcast, campaign literature or similar material;
8. Addressing a rally or similar gathering of the supporters or opponents of a candidate for any elected office;
9. Initiating or circulating a nominating petition for a candidate for any elected office;
10. Wearing campaign buttons, pins, hats, or other similar attachments for a candidate for any elected office; or
11. Distributing campaign literature in support of or in opposition to a candidate for any elected office.

As used in this policy, the word “uniform” includes any clothing, equipment, head gear, cap, button, patch, insignia, or any other item(s) of dress.

Property owned by the City of Cleveland, including but not limited to City vehicles, shall not be used for any transportation relating to any political activity, or in photographs, or advertisements for a political candidate or a political party.

The City Manager may grant a City employee a leave of absence to become a candidate for any political office other than (1) City Mayor, (2) City Council, (3) City School Board

O. ACCEPTANCE OF GRATUITIES

No employee shall accept any money or other consideration or favor from anyone other than the City for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any employee accept, directly or indirectly, any gift, gratuity or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to City business.

P. INCLEMENT WEATHER AND HAZARDOUS CONDITIONS

During inclement weather situations, the City will make every effort to maintain normal work hours to provide City services. Partial or full-day closings of City administrative offices may be authorized by the City Manager, or the designee, as a result of inclement weather causing hazardous road conditions and other emergency circumstances. The City Manager, or the designee, with consultation from the department heads will determine which departments will provide essential services during inclement weather with as much notice as possible.

If an inclement weather period is determined, the Department heads, Police Chief, and Fire Chief will determine which specific staff is essential for each event. Generally, most inclement weather periods are the times where City administrative offices are closed during usual business hours. However, during extreme inclement weather situations where there is prolonged period of time or extremely hazardous conditions related to the weather the City Manager, or the designee, and department head shall both agree to designate employees as essential during times non-usual City administrative business hours.

All designated essential employees must report for duty regardless of weather conditions. Failure to report will be considered an unexcused absence. All designated essential employees shall be paid at the regular rate of pay for all hours worked. In addition, during the period of time the City Manager, or the designee, determines the inclement weather policy is in effect, all essential employees who have worked during that period shall be given one hour of pay or compensatory time off for each hour actually worked. The City reserves the right to either give compensatory time off or pay for this additional time, depending upon scheduling requirements of each department. If the City chooses to pay for the hours not actually worked, these hours shall not be considered hours worked for purposes of calculating overtime under the FLSA. If a department head work schedule is impacted by inclement weather or hazardous conditions they may be compensated with only compensatory time.

All non-essential employees must report for duty regardless of weather conditions unless the City Manager, or the designee, delays the opening of, or closes their specific City administrative offices to the public due to inclement weather. If offices are closed, the non-essential employees will not report for work unless required to do so by their respective department head.

All non-essential employees shall be paid at the regular rate of pay for all regularly scheduled hours not actually worked during the inclement weather policy period determined by the City Manager or the designee. If the City chooses to pay for these hours not actually worked, these hours shall not be considered hours worked for purposes for calculating overtime under the FLSA. Temporary full-time employees will only be paid if normally scheduled to that day and only for those hours which the employee would normally work.

If the department head authorizes in writing a non-essential employee to work during any part of the inclement weather policy period, the employee is entitled to pay for the regularly scheduled hours under the inclement weather policy, plus pay for the hours during that period actually worked.

Under essential circumstances, each department head may use City vehicles to assist essential employees in getting to and from work during inclement weather policy periods, but the responsibility remains with the employee to get to work.

Q. EMERGENCY EVENT LEAVE

The purpose of this policy is to provide guidance and instruction to employees on how to manage time away from work if a leave of absence is needed during a declared emergency event.

In the event of a wide scale emergency (as declared by the City Manager or an authorized designee), the City of Cleveland must balance a variety of objectives when determining how best to ensure the continuity of operations and reduce the impact on the workplace. If an emergency rises to the level that results in school dismissals, childcare program closures, quarantine, and the like, the City will permit an employee appropriate time away from work to provide care for their children, themselves and/or other immediate family members in a manner that allows for the continuity of the required City operations and service delivery.

- FMLA (Family Medical Leave Act) – a leave designation that applies to qualified employees experiencing serious health conditions themselves or by their immediate family members and which runs concurrently with other types of leave, such as sick leave, vacation leave, short-term disability, and worker's compensation, as well as leave without pay.

- Leave of Absence – a leave designation that applies to situations not covered by FMLA and which runs concurrently with other types of leave, such as sick leave, vacation leave, short-term disability and worker's compensation, as well as leave without pay.

This policy will take immediate effect when an emergency is declared, as such, by the City Manager or authorized designee. This policy will remain in effect until the City determines that the emergency is no longer a threat to the organization or its employees. No part of this policy will be effective to the extent it conflicts with State or Federal law.

Procedures & Responsibilities

If an emergency is declared by the City Manager or authorized designee, employees may be forced to evacuate from their worksite and perform work from home, while others may need to take sick leave to recuperate from illness or assist with caring for immediate family members. It is important that all employees understand the various pay and leave flexibilities that may be utilized during an emergency crisis and to enable employees to stay home either for their safety or when ill, to care for an ill family member and/or dependent, or their children's schools or childcare program close, or dismiss as a result of the emergency. Employees required to stay home to take care of a child where the school or day care has closed, but there is no illness, will not qualify for the use of sick leave accruals under the current policy. Therefore, in the event of an emergency, the City reserves the right to adjust its leave policies.

During an emergency, the City may suspend return to work and fitness for duty policies that require a doctor's note or certification from a health care provider before employees may return to work.

In the event of a wide scale emergency or pandemic, where the employee is not ill, the employee may not take leave, or refuse to work, simply to avoid possible exposure in the workplace. Employees who may have a disability that creates an increased risk associated with the emergency are encouraged to notify Human Resources in order to seek an accommodation.

Any employee who fails to follow the requirements of this policy and/or falsifies any information or documentation related to their own or another's potentially life-threatening, contagious illness will be subject to disciplinary action in accordance with City policy up to and including termination.

R. USE OF TOBACCO PRODUCTS

Smoking (including e-cigarettes, vapors, etc.), or the use of tobacco in any form by City employees is not permitted within the physical structure of any City facility or City vehicle. Employees may smoke or use tobacco products only in designated smoking areas. Violations of this policy will be subject to disciplinary action.

S. EMPLOYEE OCCUPATIONAL SAFETY AND HEALTH

An Occupational Safety and Health Program has been established for the City under Title 4, Chapter 2 of the Cleveland Municipal Code. All employees are required to comply with the provisions of the City's Occupational Safety and Health Program.

Department Head Responsibilities:

In addition to the responsibilities in the Occupational Safety and Health Program Plan enacted by Ordinance No. 2010-28, Department Heads are responsible for:

- Providing leadership that supports attainment of the City's safety and health objectives.
- Making employees accountable for their adherence to all state, federal, and local laws, rules, regulations and procedures pertaining to safety, liability, worker compensation, and vehicle operations.
- Ensuring that procedures are in place so that all accidents and injuries are promptly and accurately reported to the Human Resources Director, or designee.
- Ensuring that employees participate in educational and training experiences necessary to carry out their assigned duties in a safe manner.
- Consulting with the Human Resources Director, or designee, when in doubt as to the applicability or practicality of a safety procedure.

Employee Responsibility:

In addition to the responsibilities in the Occupational Safety and Health Program Plan enacted by Ordinance No. 2010-28, employees are responsible for:

- Performing their duties in a safe manner and encouraging other employees to do likewise.
- Wearing and/or using personal protective equipment when required.
- Properly using tools and equipment provided.
- Adhering to all state, federal, and local laws, rules, regulations, and procedures pertaining to safety, liability, worker's compensation, and vehicle operations.
- Promptly reporting accidents, injuries, occupational illness, safety and health related conditions to their supervisors who shall notify the Human Resources Director, or designee.
- Participating in appropriate occupational safety and health education and training.

Violation:

A violation of this policy may result in disciplinary action up to and including termination.

Other Provisions:

Nothing in this policy should be construed to conflict with or supersede state or federal law, or as interfering with the constitutional rights of employees. While the City is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the City and its employees. This policy superseded all policies that conflict with the terms of this policy. Furthermore, this statement constitutes only the policy of the City. A finding of a violation of this policy does not mean the conduct violates state and/or federal laws.

T. REPORTING ACCIDENTS/INCIDENTS

All accidents/incidents resulting in injury and/or damage to city vehicles, equipment or property, shall be reported immediately to the Human Resources Director. All persons involved in the accident/incident may be subject to discipline and/or corrective measures. Upon request by the department head and/or City Manager, accidents/incidents may be submitted to the Safety Committee for review. The Committee is charged with reviewing all documents and associated information pertaining to the accident/incident, to ascertain findings and recommend corrective actions through the Human Resources Director to the Department Head.

U. APPEARANCE AND GROOMING

All employees are representatives of the City of Cleveland and should maintain a neat, professional appearance during work hours. Some departments furnish uniforms and have safety or public service related grooming requirements for their employees and guidelines for those uniforms and grooming requirements should be in place with written policies within those departments. Failure to comply with safety-related grooming requirements may result in disciplinary action.

All other employees: Proper grooming and attire have a positive impact on the City of Cleveland's image. Positions that involve frequent, direct contact with the public and other employees are subject to the following appearance & grooming standards:

- Male employees are required to wear neat and clean clothing and footwear. Hair and facial hair will be clean, neatly trimmed and present a professional appearance.

- Female employees are required to wear neat and clean clothing and footwear. Hair will be clean and styled in a way to present a professional appearance.

If an employee's religion requires specific grooming and/or attire practices that deviate from this policy, the employee should inform their department head of the specific religious grooming and/or attire practice. Once the department head is informed by the employee, the department head will consider a potential exception to the policy to accommodate employee's sincerely held religious belief, unless the accommodation would pose an undue hardship.

When an employee is found to be outside acceptable appearance and grooming standards, the employee will be sent home on annual leave (vacation) to correct the issue.

In departments that have specified "casual" days, department heads and supervisors shall determine appropriate attire standards for those days.

SECTION IX - SEPARATIONS AND DISCIPLINARY ACTIONS

A. TYPES OF SEPARATIONS

All separations of employees from positions with the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignations, lay-offs, inability to perform the essential functions of the job with or without reasonable accommodation, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of City property in the employee's custody must be transferred to the department. Any legally allowable amounts due to the City may be deducted from the employee's final compensation in accordance with applicable law.

B. RESIGNATION

In the event an employee decides to leave the City's employment, a two (2) weeks' notice is requested to be given to his/her supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any/or all City equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered by the Department Head as a resignation.

If a former employee returns to City employment, pay and vacation will be determined by the City Manager. For the purpose of the implementation of the 2021 Classification/Compensation Plan, prior years of service will be included in calculating total years of service.

C. LAY-OFF

The City Manager may lay-off an employee in the City's service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid-off may be assigned to other employees already working who hold positions in the appropriate class. Temporary employees shall be laid-off prior to the lay-off of probationary or regular employees. The order of lay-off shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective. A laid-off employee who is reinstated as an employee of the City within ninety (90) days from the date he/she was laid off shall be reinstated with full benefits as if they had not been laid off.

D. DISABILITY

An employee may be separated for disability when he/she cannot perform the essential functions of the job because of physical or mental impairment, which cannot be accommodated without undue hardship or because the disability poses a direct threat to the health and safety of others. Reasonable accommodations may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the City, but in all cases it must be supported by medical evidence acceptable to the City Manager and the disability must prevent the employee from performing the essential functions of the job. The City may require an examination at its expense and performed by a licensed physician of its choice. (Ref. Section V, Item F, Medical Examination of Essential Functions and General Physicals.)

E. RETIREMENT

Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

F. DEATH

Effective upon the date of death of an employee, all compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

G. DISCIPLINARY ACTION

Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, Supervisors shall inform employees promptly and specifically of such lapses and shall give them direction and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. All records associated with a disciplinary action shall become a permanent part of the employee’s personnel file.

The types of disciplinary actions are:

1. Verbal warning

2. Written reprimand

3. Suspension

4. Demotion

5. Dismissal

H. VERBAL WARNING

Initial action by the Supervisor in situations that do not warrant more severe action shall be to inform the employee promptly and specifically of such conduct that falls below desirable levels and to give the employee direction and assistance. The Supervisor shall make documentation of the verbal warning to include the date of the warning, what was said to the employee, and the employee's response, and will forward the warning through the proper levels of supervision to the Department Head. No signature by the employee is required. The Supervisor should inform the employee that if the conduct continues, further disciplinary action will be taken.

I. WRITTEN REPRIMAND

In situations where a verbal warning has not resulted in the expected improvement, or when more severe initial action is warranted, the employee will be informed of the undesirable level of conduct and a written reprimand will be prepared and presented to the employee, after the approval of the Department Head. The reprimand may be sent by certified mail if appropriate. The written reprimand should be signed by the employee acknowledging receipt of the reprimand. If the employee refuses to sign the reprimand, the Supervisor should note this on the reprimand, and the note should be initialed by the Supervisor and any other witnesses present when the reprimand was presented to the employee. The Supervisor should inform the employee that if the conduct continues, further disciplinary action will be taken.

J. SUSPENSION

The City Manager, or his designee, at the manager's discretion, may authorize the head of a department to take such actions regarding subordinates in such department to suspend an employee without pay for a period of time deemed appropriate under the circumstances.

A written statement of the reason for suspension shall be submitted to the employee affected by the City Manager. All records associated with a suspension shall become a permanent part of the employee's personnel file.

K. DEMOTION

An employee may be subject to demotion as a form of disciplinary action in situations where other forms of disciplinary action have not resulted in the expected improvement, the conduct does not warrant dismissal, and there is a position available for which the employee is qualified. Notice of the demotion will be given to the affected employee by the City Manager.

L. DISMISSAL

The City Manager, or his designee, at the manager's discretion, may authorize the head of a department to take such actions regarding subordinates in such department to dismiss an employee for good of the City service. Reasons for dismissal may include, BUT SHALL NOT BE LIMITED TO:

1. Incompetence or inefficiency in the performance of duties;
2. Conviction of a crime;
3. A malfeasance involving moral turpitude.
4. Admitting to the commission of conduct that would constitute a crime, regardless of whether a conviction results.
5. Violation of any lawful and reasonable regulation, order, or direction made or given by a superior; or insubordination that constitutes a serious breach of discipline;
6. Being intoxicated or drinking any intoxicating beverages while on duty, or being under the influence of a drug or narcotic while on duty;

7. Theft, destruction, carelessness, or negligence in the use of the property of the City;

8. Disgraceful personal conduct or language toward the public or toward fellow officers or employees;

9. Unauthorized absences or abuse of leave privileges;

10. Incapacity to perform essential functions of a job because of a permanent or chronic physical or mental defect that cannot be reasonably accommodated;

11. Acceptance of any valuable consideration which was given with the expectation of influencing the employee in the performance of his/her duties;

12. Falsification of records or use of official position for personal advantage;

13. Loss of an employee's driver's license and driving privileges by due process of law when the employee's position makes the operation of a motor vehicle necessary in the performance of his/her duties;

14. Violation of any of the provisions of the City Charter, individual departmental or these personnel rules.

15. Unsatisfactory job performance during a probation period.

16. Any other good and sufficient reason.

A written statement of the reason for the termination shall be submitted to the employee. All records associated with the termination shall become a permanent record in the employee's personnel file.

With the exception of inquiries made by a governmental agency, the Human Resources department will provide a neutral job reference (job titles held by the dismissed employee and dates of employment) unless the dismissed employee specifically authorizes in writing the City to report additional information.

Only the Human Resources Director and those authorized by the City Manager will comment upon the termination of an employee.

SECTION X: AMENDMENTS/SEVERABILITY

A. AMENDMENTS

Any proposed amendments or revisions of these rules shall be reviewed by the Human Resources, Health Care and Retirement Committee prior to any action on the proposal by the City Council. The Committee shall review the Personnel Rules and Regulations contained herein on an annual basis in February of each year. The Committee shall report to the City Manager by April 1st and recommend any revisions to the Personnel Rules and Regulations deemed necessary. Such amendments or revisions of these rules shall become effective only after approval by resolution of the City Council.

B. SEVERABILITY

Each section, subsection, paragraph, sentence, and clause of this policy document is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other portion of these rules, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted.

C. SPECIAL NOTE

These personnel policies are believed to be written within the framework of the Charter of the City of Cleveland but in case of conflict, the Charter takes precedence.

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

Adopted this 13th day of February, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Cassada confirmed the HR Committee recommended the driving distance for take home vehicles to be changed from 15 miles to 30 miles. Mr. Fivas stated yes, that was their recommendation, but he does not recommend the change. However, he is giving flexibility to allow on temporary basis exceptions to the mileage distance requirements. Councilman Cassada stated it only gives you the flexibility to make the change. Mr. Fivas stated yes. Councilman Cassada then inquired about the expanded travel policy for all city employees. Mr. Fivas stated this is for employees who travel for training, conferences, etc. for reimbursement for using their own vehicles and food expenses. We are working to update the travel policy and the per diem rates. The take home vehicle policy is for employees using a take home vehicle who live 15 miles from their department building. We can put a time limit on the exceptions for the distance requirements. Chief Gibson added we are trying to recruit officers and most have to relocate or live in rural areas of adjoining counties. Councilman Cassada stated he feels it is an added cost to the departments. He then stated he would like to see documentation on who receives this and a cost, in a monthly report. He then asked if City Council members could receive travel reimbursement. Mr. Fivas stated a policy specifically addressing the City Council would have to be adopted. Further discussion took place regarding the travel policy and Councilman Cassada asked when it is reviewed if the Council would be considered in the reimbursement policy for their expenses.

Councilman Cassada moved that Resolution 2023-15 be accepted as presented and to receive a monthly report on employees who live outside the perimeters. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

Mayor Brooks stated the next item is the Disc Golf course at Fletcher Park. Councilman Estes inquired about the number of holes, pads, and baskets. Justin Spears stated there were eighteen holes and each hole has two tee pads and two baskets. He added Councilman Cassada expressed concerns about the holes running along the pathways. As it is laid out on the map, there are only two places where that occurs, in the back of the park at hole nine and briefly at hole seven. We tried to use the open space to minimize the number of trees. Councilman Cassada stated he wants the disc park but is concerned about it running along side the Greenway where people are walking. He then asked if the two holes could be rerouted. Mr. Fivas stated they can relook at the design and make any adjustments. Councilman Estes moved to approve the concept of the Disc Golf course and proceed with ordering the baskets. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

Mr. Fivas stated he felt the following presentation on the Cleveland Compensation Analysis and Budget Implications needed to be put on the table and have the conversation. I will give the conclusions up front. It adjusts the pay scale for every single employee we have. We are not talking about employees pay, not talking about pay increases, we are talking the pay scales, where you have a minimum and maximum. We do have issues and if you Google right now, anywhere across the country, teachers and police professions are having a very difficult time recruiting staff members. That issue has come to the city of Cleveland. We want to throw some options out, that not only addresses some of their concerns, but all our employees have seen inflation in the last year and a half since we did our study. We would adjust all of them, and that will be at the conclusion of this presentation and our specific recommendations. He then reviewed the following presentation:

CLEVELAND COMPENSATION ANALYSIS & BUDGET IMPLICATIONS

Joe Fivas
City Manager
February 13, 2023

Overview

1) Overview of City Employee Compensation
2) Police Compensation Analysis
3) Ability to Pay Analysis
4) Budget Analysis
5) Conclusions & Recommendations



POLICE COMPENSATION ANALYSIS

- Chief Mark Gibson & Assistant Chief Stacy Smith approached City management about reviewing police compensation. The main focus has been salary questions, but we also looked at health care and retirement benefits. Chief Gibson also requested that we look at educational incentives and transfer pay.
- We are 1 of 25 CALEA certified Police Departments in Tennessee. We need to make sure we can stay competitive in this inflation heavy economy.

POLICE COMPENSATION ANALYSIS

- The City completed a Compensation Study in FY 2022. The results were implemented in last year's budget. However, general inflation, lack of employees in the work force, and societal pressures on the police profession have rocked the old normal of police compensation.
- Almost every City is having a difficulty recruiting and maintaining officers in their police forces.

POLICE COMPENSATION ANALYSIS

- The Cleveland Police Department has 106 post certified Police Officer positions budgeted. Currently, we have 6 positions open.
- CPD's budget is $12,626,040 for FY 2023. In FY 2015, the CPD budget was $9,186,551. The City has added 21 officer positions in the past 8 years.

POLICE COMPENSATION ANALYSIS

- For years, the City of Cleveland was near the top of police pay in this area.
- In 2021, Chattanooga raised their new certified tax rate from $1.8529 to $2.25. This was equivalent to a 40 cent tax increase.
- With the additional funding, Chattanooga increased police salaries from $35,141 to a starting salary of $47,244 with this increase.
- This created a scenario where due to hiring competition Hamilton County, Dalton, Collegedale, and others increased their salary rates. We also found out there is great disparity in benefits between some of these other organizations.
- Cleveland's application rates have dropped significantly over the past few years. In 2020, we had 125 police applications and we probably have about a third of that number.

POLICE COMPENSATION ANALYSIS

- In 2022, we had 17 officers resign and leave the department. While we've always had turnover, this rate is higher than in previous years.
  - 4 left before completing requirements of training.
  - 8 of the 17 left before completing one full year of service.
  - 11 left to pursue other opportunities.
  - 5 left for other law enforcement agencies.
  - 1 Retirement.
  - 2 moved to the Fire Department.
  - 12 that left had less than 4 years experience.
  - We understand that others are interviewing.

POLICE COMPENSATION ANALYSIS

- City staff completed an analysis of other similar agencies to look at starting pay.
- Methodology

POLICE COMPENSATION ANALYSIS

- Closest Communities to Cleveland (Starting Salaries):
- Cleveland TN- $39,686.08 (50,000) (Tax Rate: 1.71)
- Chattanooga TN- $47,244 (Tax Rate: 2.25)
- Hamilton County TN- $51,500 (Tax Rate: 2.23)
- Collegedale TN- $48,276
- Dalton GA- $52,416
- Bradley County- $38,340 (Tax Rate: 1.43)
- Athens TN- $38,180
- Average: $45,992

POLICE COMPENSATION ANALYSIS

Comp Study Comparisons (Starting Salaries):

- Cleveland TN- $39,686.08 (50,000)
- Collierville TN- $48,560 (Tax Rate: 1.72)
- Cookeville TN- $40,040
- Gainesville GA- $50,013
- Maryville TN- $44,968 (Tax Rate: 2.27)
- Oak Ridge TN- $42,265 (Tax Rate: 2.31)
- Murfreesboro TN- $51,656
- Spring Hill TN- $43,396
- Average: $45,842

POLICE COMPENSATION ANALYSIS

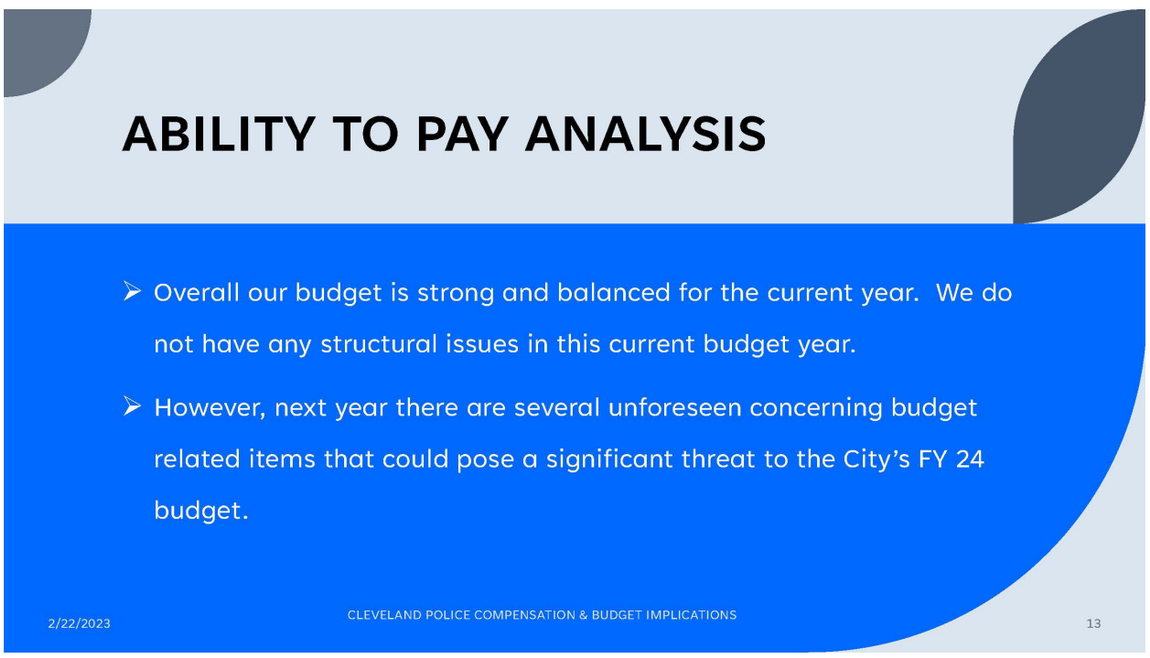
Similar Type of Community to Cleveland (Starting Salaries):

- Cleveland TN- $39,686.08 (50,000) (Tax Rate: 1.71)
- Johnson City TN- $42,265 (71,278) (Tax Rate: 1.73)
- Kingsport TN- $35,318 (55,582) (Tax Rate: 1.99)
- Jackson TN- $44,346 (68,114)
- Smyrna TN- $40,926 (55,518)
- Average: $40,713.75
- Average of 3 Groups: $44,182

POLICE COMPENSATION ANALYSIS

Questions

Mr. Fivas stated this proposal will act as a bridge to get us where we need to be, so that we can dramatically change how we do our compensation studies in the future. Right now, our policy is to do them every five years, we just got done doing one. Doing them every five years creates a very big gap. I think I will recommend at the end here to, let's make a move right now on these and then in 2024 we start a process that we do compensation studies every year. We make that a traditional thing that in January we incrementally move people. It is probably the fairest thing for employees and the fairest thing for you to look at some of these questions. Councilman Cassada stated you speak of compensation for everybody, will that require a tax increase later on. Mr. Fivas stated this proposal does not include that, but it depends on what the markets do. Councilman Cassada stated he wants to be fair to all staff, all departments across the board. He understands the Police struggle, but we have other employees. Can we see data for the Fire Department and Public Works, from surrounding areas as well. We are growing and services are increasing. Mr. Fivas stated the difference is, we are not talking about people's take-home salary, you have to understand we are talking about pay ranges, we're not talking about individual employee salaries at this point. Just where they start and where they max out. Councilman Hughes stated you can't separate those two, you have to talk about both. Councilman Cassada agreed. All our departments do a great job and we've only had four new positions in Public Works since 2008. I will fight for all departments and can't see just picking one out. Mr. Fivas stated this proposal includes a change for every single position/employee. Councilman Cassada stated I would like to see data on pay scales for all departments that are listed here. I think the world of all of our employees. Mr. Fivas stated I agree with everything you said, right now we are having issues… our Fire Department has 100% staffing, they have three people they are hiring. We don't have an issue of hiring new firefighters. This is not going to move anyone's pay, this is just moving the starting pay. Councilman Cassada asked if it would move the starting pay for the Fire Department. Mr. Fivas responded this proposal does that, for every position in the Fire Department. This proposal will change it for everyone. Cassada asked for all pay scales, in all departments. Mr. Fivas stated on every position that we have, that's what this will do. Then in 2024, we will start doing what you are asking for, doing a comp study every year. It will take us some time to get someone and figure out those issues. This is a bridge to that time. We can change our system as it treats everyone, everyone's pay scale goes up, it does not mean that everyone's pay will increase, just everyone's pay scale are going to be adjusted, essentially for inflation. Councilman May stated we have been doing a comp study every five years and it's impossible to keep up with what is going on. If we don't do it annually, you get so far behind then we have to have a tax increase at that point to catch up. He is all for the annual study. Mr. Fivas stated this proposal is a bridge to get us to a new way of doing the compensation study. Mr. Fivas then continued his presentation.



ABILITY TO PAY ANALYSIS

Items NOT built into FY 2024 budget proposal that could cause hardship:

- Solid Waste bids- We expect an approximate $1.1 million increase due to inflation and employment issues.
- Tax Appeals- The hospital, industry, and many big box stores have appealed property tax assessments that could cost us around $200,000. (And other tax losses)
- New Debt Payments- This will likely cost around $800,000

ABILITY TO PAY ANALYSIS

Items not built into FY 2024 budget proposal that could cause hardship:

- Comptroller Tax Ratio- new ratio could cost us up to $300,000.
- EE raises- This will cost us around $900,000.
- Materials & Energy: This will cost us an annual amount of around $500,000 due to inflation.

ABILITY TO PAY ANALYSIS

- Total Predicted Budget Hole: $3.8 Million
- City will receive approximately $1,000,000 in property tax growth and fees in new revenue.
- Net Budget Deficit: $2.8 million
- If adopted as proposed, the Police Pay proposal could cost approximately $400,000
- Staff will NOT be proposing a tax increase to offset this budget deficiency as it is currently stated.
- Staff will work on a budget proposal that tackles this budget deficiency issue with fees, budget reductions, current funds, changes to retirement for only new employees, etc.

ABILITY TO PAY ANALYSIS

- An issue that was identified during the Police Compensation Analysis was that there is great disparity between communities in retirement and heath care benefits. The City had the best retirement and health care compared to other communities. After discussing with other City Manager's, our Police Chief, and after doing general research found it shows that younger employees want a more portable retirement package, and they put a premium on what salary is offered.
- The City pays approximately 22% for each dollar of salary into retirement for police officers. We need to look at options to redirect these funds so we can pay a higher salary for the police officers.

ABILITY TO PAY ANALYSIS

- Related to the budget process, City management will propose a new retirement option(s) for new City employees. (ANY NEW PROPOSAL, WILL NOT EFFECT ANY CURRENT CITY EMPLOYEE)
- Staff has been discussing retirement practices and benefits with Cleveland Utilities and with Cleveland City Schools.
- The goal would to provide a retirement benefit that is more portable, and potentially better for the new employee in the long run. Any retirement changes will not impact any current City employee.
- Initial figures show that the City could save approximately $20 to $30 million over the next 20 years in retirement savings. A portion of these savings can be used to enhance pay for all employees.

CONCLUSIONS & RECOMMENDATIONS

- There is no question any move on salary for one specific department will cause internal strife, and probably with good cause.
- Therefore, due to inflation, as part of our budget proposal beginning July 2nd, we will recommend to the City Council to raise all City employee's Minimum and Maximum Pay Schedule numbers by 2.5%. JUST LIKE THE POLICE, THIS IS NOT A DIRECT PAY RAISE, THIS IS ADJUSTING OUR PAY SCHEDULE. However, using our computer model system, all employee data will be entered, and some may see an adjustment in their wages.
- Then, in next years budget, we will plan on another 2.5% adjustment to the PAY SCHEDULE for all City employees.
- Lastly, starting in December 2024, the City will begin a process of doing annual compensation studies starting Jan 1st.
- One of our future priorities must be to raise our minimum salary to $15 per hour. It should be a priority to provide our employees a working wage.

CONCLUSIONS & RECOMMENDATIONS

If the Council wants to adjust this pay, the City Manager Recommends the following to the City Council:

- Adopt a new pay scale that is effective on July 2, 2023 with a starting salary of $43,000 for new Police Officers. Pay Scale:

Police

$42,000 (min) to 62,822 (max) – Police Officer (Not Post Certified)

$43,000 (min) to $67,433 (max) – Police Officer (Post Certified)

$47,342 (min) to $74,176 (max) – Corporal

$52,076 (min) to $81,593 (max) – Detective/Sergeant

$57,283 (min) to $89,753 (max) – Lt

$63,011 (min) to $98,727 (max) - Captain

CONCLUSIONS & RECOMMENDATIONS

- Adopt a new pay scale that is effective on July 2, 2024 with a starting salary of $45,000 for new Police Officers. Pay Scale:

Police

$42,000 (min) to 67,433 (max) – Police Officer (Not Post Certified)

$45,000 (min) to $67,433 (max) – Police Officer (Post Certified)

$49,500 (min) to $74,176 (max) – Corporal

$54,450 (min) to $81,593 (max) – Detective/Sergeant

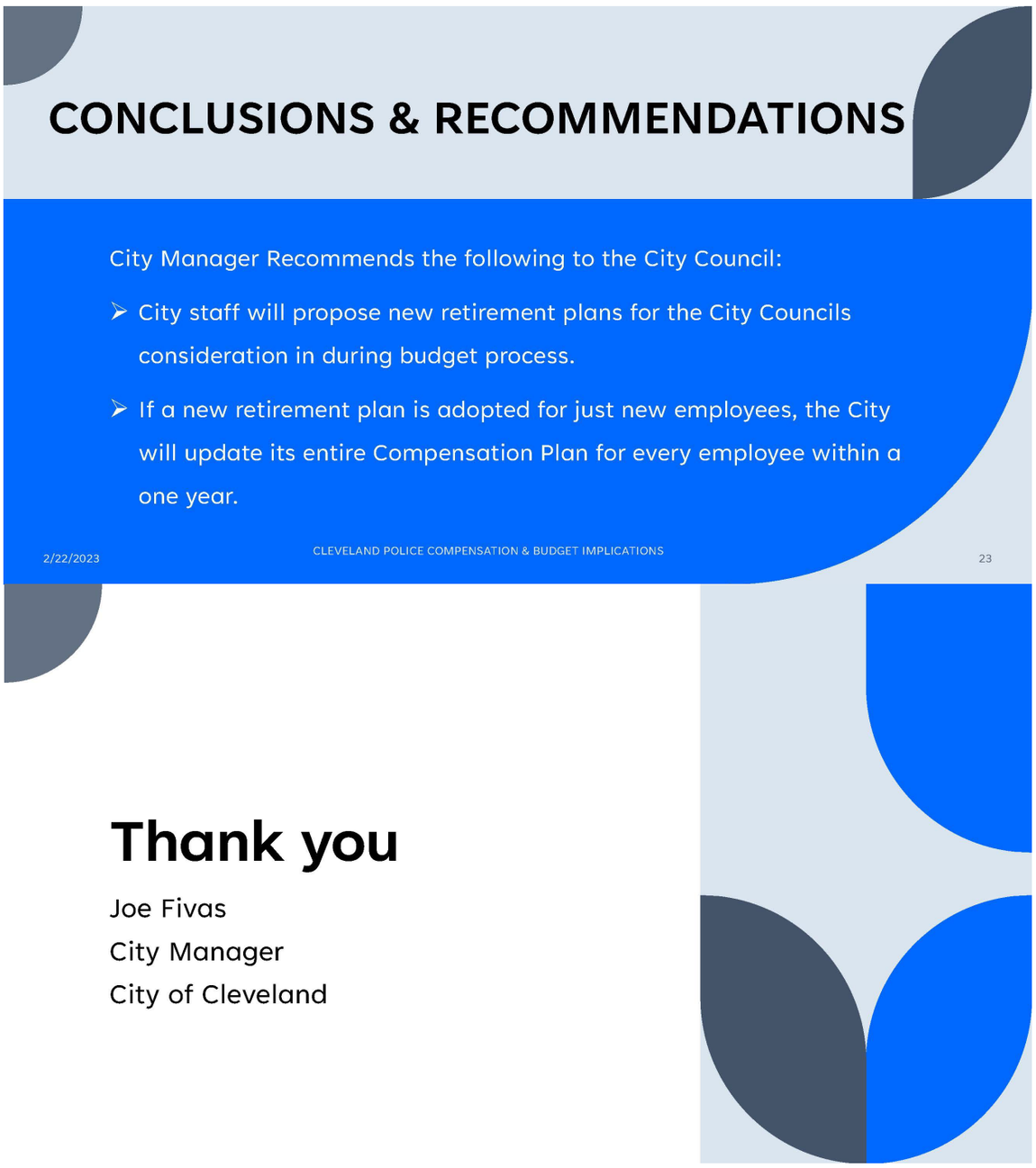
$59,895 (min) to $89,753 (max) – Lt

$65,884 (min) to $98,727 (max) - Captain

CONCLUSIONS & RECOMMENDATIONS

City Manager Recommends the following to the City Council:

- Initiate a bonus program effective immediately for a 2-year period.
- Post Certified Hires:
  - Receive $3,000 bonus after 2-years of being a Post Certified Police Officer at the City of Cleveland.
  - Receive an additional $5,000 bonus after 2-years of being Post Certified Police Officer at the City of Cleveland, and having 2 or more years of similar law enforcement service experience at another agency.
  - Not available to those officers who are currently employed on Feb 13, 2023
- Non-Post Certified Hires:
  - Receive $3,000 bonus after 2-years of being a Post Certified Police Officer at the City of Cleveland.
  - Not available to those officers who are currently employed on Feb 13, 2023



Mr. Fivas stated these are always difficult conversations and think it will be a team effort between myself, City Council and city employees. Talking with Chief Gibson, they really struggle. This is not an emergency situation in the Police Department from a staffing standpoint but we see a world, without some action, the $10,000 difference with agencies around us, we lose ground. We hire people we wouldn't have hired before, we start seeing they're not trained as well, making mistakes, having more liability and the quality of professionals we have on the street. Councilman Cassada stated I agree with everything you've said to get quality candidates. Another point that has been left out there, what about the veterans that have been here 20 years or 14 years, they are not getting pay increases because of the ones that are leaving. That is one part of it, but in all fairness you have to move everybody the same way. The lower income will move faster up than the higher ups. The veterans are the ones driving the trucks, they are the ones showing them the way. Mr. Fivas stated we are not talking about salaries. We're talking about minimums and maximums of positions. Councilman Cassada stated you have to do it all the way through. It causes bumping heads in departments, 'well you're making more than I am, I've been here three years and now you are making more than me, and you just got hired on'. Mr. Fivas stated no. Everyone shifts, so you will not have compaction with this. This model and our software takes into effect and moves everyone, so you won't have any compaction. Councilman Cassada stated I can't hire someone off the street as an operator. Mr. Fivas stated those are budget issues that we can talk about when we're talking about whether to give 3.5%,

those are compensation issues, dealing with individual employees. Right now, we are talking about just the pay scale. Councilman Cassada stated you are talking hire-in not the pay scale. Councilman Webb stated on July 1, 2022 we had a 3.5% increase across the board for employees, what we have done for several years. Is it replaced by this 2.5%, on page 19. Mr. Fivas stated no, this is not a salary increase. Right now, let's say a position that the minimum starts at $40,000 and ends at $60,000. This is just moving the scale 2.5% out. That will have results in the system correcting itself so there is not compaction. Some employees will get some increases. So, if the Council wants to do something different from an annual compensation standpoint, that's when we get into the budget. Councilman Estes stated changing compensations, working first with Janice on two and Joe on the last one, there are more ways to look at improving compensation than giving everyone the same amount, no matter their level. We've had lower levels not paid enough, upper levels where they met comps, so we had to move one part of the scale but not the whole scale. We certainly have to open our minds that different parts of the scale will be treated differently. Secondly, Hamilton County today will pay a Math or Science teacher $5,000-$10,000 more than an English or Social Studies teacher. We know have a problem with Police Officers, I have no problem decoupling or a bridge until we can get there. It's not uncommon for government entities to do things like this. You have needs in certain areas, you fix it. This resonates with me but would like to see more specifics. This is a problem for the city of Cleveland. Our lower end of the scale is out of whack and that is why I would like to see a compensation study every year. Councilman Cassada stated if you raise the base pay up for the police officers then you are going to have police officers that have been there two years with experience will too close. Mr. Fivas stated our computer model will adjust all of those. You would keep the same distance. They would all shift. Councilman Cassada asked are we voting on anything today. Mr. Fivas stated this would be implemented with the budget process unless a different direction is given from the Council. We would work through this through the budget process with one exception, the bonus program. You are not making any decisions now, we can wait. If everyone is comfortable putting it in the budget we can work on it, just trying to have a conversation before we get to that point. It is an active conversation but no vote today. From the budget development standpoint, we are headed this way, unless the Council says no, we are not heading that way. Councilman Cassada stated I would like to talk with more department heads and get their feel on it. Councilman Estes stated going to talk to department heads helps nothing at all. Cassada stated I wants to know their struggles and issues. Councilman Estes stated not good governance. We hired Mr. Fivas, and he is their boss. Councilman Cassada stated he would like to have their input. Mr. Fivas stated we can help facilitate input. These are very difficult issues and things we have to work through. We see the start of stuff in the one department. We did not want to bring a proposal that just dealt with the police department. That's unfair, it would be seen as not fair. This proposal is meant to raise the scales of everybody and in 2024 do a new study and it will fix all this stuff. That will be the real determiner. We are just trying to artificially move the ball until we can get out of inflation, give us some time to come up with a new study and do it every year. That's our new pathway. We may be off or too high, but the study will correct it. If it's too low, we will back it back down. We're giving our best guess on how to treat everyone the same in the sense that everyone's pay scale moves. Again, not talking about compensation of specific employees just moving the pay scale. Councilman Cassada asked Mr. Fivas if he has a problem with them asking department heads questions. Mr. Fivas responded have we ever had any restrictions. Something like this, it is respectful that the person doing the study that has the answers is there to have a conversation. Councilman Estes stated we have a chain of command. Us to Joe. Joe to them. You are putting a department head in a difficult situation. If an employee want to talk, great. That is different. He doesn't feel its good governance, but you can do it, since Mr. Fivas has given you carte blanche. Mr. Fivas stated I said it was only fair if I was there, dealing with this topic because I have all numbers and information so I can give context. Councilwoman McKenzie asked if this was a one-time thing, then in 2024 we will start annually. Mr. Fivas stated yes, this is the bridge. This is a guess. He would rather take a little time and in 2024 take a snap shot and do it every year after that to have a strong system going forward. That is the fairest thing for all employees. Councilwoman McKenzie asked if there are things they can adjust, like the bonuses. Mr. Fivas stated they are only in affect for two years. Councilwoman McKenzie stated that was her concern. Councilman Estes asked Mr. Fivas to look at retirement options for new hires. Mr. Fivas stated yes, we are on the same page. The retirement piece is complex. We should be up to speed with the different

options and put things out there to figure it out. Councilman Webb asked if this bridge really accomplishes what it should, there would not be as big of a gap when we get to the next comp study, as most of the ranges will have already been adjusted. Mr. Fivas stated that is a fair statement. If we wait till the next one, we will be back here. We are not talking salaries, just reacting to the inflation trend we are seeing. Councilman Estes stated we've all said it's better for a penny at a time and appreciates discussing it now. Mr. Fivas stated he will be happy to meet with anyone to discuss further. This will be in the budget. The bonus would be helpful right now, so they can start advocating it. We can put it on the agenda in two weeks, that is the piece we will need to address, which will not be in the budget process. Mayor Brooks thanked Mr. Fivas for his presentation and the complex but necessary discussion.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- City Offices will be closed on Monday, February 20 in observance of Presidents' Day.
- The next City Council meeting will be held on Monday, February 27, 2023.

ADJOURNMENT

There being no future business the meeting was adjourned at 4:59 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
FEBRUARY 27, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, FEBRUARY 27, 2023 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; 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; Patti Pettit, Parks and Recreation Director; Kris Miller, IT Director; Kim Miller, Human Resource Director; Cathy Andrews, CDBG Coordinator; Charlie Boothe; Warbrit Lowery; 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 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 13, 2023 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

There were no special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

There were 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 May; and upon roll call, unanimously passed.

- **Final Passage - Zoning Ordinance 2023-02** – heretofore passed on first reading February 13, 2023 and found in Minute Book 31, Page 36; Zoning about 2.28 acres, more or less, from unincorporated county to R-1 Single Family Residential and includes a portion of Tax Map 033 Parcel 008.00 (Planning Commission: Approved 7-0; 2 absent).
- **Final Passage - Zoning Ordinance 2023-03** – heretofore passed on first reading February 13, 2023 and found in Minute Book 31, Page 46; Zoning about 6.78 acres, more or less, from unincorporated county to R-1 Single Family Residential and includes Tax Map 033G Group A Parcels 034.00 and 034.01 (Planning Commission: Approved 7-0; 2 absent).
- **Final Passage - Zoning Ordinance 2023-04** – heretofore passed on first reading February 13, 2023 and found in Minute Book 31, Page 47; Zoning about .46 acres, more or less, for property located at 10th Street NW from R1 Single Family Residential to R3 Multi Family Residential and includes Tax Map 049F Group M Parcel 002.02 (Planning Commission: Approved 7-0; 2 absent).
- **Final Passage - Ordinance 2023-05** – heretofore passed on first reading February 13, 2023 and found in Minute Book 31, Page 48; Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 2.10.1 Uses allowed, and 2.11.1 Uses allowed to remove mini-warehouse facilities and include them in section 2.10.2 Conditional Uses, and 2.11.2 Conditional Uses (Planning Commission: Approved 7-0; 2 absent).

- **Surplus Property** – Declaring various items as surplus property, to be sold on GovDeals or used for trade-in credits for new equipment.

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **February 27, 2023**
RE: **Surplus Property**

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

Fleet Management
- Tire changer – to be sold on Gov Deals

Landscaping
- 2000 Chevrolet Silverado VIN 1GCEC14V7YZ105294 – to be sold on Gov Deals

Police Department
- Miscellaneous light bars – to be traded in for credit toward purchase of new replacement lighting parts.

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

There were no reports from the Councilmembers.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

- **Ordinance 2023-06** – Amending the Municipal Code Title 8, Chapter 2, Section 8-209 to increase the number of Class 2 Beer Permits from sixteen to twenty.

ORDINANCE 2023-06

WHEREAS, under Section 8-209(1) of the Cleveland Municipal Code, Class 2 beer permits for on premises consumption are currently limited to sixteen (16) permits; and

WHEREAS, the City Council desires to amend Section 8-209 (1) of the Cleveland Municipal Code to increase the number of Class 2 beer permits from sixteen (16) to twenty (20).

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

Section 1: Title 8, Chapter 2, Section 8-209(1) of the Cleveland Municipal Code is amended by deleting 8-209 (1) in its entirety and replacing it with the following language:

8-209 Beer permits shall be restrictive. (1) All beer permits shall be restrictive as the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. Beer permits for Class 2 on-premises consumption shall be limited to twenty (20) permits. As Class 2 permits are revoked or expire, the limit on the number of Class 2 permits may fall below twenty (20). If the number of Class 2 permits falls below twenty (20), applications shall then be accepted for new Class 2 permits. Any new applications for Class 2 permits shall be processed in the order by which the permit applications are received by the City of Cleveland. Unless a new Class 2 permit is issued to a purchaser of a business holding an existing Class 2 beer permit under the provisions of Section 8-209(2), a new Class 2 permit may not be issued by the City of Cleveland so long as the total number of Class 2 permits is twenty (20). It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by their permit. It shall likewise be unlawful for a beer permit holder to fail to comply with any and all express restrictions or conditions which may be written into a permit by the beer board.

Section 2: BE IT FURTHER ORDAINED that this ordinance shall become effective upon 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 2023-06 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 2023-07 -** Amending the Municipal Code Title 13, Chapter 1 by adding Sections 13-108 and 13-109 to add the regulations of regulating storage of appliances and indoor furniture on exterior premises.

ORDINANCE 2023-07

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, TITLE 13 CHAPTER 1, MISCELLANEOUS, BE AMENDED BY ADDING SECTIONS 13-108 and 13-109 SO AS TO ADD THE REGULATIONS OF REGULATING STORAGE OF APPLIANCES AND INDOOR FURNITURE ON EXTERIOR PREMISES.

WHEREAS the City Council has determined that the existing ordinance should be revised to include and regulate storage of appliances and indoor furniture on the exterior premises.

WHEREAS the requirements, restrictions, and penalties for outdoor storage of appliances and furniture are set forth in the Cleveland Municipal Code to ensure the health, safety and welfare of the public.

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

Section 1. The Cleveland Municipal Code Title 13, Chapter 1, Miscellaneous, be amended by adding Section 13-108 to read as follows:

13-108 **Appliances not allowed on exterior premises.** Appliances and similar equipment, whether operable or not, shall not be used, discarded, or stored on the exterior premises.

Section 2. The Cleveland Municipal Code Title 13, Chapter 1, Miscellaneous, be amended by adding Section 13-109 to read as follows:

13-109 **No indoor furniture allowed on exterior premises.** No indoor furniture shall be stored, abandoned, or used on the exterior premises.

Section 3. Where a conflict exists between a provision of this Chapter and a provision of the International Property Maintenance Code, the stricter provision shall apply, as determined by the Code Official. Where a conflict exists between a general requirement and a specific requirement in this Chapter, the specific requirement shall govern. Where, in a specific case, different sections of this Chapter specify different requirements, the most restrictive shall govern.

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 Estes moved that Ordinance 2023-07 be approved on first reading. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2023-16** – Requesting a portion of South Lee Highway be renamed in honor of Bradley Central Graduate and Bearettes Basketball Star Rhyne Howard.

RESOLUTION 2023-16

A RESOLUTION REQUESTING A PORTION OF SOUTH LEE HIGHWAY BE RENAMED IN HONOR OF BRADLEY CENTRAL GRADUATE AND BEARETTES BASKETBALL STAR RHYNE HOWARD

WHEREAS, Rhyne Howard is a 2018 graduate of Bradley Central High School and a talented basketball player who has brought recognition and pride to our community through her achievements on and off the court; and

WHEREAS, Rhyne Howard has demonstrated exceptional leadership, sportsmanship, and a commitment to community service, and has served as positive role model for young people in our community; and

WHEREAS, symbolically renaming the portion of South Lee Highway in her honor would serve as a lasting tribute to her achievements and serve as a source of inspiration for future generations; and

WHEREAS, the Bradley County Commission has already passed a resolution for this purpose, and is requesting the Cleveland City Council pass a similar resolution.

NOW, THEREFORE, BE IT RESOLVED THAT THE CLEVELAND CITY COUNCIL, hereby submits a request to the Tennessee Legislature and the Tennessee Department of Transportation to symbolically rename the portion of South Lee Highway in front of Bradley Central High School between Grove Avenue SW and Fairway Dr. SW in honor of Rhyne Howard.

Adopted this 27th day of February, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Hughes stated Ms. Rhyne Howard is a better person than athlete. She is a wonderful person. She broke records at Bradley High and became All-State and the best player. She had any college she wanted to go to, including UTK but she chose Kentucky. He knows Rhyne to be a soft-spoken individual who has accomplished more than she ever dreamed she would. In Bradley County and the State of Tennessee there has never been a number one pick for a pro-team except her. She was Rookie of the Year and is currently playing in Italy for a pro-team. She is very deserving of this honor, and it is a great privileged to accept this resolution. Councilman Hughes then moved that Resolution 2023-16 be accepted as presented. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, March 13, 2023.

ADJOURNMENT

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

_____ _____
Mayor City Clerk

REGULAR SESSION
MARCH 13, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MARCH 13, 2023 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; Christy Brandon, Assistant City Clerk; Sue Zius, Administrative Coordinator; City Attorney John Kimball; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Patti Pettit, Parks and Recreation Director; Kris Miller, IT Director; Cathy Andrews, CDBG Coordinator; Charlie Boothe; Warbrit Lowery; 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 Vice Mayor Johnson, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on February 27, 2023 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

There were 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 Ben Casteel for consideration of an ordinance to rezone 6.65 acres for property located at Old Tasso Road from IL Light Industrial to R2 Low Density Single and Multi-Family Residential and includes Tax Map 050 Parcel 001.01. Robert Varnell stated this property was originally zoned industrial. The front portion is level with Tasso, but the back portion increases in height, therefore it is not suitable for industrial development. The owners, who live at the top of the hill would like to develop near Tasso Road. Staff supports the zoning change to R2, and the Planning Commission approved the item 9-0. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the 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 Councilman Estes; and upon roll call, unanimously passed.

- **Final Passage - Ordinance 2023-06** – heretofore passed on first reading February 27, 2023 and found in Minute Book 31, Page 90; Amending the Municipal Code Title 8, Chapter 2, Section 8-209 to increase the number of Class 2 Beer Permits from sixteen to twenty.
- **Final Passage - Ordinance 2023-07 –** heretofore passed on first reading February 27, 2023 and found in Minute Book 31, Page 90; Amending the Municipal Code Title 13, Chapter 1 by adding Sections 13-108 and 13-109 to add the regulations of regulating storage of appliances and indoor furniture on exterior premises.
- **Resolution 2023-17** – Authorizing the City to join the State of Tennessee and other local governments in amending the Tennessee State-Subdivision Opioid Abatement Agreement and approving the related settlement agreements for the "Second Wave" payment distributions (model resolution provided by the State).

RESOLUTION 2023-17

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO JOIN THE STATE OF TENNESSEE AND OTHER LOCAL GOVERNMENTS IN AMENDING THE TENNESSEE STATE-SUBDIVISION OPIOID ABATEMENT AGREEMENT AND APPROVING THE RELATED SETTLEMENT AGREEMENTS

WHEREAS, the opioid epidemic continues to impact communities in the United States, the State of Tennessee, and the City of Cleveland, Tennessee.

WHEREAS, the City of Cleveland has suffered harm and will continue to suffer harm as a result of the opioid epidemic; and

WHEREAS, the State of Tennessee and some Tennessee local governments have filed lawsuits against opioid manufacturers, distributors, and retailers, including many federal lawsuits by Tennessee counties and cities that are pending in the litigation captioned In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the MDL case is referred to as the "Opioid Litigation"); and

WHEREAS, the City of Cleveland has previously joined settlements with three pharmaceutical distributors and a manufacturer; and

WHEREAS, certain pharmaceutical manufacturers and retail pharmacy chains have proposed settlements that the City of Cleveland finds acceptable and in the best interest of the community; and

WHEREAS, the Tennessee legislature enacted Public Chapter No. 491 during the 2021 Regular Session of the 112th Tennessee General Assembly and was signed into law by Governor Bill Lee on May 24, 2021, which addresses the allocation of funds from certain opioid litigation settlements; and

WHEREAS, there is currently proposed legislation that would apply the statutory provisions passed in 2021 to the new manufacturer and retail pharmacy chain settlements; and

WHEREAS, the State of Tennessee, non-litigating counties, and representatives of various local governments involved in the Opioid Litigation have adopted a unified plan for the allocation and use of certain prospective settlement and bankruptcy funds from opioid related litigation ("Settlement Funds"); and

WHEREAS, the Tennessee State-Subdivision Opioid Abatement Agreement (the "Tennessee Plan"), attached hereto as "Exhibit A," sets forth the framework of a unified plan for the proposed allocation and use of the Settlement Funds; and

WHEREAS, amendments to the Tennessee Plan, attached hereto as "Exhibit B," would extend its terms to the proposed settlements, streamline accounting for certain settlement funds, and address the allocation of certain funds from a manufacturer in bankruptcy; and
WHEREAS, participation in the settlements by a large majority of Tennessee cities and counties will materially increase the amount of settlement funds that Tennessee will receive from pending proposed opioid settlements; and

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

Section 1. That the City of Cleveland finds that the amendments to the Tennessee Plan are in the best interest of the City of Cleveland and its citizens because they would ensure an effective

structure for the commitment of Settlement Funds to abate and seek to resolve the opioid epidemic.

Section 2. That the City of Cleveland hereby expresses its support for a unified plan for the allocation and use of Settlement Funds as generally described in the Tennessee Plan.

Section 3. That the Mayor of the City of Cleveland is hereby expressly authorized to execute the amendments to the Tennessee Plan in substantially the form attached as Exhibit "B" and is hereby authorized to execute any formal agreements necessary to implement a unified plan for the allocation and use of Settlement Funds that is substantially consistent with the Tennessee Plan and this Resolution.

Section 4. That the Mayor of the City of Cleveland is hereby expressly authorized to execute any formal agreement and related documents evidencing the City of Cleveland's agreement to the settlement of claims [and litigation] specifically related to Teva Pharmaceutical Industries, Ltd., Allergan Finance, LLC, CVS Health Corporation, Walgreen Co., Walmart, Inc., and any other settlement of opioid-related claims that Tennessee has joined.

Section 5. This Resolution is effective upon adoption, the welfare of the City of Cleveland, Tennessee requiring it.

ADOPTED this 13th day of March, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2023-18** – Authorizing the Mayor to sign an agreement with Southeast Tennessee Development District in connection with ARP funding to the Bradley Community Services Agency to expand the homeless shelter.

RESOLUTION 2023-18

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 ARP funding to Bradley Community Services Agency to expand the homeless shelter; and

WHEREAS, the service to be provided to the City and County are described in the attached agreement; and

WHEREAS, under the terms of the agreement, the City total fee is an amount not to exceed $3,000; and

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 13th day of March, 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2023-19** – Approving a PILOT schedule and delegating authority to enter into a pilot agreement with Formulated Solutions Cleveland, LLC.

RESOLUTION 2023-19

A RESOLUTION APPROVING A PAYMENT-IN-LIEU-OF TAXES (PILOT) SCHEDULE AND DELEGATING AUTHORITY TO ENTER INTO A PILOT AGREEMENT

WHEREAS, the Industrial Development Board of the County of Bradley and the City of Cleveland, Tennessee (the "Board") has recommended a Payment-In-Lieu-Of-Taxes ("PILOT") schedule for Formulated Solutions Cleveland, LLC (the "Company") which has a planned purchase of existing operations within the City of Cleveland, Bradley County, Tennessee, the acquisition and installation of certain machinery, equipment and other personal property for use as manufacturing, distribution, and related facilities in the City of Cleveland and Bradley County, Tennessee with a total capital investment of (but not limited to) $31,172,000.00 (the "Project") in personal property/equipment and

WHEREAS, the Project is anticipated to result in the creation of 524 full-time positions with an average annual starting wage of $43,722 for positions in the plant.

WHEREAS, the Company has requested the personal property acquired in connection with the Project (collectively, the "Property") qualify for an arrangement (the "PILOT Arrangement") whereby the Property shall be exempt from all ad valorem property taxes otherwise due thereon (collectively, "property taxes"), and in lieu of the property taxes, the Company shall be required to make annual payments in lieu of taxes equal to sixty-two and one-half percent (62.5%) of the personal property taxes otherwise due on the property during the ten-year period commencing on January 1, 2023 and ending on December 31, 2032:

WHEREAS, the Board has determined that, notwithstanding the PILOT Arrangement, the Project will result in the payment of in lieu of tax payments to the City of Cleveland, Tennessee in an estimated amount of $1,276,005.18 over the same ten-year period;

WHEREAS, the City of Cleveland, Tennessee (the "City") has determined that the proposed PILOT Arrangement is fair, reasonable, and necessary for the continued economic development of Cleveland and Bradley County and that the payments in lieu of taxes derived from the PILOT Arrangement would be in furtherance of the Board's purposes and

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

Section 1. The City hereby agrees to the PILOT Arrangement and hereby delegates the power and authority to the Board to negotiate a PILOT agreement with the Company to reflect the parties' respective rights and obligations in accordance with the PILOT Arrangement.

Section 2. The City hereby authorizes the Mayor to execute any and all documents necessary for the successful completion of the Project, including but not limited to, all documents related to the PILOT Arrangement.

Section 3. This Resolution shall become effective upon its adoption.

Adopted this 13TH day of March, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Resolution 2023-20** – Authorizing City Staff to submit a grant application to FEMA for the Fire Prevention and Safety Grant.

RESOLUTION 2023-20

AUTHORIZING THE CITY OF CLEVELAND TO APPLY FOR A FIRE PREVENTION AND SAFETY GRANT THROUGH THE FEDERAL EMERGENCY MANAGEMENT AGENCY

WHEREAS, the City of Cleveland desires to apply for a Fire Prevention and Safety Grant in the amount of $52,985 through the Federal Emergency Management Agency, to be used to purchase hazard simulators to improve community risk reduction; 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.

BE IT FURTHER RESOLVED that the City of Cleveland agrees to provide the 5% required match for said grant.

Adopted this 13th day of March, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilwoman McKenzie thanked Tommy Myers and the Public Works Department for responding immediately to dumping off Smith Drive, Arnold Street and Phillips Street.

Councilman Estes inquired if the pullup bar was repaired and what about the expansion. Ms. Petitt stated it was repaired and Mr. Fivas and I will discuss the expansion.

Councilman Cassada stated the fence at the LeConte Development at Mouse Creek/Robinhood Drive is still down. Two additional businesses have opened in the development and the fence is the same, laying over on the ground. He then asked for a status update on the bond. Mr. Fivas responded the request was submitted to pull the bond, but the developer is fighting it with the bank. The large piece in the back has been sold and they've been told before any approvals they have to get the buffer in. Councilman Cassada stated the new building had installed a buffer, but it is not adequate. Mr. Fivas stated that is the buffer, the trees. Mr. Jobe stated that is what is required in the ordinance. Mr. Fivas stated we made a request to the Engineer Ben Berry to put back the fence, but they took it down. Mr. Jobe stated the trees are what is required in the buffer. The only time a fence is required is if they shorten the buffer, which they chose not to do. The trees will grow in, they are just small. Mr. Fivas stated staff has not heard any complaints from anyone on Robinhood. Mayor Brooks stated he sent a complaint to Mr. Fivas from a family on Robinhood Drive. Mr. Fivas replied he has never seen it. Mayor Brooks stated he will resend it.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

- **Zoning Ordinance 2023-08** – Rezoning 6.65 acres for property located at Old Tasso Road from IL Light Industrial to R2 Low Density Single and Multi-Family Residential and includes Tax Map 050 Parcel 001.01 (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2023-08

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 IL Light Industrial Zoning District to R-2 Low Density Single and Multi-Family Residential Zoning District.

Approximately 6.65 acres, more or less, located at Old Tasso Rd. NE as shown on the attached map.

For reference, same property is being shown on Tax Map 050 Parcel 001.01, 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.

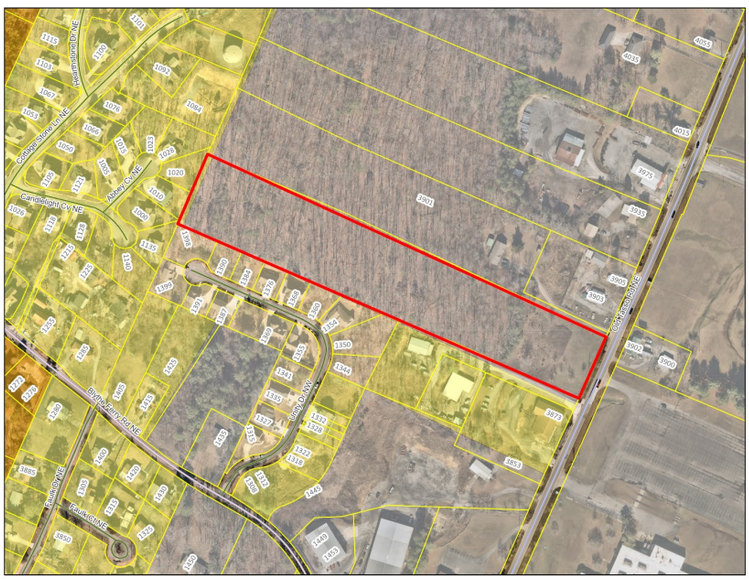
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Zoning Ordinance 2023-08 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 2023-21** – Approving the amended rates and modification of service with Waste Connections of Tennessee, Inc. for solid waste collection services.

RESOLUTION 2023-21

A RESOLUTION OF THE CITY OF CLEVELAND, TENNESSEE, TO AMEND THE RATES AND MODIFICATION OF SERVICE WITH WASTE CONNECTIONS OF TENNESSEE, INC. FOR SOLID WASTE COLLECTION SERVICES

WHEREAS, the City of Cleveland previously approved a contract with Waste Connections of Tennessee, Inc., for solid waste collection services for the City of Cleveland; and

WHEREAS, the terms of the contract are from January 1, 2019 to December 31, 2023 and shall automatically be extended to December 31, 2028, unless notice is given by the City or Waste Connections to terminate the contract; and

WHEREAS, the contract has a provision that Waste Connections can petition the City at any time for additional rate or price adjustments on the basis of unusual changes in its cost of operations; and

WHEREAS, Waste Connections has petitioned the City, which is attached hereto and incorporated herein by reference, for a rate increase and to change to an automated service which would include 95-gallon carts; and

WHEREAS, based upon the recommendations of the City Manager and the Public Works Director, the City Council has determined that it is in the best interest of the City of Cleveland to accept the modifications to the solid waste collection services for residential and commercial services to Waste Connections of Tennessee, Inc.; and

WHEREAS, the City Council of the City of Cleveland, Tennessee, desires to modify the solid waste collection services with Waste Connections of Tennessee, Inc. for residential and commercial services, with said modification to commence on July 1, 2023.

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

1. The City of Cleveland, acting through its City Council, hereby accepts the following rate adjustments:

   Household Rate of $6.68 to $9.48
   Commercial Rate of $1.81 to $2.20
   Commercial Cardboard $1.57 to $1.73
   Transfer Station Rate for City Use to $32.00

2. The City Council hereby approved the modification of the Solid Waste pick-up to an automated service, to include new 95-gallon carts.

3. These rate adjustments and modifications to the pick-up service will be effective as of July 1, 2023 or when the automated service is fully rolled out in Cleveland.

4. The terms of the contract shall automatically be extended to December 31, 2028.

Adopted this 13th day of March, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Vice Mayor Johnson moved that Resolution 2023-21 be accepted as presented. The motion was seconded by Councilman Hughes. Councilman Cassada stated if we went out to bid this would be $12 more and citizens are getting a new trashcan. He thanked Waste Connections for their efforts in keeping the costs down. Councilman Webb stated it would be a good time when we start to notify the public about this through publications, to also to remind the citizens about the rules for debris pickup, once a week, not commercial but residential only and only city debris. Doug McGill stated they would be happy to include it in their packets to the residents. Upon roll call, the motion unanimously passed.

Mayor Brooks stated an item was added to the agenda for 775 Raider Drive. Mr. Fivas stated we have the keys and we are receiving calls about utilization and asked how to proceed. Councilman Cassada stated the school system should receive the keys and the City should keep a copy. Also, inquire if the City Schools would allow us to use the drive thru for taxes, etc. Councilman May stated he understood it would belong to the school system. Mayor Brooks stated the final motion was they would rent or lease it from us for $18,000 and we would maintain the deed. Councilman Estes stated we own the property for the use and benefit of the Schools. Mr. Kimball stated the deed was not prepared that way. Councilman Estes stated his motion was they pay us back; they get it all. He added in the $18,000 for the annual taxes. It wasn't part of a lease or anything. His intent was it is the School Boards. Councilman May stated yes, that is what he understood when he voted. Councilwoman McKenzie asked if we give it to the schools are we talking about the building or all the property around the building. Councilman Hughes stated his understood the city would have the building and the schools would move in, retro fit it for their use and rent to anyone else. Mr. Kimball stated the property is no longer taxable and he believes that was Councilman Estes' reason for adding the $18,000. He understands they have reimbursed the city for the cost of the property. Councilman Hughes stated there are 7 acres there and we may have use to put up a building in the future. So, a portion of the property would be the city's not the schools. Mayor Brooks stated he understands the agreement with the schools is it is their

building, we are bequeathing it to them for their use, as voted by the Council. The School Board is open to the discussions we have had, prior to the vote, and one of them is use of the drive thru for taxes, for the County tags, for Cleveland Utility payments and possibly EMA would have some square footage in the building to be decided by the School Board. These would all produce a revenue stream by the different entities to the School Board. His request to the City Manager was how quickly we could remove the fence around the building for use of the parking area for events at Greenway Park and at the School. Councilman Hughes asked that the City look at the land/parking lot for future use by the City. Mr. Fivas stated currently the deed is in the city's name due to the question of the $18,000. The city owns the building and the land. We can change the deed for the use and benefit of the School Board. Councilman May stated his vote was to give the title to the School Board. They would own it; it would be their building. Councilman Hughes stated we could possibly use a corner of the parking lot. This is an office space. We have the latitude to say how it is going to be used. Councilman Estes stated no, that is not what we laid out; we said you pay for it we are giving it to you. Mayor Brooks stated the original question was what to do with the keys. We own the building until the deed is changed. Councilman Hughes stated he would like the city to look at possible uses of the land. Councilman Estes stated his motion was for the entire property for the use and benefit of the Schools. Mr. Kimball stated the plat, lot 1, which is the building and parking lot is 4.53 acres. The other 3.7 acres already belongs to the City, that's the Greenway Park. Councilman Hughes stated okay, he is clear. Councilman Estes asked once the deed is corrected why does the city need a set of keys. Mr. Kimball stated someone needs to make sure the budling is insured. Mr. Fivas stated it is currently on our insurance. Councilwoman McKenzie stated with this vote the schools would completely own the building. Councilman Estes stated the city owns it for the use and benefit of the Board of Education, just like all the school properties. Mr. Fivas stated if the city has a need to use the parking lot for an event at Greenway Park, the School Board would make that decision. Councilman Cassada stated he feels they would be open to that. Mayor Brooks stated his conversations with Dr. Dyer have been removal of the fence so people can park freely for events at Greenway Park or at the High School. Mr. Fivas stated to be clear, we are changing the deed for the use and benefit of the Board of Education, they would be responsible for insurance, we give them the keys and at that point we cease to have any input into what goes on there. Councilman Hughes then moved to prepare a deed correction for 775 Raider Drive to state The City of Cleveland for the Use and Benefit of the City of Cleveland Board of Education. 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, March 27, 2023.

ADJOURNMENT

There being no future business the meeting was adjourned at 3:44 p.m.

_____ Mayor

_____ City Clerk

REGULAR SESSION
MARCH 27, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MARCH 27, 2023 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; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Patti Pettit, Parks and Recreation Director; Kris Miller, IT Director; Cathy Andrews, CDBG Coordinator; Charlie Boothe; Mark Fidler, Regional Jetport Director; Jennifer Fidler; Sharon Marr with Mainstreet Cleveland; Mike Griffin and Melissa Woody with the Chamber of Commerce; Warbrit Lowery 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 March 13, 2023 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

There were no special presentations and public comments.

HEARING PETITIONS AND COMMUNICATIONS

There were no hearing petitions and communications.

CONSENT AGENDA

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

- **Final Passage - Zoning Ordinance 2023-08** – heretofore passed on first reading March 13, 2023 and found in Minute Book 31, Page 98; Rezoning 6.65 acres for property located at Old Tasso Road from IL Light Industrial to R2 Low Density Single and Multi-Family Residential and includes Tax Map 050 Parcel 001.01 (Planning Commission: Approved 9-0).
- **Resolution 2023-22 –** Authorizing the Mayor to sign Change Order #1 for the Mosby Park Pavilion.

RESOLUTION 2023-22

WHEREAS, the City previously entered a contract with B&W Contractors, Inc. dba Cherokee Construction Company for the Mosby Park Pavilion project (hereafter referred to as "the Project"); and

WHEREAS, the City's building official has received a proposal and Change Order #1 for additional work on the pavilion requested by City staff; and

WHEREAS, the proposal for the additional work and Change Order #1 for the additional work are attached to this Resolution; and

WHEREAS, the City Manager and the City's building official are recommending that the City accept the contractor's proposal for this additional work and enter into the attached change order #1 to the existing agreement with Cherokee Construction Company; and

WHEREAS, the attached proposal and change order #1 will increase the contract price by $21,537.00 for the additional items provided and as more specifically described in the attached proposal and change order form; and

WHEREAS, the completion date for this project will also be extended to April 21, 2023, under the terms of the proposal and change order #1; and

WHEREAS, the City Council now desires to accept the proposal and change order #1 to the agreement with Cherokee Construction 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 proposal and change order #1 to the existing agreement with Cherokee Construction for the referenced project described herein, and it further authorizes the Mayor to execute the change order on behalf of the City of Cleveland.

This 27th day of March 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

- **Street Light Recommendation** – 1030 Brad St NW (Cleveland Utilities does not recommend additional lighting, as it meets city guidelines. The existing 100-watt HPS fixtures can be upgraded to 41-watt LED cobra fixtures at a cost of $146.70 each, if desired by Council).
- **Motion** – Declaring the service weapon of Captain David Dorset as surplus property and given to him as a token of the City's appreciation for his 32-years of dedicated service to the Cleveland Police Department.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Estes thanked city staff for assistance with the 65 Roses 5K Race. This weekend is the Hotslaw Festival and Lee Day, so we will have thousands of people coming into town. Secondly, Mosby Park, even though not complete, was full on Saturday. Also, people were playing soccer at Avery Johnson Park. It was good to see everyone out on such a nice weekend.

Councilman Cassada asked if two additional members could be added to the Board of Zoning Appeals Board, which is a Board that the Council does not have a representative. Mr. Kimball stated to start the process to change from 5 to 7 members, it would go through the Planning Commission. Councilman Cassada stated he would like the additional two positions be filled by a Councilmember and the active Mayor. Councilman Estes added the BZA has the final authority on items. They can override the Planning Commission and the City Council, and it does not sit well with him. Mr. Fivas stated staff will draft something for the next Planning Commission agenda.

Councilman May asked if before Blythe Ferry Road is paved, could staff identify right-of-way sections that are really bad, so work can be done on the areas before paving.

Councilman Hughes thanked city staff for fixing the potholes on Mouse Creek Road and all the other areas that needed attention.

NEW BUSINESS AND ORDINANCES

- Discussion and potential action on budget planning for employee minimum wages (materials will be distribute before the meeting).

The following Resolution was presented in full:

RESOLUTION 2023-23

A RESOLUTION MODIFING THE MINIMUM & MAXIMUM PAY FOR POLICE AND FIRE DEPARTMENT AND REQUESTING THE CITY MANAGER TO INCLUDE A BUDGET PROPOSAL TO ADJUST ALL CITY STAFF MINIMUM AND MAXIMUM PAY AND REQUESTING CITY MANAGER TO INVESTIGATE OPTIONS TO INCREASE THE COST OF LIVING COMPENSATION FOR FISCAL YEAR 2024 FOR OUR CURRENT EMPLOYEES.

WHEREAS, The Cleveland Mayor and City Council believes it's biggest asset are the employees who work at the City; and

WHEREAS, Every Police Department is experiencing difficulties in recruiting certificated police officers; and

WHEREAS, The Cleveland Police Department is beginning to reduce some of it's non-emergency services to residents and we are not seeing applicants for new open police positions; and

WHEREAS, The City Manager and Police Chief have met on many occasions and have a plan to implement new policies to address our police officer recruitment and staffing during the next budget period; and

WHEREAS, Although, the Fire Department is at 100 percent staffing, we have seen the Fire Department Minimum salaries increase; and

WHEREAS, the city staff has used the same salary comps and methodology to determine the new Minimum and Maximum salaries for the Police Department and Fire Department, and

WHEREAS, All City employees' Minimum salaries should increase with the passage of the FY 2024 budget, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the city of Cleveland, Tennessee in regular session assembled, the City Council does hereby approve the following:

1) The new Police Department and Fire Department Minimum and Maximum salaries as indicated below, and during the Fiscal Year 2024 budget proposal the City Manager will propose to increase all employees Minimum and Maximum salaries in the classification plan.

NEW FIRE DEPARTMENT MINIMUM AND MAXIMUM CLASSIFICATION PLAN: (Current starting salary is $37,722.13)

(Grade 201) Fire Trainee:	$37,722 to $59,566	(Not Certified)
(Grade 202) Certified Firefighter:	$41,103 to $59,566	
(Grade 203) Engineer:	$44,838 to $65,522	
(Grade 204) Lieutenant:	$49,321 to $75,068	
(Grade 205) Captain:	$54,252 to $83,492	
(Grade 206) Battalion Chief:	$59,677 to $97,797	

NEW POLICE DEPARTMENT MINIMUM AND MAXIMUM CLASSIFICATION PLAN: (Current starting salary is $39,686.08)

(Grade 301) Police Trainee:	$39,686 to $67,433	(Not Post Cert)
(Grade 302) Certified Officer:	$44,368 to $67,433	
(Grade 303) Corporal:	$49,500 to $74,176	
(Grade 304) Detective/Sergeants:	$54,450 to $81,593	
(Grade 305) Lieutenant:	$59,895 to $92,274	
(Grade 306) Captain:	$65,884 to $99,184	

2) After the City fully implements the annual cost of living increase on July 1st, 2023 as determined by the City Council, then city staff will use the our computer software to implement all of these new classification plan modifications to make sure all employees are adjusted according to our policies and the time within their current position to review to make sure that all employees are adjusted to make sure there is no compaction in relation to their new Minimum and Maximum salary.

3) The City Manager and Police Chief have agreed to be aggressive in recruiting 'lateral transfers' from other police agencies and using new policies to pay increased salaries for police officers with experience.

4) The City Manager will review the budget and make every effort to determine a plan for additional cost of living compensation in the Fiscal Year 2023 for our current employees who continue to have increases cost of living.

5) These Minimum salary increase and our current estimated 3.5% cost of living will increase our budget expenditures by an estimated $1.7 million, and the City Manager will recommend a combination of budget reductions, efficiency modifications, retirement and healthcare changes, organizational structure changes, and fee increases to account for these new budget expenditures. The City Manager will not propose a property tax increase to implement this new plan in Fiscal Year 2024 budget.

ADOPTED this 27th day of March, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Resolution 2023-23 be accepted as presented. The motion was seconded by Councilman May. Councilman Estes stated he likes the latitude in the resolution. He asked that Chief Gibson and Mr. Fivas look at using other tools, such as sign-on bonuses, etc. As numbers are crunched, look at the numbers from the Chiefs Association in Tennessee. We should be higher than the median. It is difficult when we have the lowest tax base of municipalities but closer to $50,000 feels much better for a certified officer or the highest you can get. This issue is not solved today. This is a first step, as we are playing catch-up. In future budget cycles, we need to get out in front of this, not just trying to keep up. In discussions over the last few weeks with Mr. Fivas he realized this needs direct, immediate, and ongoing attention. Councilman May stated it seems like we are always playing catch-up. We do a compensation study, and we say we are going to keep it up, but we don't. Until we start looking at comps annually then we will never stay with the market. The employees are always looking at take home pay and for young families, it takes a lot to live now but Cleveland is a good employer on benefits. A lot of the employees don't realize the percent that it costs the city of their pay to pay for the benefits. We should look at comps annually and the employees should see what the city is spending on benefits, monthly and annually for us to get, and keep, good employees. We have got to do our part and be open on what it is costing the city on benefits. Councilman Estes added public safety is a priority [additional comments were inaudible]. Councilman Webb added it is very important that we do this at this point in time, but it is important that we do not to allow ourselves to get into this position again in the future, it is important to stay current. Vice Mayor Johnson stated years ago that is exactly what we said we were going to do, the comp study and get everybody even and we were distinguished enough that people would want to come work for the City of Cleveland. Yet, here we are discussing this again. We made a commitment to stay caught up. It is important. He was in a seminar once where Dr. George Heaton said if you help people meet their needs they will follow you anywhere. This Council will listen. We appreciate our Police, Fire and Public Works Departments. We need to make sure we do the best we can for our employees because we have some the best in the world. We have to pay attention to our employees. Councilman Hughes stated I think you can see the Council is on your team. They are fighting for you because you deserve it. We appreciate you on a daily basis. He agrees with Councilman Webb, let's not get behind again. Police Chief Gibson, Assistant Chief Smith and Captain Harbison are great leaders. Fire Chief Gaylor and Assistant Chief Van Dusen are great leaders as well. We appreciate their leadership, and we don't want to lose employees to other agencies. This will help. We are behind you 100%. Upon roll call, the motion was unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- City Offices will be closed on Friday, April 7 in observance of Good Friday.
- The next City Council meeting will be held on Monday, April 10, 2023

ADJOURNMENT

There being no future business the meeting was adjourned at 3:30 p.m.

_____ Mayor

_____ City Clerk

REGULAR SESSION
APRIL 10, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, APRIL 10, 2023 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; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Patti Pettit, Parks and Recreation Director; Dustin Roberts, IT Network Administrator; Cathy Andrews, CDBG Coordinator; Mark Fidler, Regional Jetport Director; Sharon Marr with Mainstreet Cleveland; Doug Berry with the Chamber of Commerce; Warbrit Lowery; Hal Taylor; Eddie Cartwright; Connie Gatlin with Art is Here; John Schrenkel; Kimberly Lynn; Debra and Ted Gleason; Walt Vineyard, Tim Henderson and Marshall Stinnett with Cleveland Utilities 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 March 27, 2023 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

Debra Gleason addressed the City Council concerning the formation of the Cleveland Utilities Authority. She stated there are citizens that are against approval and feel the citizens should be able to vote on the matter. The people have not been given the time or opportunity, due to lack of advertising by the City Council, to express their concerns. In her opinion, she doesn't agree, it is wrong, and it will come back to bite us. Cleveland needs to remain a conservative, family-oriented community without government control. She asked them to vote no for the sake of the community.

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 1.40 acres, more or less, for property located at Blackburn Road from CH Highway Commercial to R2 Low Density Single and Multi-Family Residential and includes Tax Map 065D Group F Parcel 002.01. Robert Varnell stated this property was rezoned to CH, but the developer has changed the development plan and requests it be zoned back to R2. Staff supports the zoning change to R2, and the Planning Commission approved the item 9-0. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the 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 to rezone 0.41 acres, more or less, for property located at Ohio Avenue from R-1 Single Family Residential to R-3 High Density Single and Multi-Family Residential and includes Tax Map 049C Group B Parcel 021.00. Robert Varnell stated this property adjoins a current R-3 zoned property, which they are looking to develop a possible quadplex or something similar at the location due to the powerlines. Staff supports the zoning change, and the Planning Commission approved the item 9-0. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition to the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks announced everyone has received a copy of the State Form CT-0253 – Report on Debt Obligation - Relating to the General Obligation Bonds, Series 2020 (No action necessary/informational only).

Mayor Brooks then announced he would be reappointing to the Planning Commission: Tricia Pennington, Maryl Elliott and Blake Allison all for additional 3-year terms to expire January, 2026.

CONSENT AGENDA

Councilman May moved to approve the following items from the Consent Agenda. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed. [Councilman Cassada requested Resolution 2023-26 be pulled from the consent agenda ana moved to new business.]

- **Surplus Property** – Declaring several weapons as surplus and to be used as a trade-in on future purchase of weapons for the Cleveland Police Department [list of serial numbers on file in the City Clerk's Office].

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Hughes thanked Walt Vineyard with the help concerning a timeline and enhancement of streetlights on Brad Street. Mr. Vineyard stated it was scheduled to be completed today. Councilman Hughes then thanked Marshall Stinnett for resolving a situation he helped him resolved.

Councilman Webb stated it is time to address the median along 25th Street. Several shrubs have died, there are several grass/weeds in the rocks and a significant amount of trash. He would like staff to move on that between now and the next meeting, if nothing else, he would like a report on how we are going to handle those shrubs.

Mayor Brooks asked for an update on paving or repaving the Tinsley Park parking lot and if it is possible for immediate help due to safety issues. Mr. Fivas stated a portion of the parking lot is to be used for additional pickleball courts and underneath the lot there is a large digestor. The lot will have to be torn out and a new subbase installed. We expect on May 1 to have the revised plans and a decision will need to be made on the location of the additional courts. We know it needs to be done; we just want it done efficiently. There will be a new parking layout when the new courts are installed as well.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution 2023-26** – Authorizing a PILOT schedule with Duracell Manufacturing, LLC.

RESOLUTION 2023-26

A RESOLUTION APPROVING A PAYMENT-IN-LIEU-OF TAXES (PILOT) SCHEDULE AND DELEGATING AUTHORITY TO ENTER INTO A PILOT AGREEMENT

WHEREAS, the Industrial Development Board of the County of Bradley and the City of Cleveland, Tennessee (the "Board") has recommended a Payment-In-Lieu-Of-Taxes ("PILOT")

schedule for Duracell Manufacturing, LLC (the "Company") which has a planned expansion of existing operations within the City of Cleveland, Bradley County, Tennessee, the construction of real improvements thereon, and the acquisition and installation of certain machinery, equipment and other personal property for use as manufacturing, distribution, and related facilities in the City of Cleveland and Bradley County, Tennessee with a total capital investment of approximately (but not limited to) $25,000,000.00 (the "Project") with $20,261,699 being an investment in personal property/equipment;;

WHEREAS, the Project is anticipated to result in the creation of 25 new full-time positions with an annual starting wage of $ 45,000.00 for production positions.

WHEREAS, the Company has requested that the personal property acquired in connection with the Project (collectively, the "Property") qualify for an arrangement (the "PILOT Arrangement") whereby the Property shall be exempt from all ad valorem property taxes otherwise due thereon (collectively, "property taxes"), and in lieu of the property taxes, the Company shall be required to make annual payments in lieu of taxes equal to the following payment schedule on the Property constituting personal property during the six-year period commencing on January 1, 2023 and ending on December 31, 2028:

Year 1 (2023) = 22.7273%
Year 2 (2024) = 26.6667%
Year 3 (2025) = 31.7460%
Year 4 (2026) = 40.0000%
Year 5 (2027) = 52.6316%
Year 6 (2028) = 80.0000%

with such percentage in a given year being the percentage applied to the property taxes otherwise due on the portion of the Property constituting personal property as depreciated, the intent of which is to tax the personal property in an amount equal to the personal property taxes otherwise due if the personal property is appraised at 20% of the acquisition value and taxed at the full tax rate for the portion of the Property constituting personal property;

WHEREAS, the City of Cleveland is committed to provide the amount of $125,000.00 in assistance for the cost of a pedestrian cross walk and traffic signal system at Mouse Creek Road to provide a safe location for pedestrian and vehicular crossings for the Company’s employees as the Company expands operations onto their property on the east side of Mouse Creek Road;

WHEREAS, the Board has determined that, notwithstanding the PILOT Arrangement, the Project will result in the payment of in lieu of tax payments to the City of Cleveland, Tennessee in an estimated amount of $132,675.74 over the same six-year period; and

WHEREAS, the City of Cleveland, Tennessee (the "City") has determined that the proposed PILOT Arrangement is fair, reasonable, and necessary for the continued economic development of the City of Cleveland, Tennessee and that the payments in lieu of taxes derived from the PILOT Arrangement would be in furtherance of the Board’s purposes.

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

Section 1. The City hereby agrees to the PILOT Arrangement and hereby delegates the power and authority to the Board to negotiate a PILOT agreement with the Company to reflect the parties' respective rights and obligations in accordance with the PILOT Arrangement.

Section 2. The City hereby agrees to provide $125,000.00 in assistance for the cost of a pedestrian cross walk and traffic signal system at Mouse Creek Road to provide a safe location for pedestrian and vehicular crossings for the Company’s employees as the company expands operations onto their property on the east side of Mouse Creek Road.

Section 3. The City hereby authorizes the Mayor to execute any and all documents necessary for the successful completion of the Project, including but not limited to, all documents related to the PILOT Arrangement.

Section 4. This Resolution shall become effective upon its adoption.

Adopted this 10th day of April, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Cassada inquired about the crosswalk and traffic signal mentioned in the resolution. Mr. Berry stated TDOT was engaged to do a preliminary review, there will be no overhead pedestrian crosswalk. It will likely be an intersection with signalization. It will help Duracell move products from one side to the other. The signal still requires a study of pedestrian crossings. This resolution offers up to $125,000 toward the signal system or an alternative crossing system, to be determined with future studies. Mr. Berry explained further of their plan to expand the packing plant, which would create additional jobs. Councilman Cassada added he has concerns about the impact of traffic and impact to the school system. Councilman May moved to approved Resolution 2023-26 as presented. The motion was seconded by Councilman Webb. Upon roll call, Councilmen May, Webb, Estes, Hughes, Vice Mayor Johnson, and Councilwoman McKenzie voted aye. Councilman Cassada voted no. The motion passed 6:1.

The following Resolution was then presented in full:

- **Resolution 2023-24** – Adopting the Downtown Revitalization Initiative (Revitalization Plan).

RESOLUTION 2023-24

A RESOLUTION BY THE COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE TO ADOPT THE DOWNTOWN REVITALIZATION INITIATIVE (REVITALIZATION PLAN)

WHEREAS, the City Council of the City of Cleveland seeks to build on the hopes and dreams of the citizens of Cleveland; and

WHEREAS, extensive public and stakeholder input was conducted throughout community to inform the completion of the Revitalization Plan in July 2019; and

WHEREAS, the Revitalization Plan is informed by numerous previous plans over the past twenty years, namely: the Mainstreet Cleveland Downtown Master Plan (2004), the BCC 2035 Strategic Plan (2010), the Central City Area Plan (2013 Comprehensive Plan), and the Blythe-Oldfield Plan (2018) that was created by a local non-profit, City Fields, stating that "On the abandoned factory site, the masterplan depicts a regional park which reconnects the neighborhood to downtown and provides a destination for people outside the neighborhood;" and

WHEREAS, the Revitalization Plan serves as a guide to reinvigorate activity and development; with the vision to "revitalize and enhance downtown into a more livable, vibrant, memorable, and welcoming destination for all;" and

WHEREAS, progress has been made towards the goals and initiatives enumerated in the Plan over the course of the past three years with planning, design, and funding activities; and where modifications to the Plan's goals and initiatives have been or may be necessary; and

WHEREAS, the Downtown Revitalization Initiative is attached hereto and incorporated herein; and

WHEREAS, the City Council seeks to escalate momentum toward the revitalization of downtown and toward the goals of the Plan;

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

SECTION 1: That the City Council of the City of Cleveland, Tennessee hereby approves the adoption of the Downtown Revitalization Initiative (Revitalization Plan). [on file in the City Clerk's Office.]

SECTION 2: That modifications to the Plan shall be directed by the latest discussion and guidance by the Cleveland City Council and provide for any exceptions or modifications to the Plan.

SECTION 3: This Resolution shall take effect from and after its passage, the welfare of the City requiring it.

Adopted this 10th day of April, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Resolution 2023-24 be accepted as presented. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

- **Resolution 2023-25** – Requesting the Cleveland Housing Authority to create a Redevelopment Plan for an area to be titled the former Whirlpool Industrial Area Redevelopment Plan.

RESOLUTION 2023-25

A RESOLUTION OF THE COUNCIL OF THE CITY OF CLEVELAND REQUESTING THE CLEVELAND HOUSING AUTHORITY TO CREATE A REDEVELOPMENT PLAN FOR AN AREA TO BE TITLED THE FORMER WHIRLPOOL INDUSTRIAL AREA REDEVELOPMENT PLAN

WHEREAS, pursuant to the provisions of TENN. CODE ANN. § 13-20-101 et seq., the Cleveland Housing Authority is authorized to study and make recommendations concerning the redevelopment of areas within the City of Cleveland; and

WHEREAS, the Council of the City of Cleveland desires that the Cleveland Housing Authority study and prepare a redevelopment plan for the former Whirlpool industrial area and conduct a public hearing to determine the necessity for the adoption of such a redevelopment plan; and

WHEREAS, the former Whirlpool industrial area is generally bounded by 4th Street Northeast to Wildwood Avenue to 9th Street Southeast, to Euclid Avenue Southeast, to Church Street Southeast, and to 1st Street Southeast.

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

SECTION 1: That the Cleveland Housing Authority be and hereby is authorized and directed to prepare a redevelopment plan for the former Whirlpool area within the City of Cleveland, with the assistance of the City's staff and resources, as well as consultant services.

SECTION 2: That the Cleveland Housing Authority be and hereby is authorized and directed to conduct a public hearing to determine the necessity for the adoption of the redevelopment for the former Whirlpool area pursuant to TENN. CODE ANN. § 13-20-203(b)(4).

SECTION 3: This Resolution shall take effect from and after its passage, the welfare of the City requiring it.

Adopted this 10th day of April, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Resolution 2023-25 be accepted as presented. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Zoning Ordinance 2023-09** – Rezoning 1.40 acres, more or less, for property located at Blackburn Road from CH Highway Commercial to R2 Low Density Single and Multi-Family Residential and includes Tax Map 065D Group F Parcel 002.01 (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2023-09

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 CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Residential Zoning District.

Approximately 1.40 acres, more or less, located at Blackburn Rd. as shown on the attached map.

For reference, same property is being shown on Tax Map 065D Group F Parcel 002.01, 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.

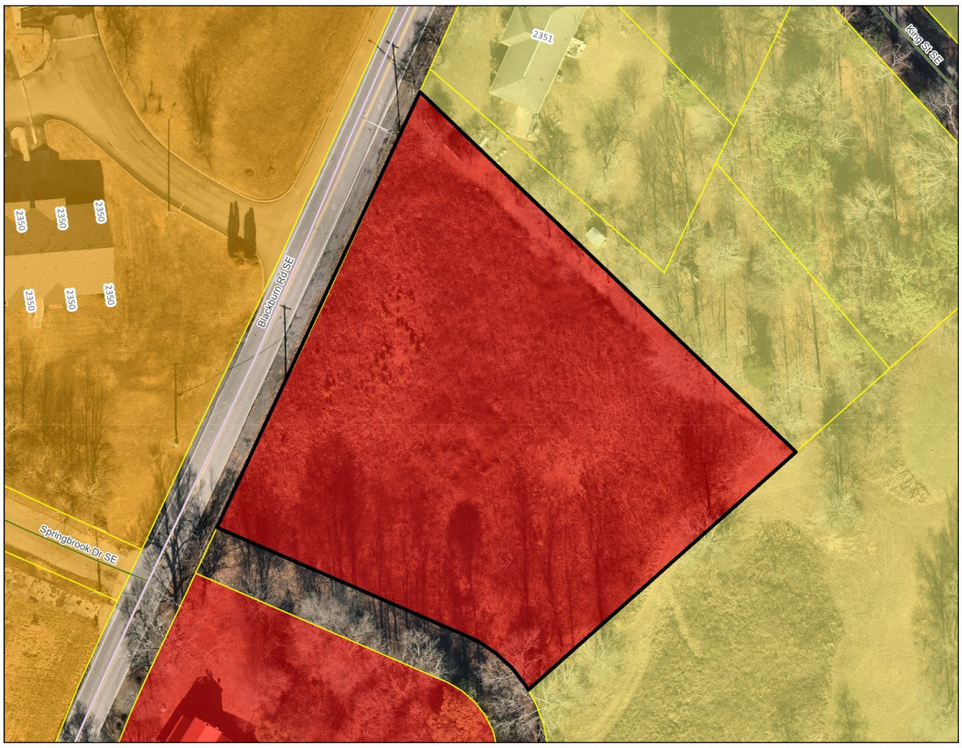
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilwoman McKenzie moved that Zoning Ordinance 2023-09 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 2023-10** – Rezoning 0.41 acres, more or less, for property located at Ohio Avenue from R-1 Single Family Residential to R-3 High Density Single and Multi-Family Residential and includes Tax Map 049C Group B Parcel 021.00 (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2023-10

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 R-1 Single Family Residential Zoning District to R-3 High Density Single and Multi-Family Residential Zoning District.

Approximately .41 acres, more or less, located at Ohio Avenue as shown on the attached map.

For reference, same property is being shown on Tax Map 049C Group B Parcel 021.00, 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.

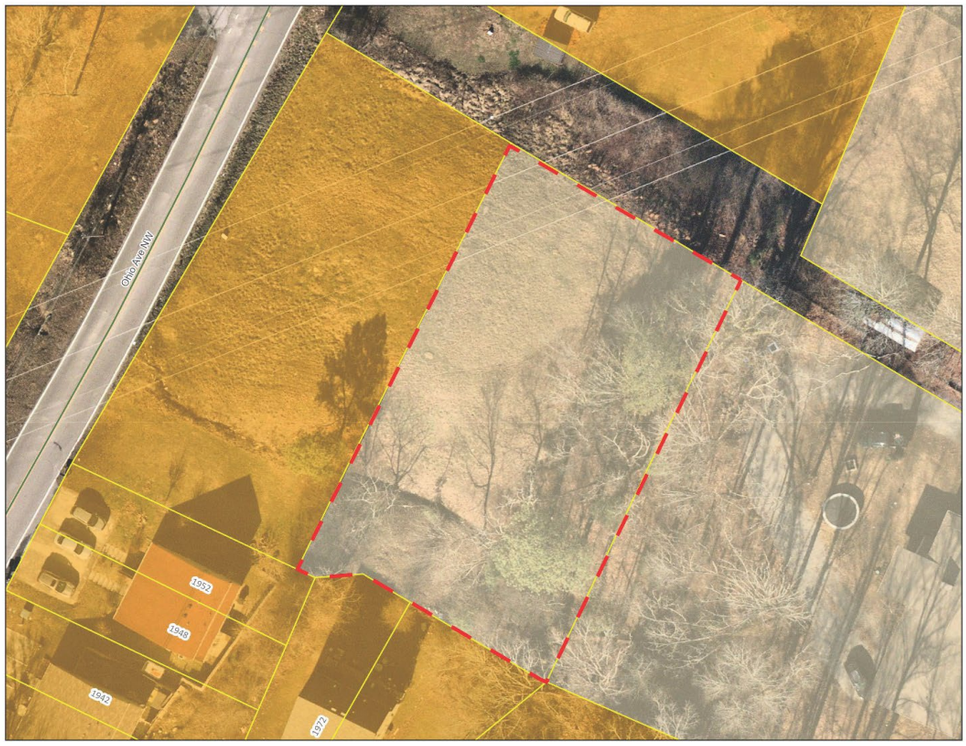
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman Cassada moved that Zoning Ordinance 2023-10 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 2023-27** - A Resolution authorizing the provision of Broadband Services per Part 6: Cable Television, Internet, and Related Services (7-52-601 to 7-52-611). (Requested by Cleveland Utilities President Tim Henderson)

RESOLUTION 2023-27

A RESOLUTION AUTHORIZING THE PROVISION OF BROADBAND SERVICES PER TENNESSEE CODE ANNOTATED SECTION 7-52-601, ET SEQ

WHEREAS, Cleveland Utilities has developed a detailed business plan for the provision of broadband services, has submitted the business plan to the office of the Comptroller of the State of Tennessee, and has considered the analysis of the business plan that the Comptroller's office provided; and

WHEREAS, pursuant to a notice of hearing published in the February 28, 2023; March 2, 2023; and March 4, 2023, editions of the Cleveland Daily Banner, the Board of Directors conducted a public hearing on Wednesday, March 8, 2023; and

WHEREAS, all interested parties were invited to attend the public hearing and were permitted to ask CU management questions about the project; and

WHEREAS, all interested parties at the public hearing were invited to present oral and written comments to CU concerning the proposed business plan and the provision of broadband services; and

WHEREAS, pursuant to a notice published in the March 16, 2023, edition of the Cleveland Daily Banner, the Board of Directors has convened its regular monthly meeting and has considered authorizing the provision of broadband services; and

WHEREAS, after consideration of the foregoing, including the comments of all interested parties submitted at the public hearing, the Board of Directors has determined that CU should provide broadband services under the authority of Tennessee Code Annotated Section 7-52-601, et seq., and otherwise applicable law; and

NOW, THEREFORE, BE IT RESOLVED THE CITY COUNCIL OF THE CITY OF CLEVELAND duly adopts a resolution by a two-thirds (2/3), or greater vote, and finds and determines that with respect to the services described in Tennessee Code Annotated Section 7-52-601, et seq., and subject to the approval of the City Council of the City of Cleveland, CU is hereby authorized, to provide broadband services to the fullest extent permitted by Tennessee Code Annotated Section 7-52-601, et seq., and other applicable law.

ADOPTED this 10th day of April, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Hughes moved that Resolution 2023-27 be accepted as presented. The motion was seconded by Councilman May. Councilman Cassada asked is there a rush on this thing or is there a deadline; can we give it more thought or kick a field goal? Is it an urgent thing? Mr. Henderson stated I don't know that I would define that urgent. I know we have been prepared and worked toward the end of moving forward. We are ready to move forward. There certainly are reasons for us to move forward, particularly with the ability to partner with third parties. Councilman Cassada then asked can broadband be done without an Authority. Mr. Henderson replied no sir, not as proposed. Councilman Cassada asked if it could be reproposed just as a part of the utility company, as other cities have done this, not having an Authority. Mr. Henderson replied yes that is correct, the answer would be yes, it can be done without an Authority, not under the current business plan we have before you all. Councilman Cassada asked would that business plan change that much? Mr. Henderson stated yes. Mayor Brooks stated this resolution is for the offering of broadband services. The formation of the Authority would be next and that is when these questions should be asked. Councilwoman McKenzie asked if voting on this resolution, when the broadband has to be tied to the Authority, would there be a conflict. Mr. Kimball replied they are separate resolutions as drafted. If you pass this one and not the next resolution, as Mr. Henderson just stated, they cannot do broadband. You're just authorizing them to do it. Councilman Cassada added he is not against broadband. It is an opportunity to move the city forward, but it should be done without an Authority. Upon roll call, Councilman Hughes, Councilman May, Vice Mayor Johnson, Councilwoman McKenzie, Councilman Estes, Councilman Cassada and Councilman Webb voted aye. The motion passed 7:0.

The following Resolution was then presented in full:

- **Resolution 2023-28** - A Resolution authorizing the creation of Energy Authority per Part 36: Municipal Energy Authority Act (7-36-101 to 7-36-132). (Requested by Cleveland Utilities President Tim Henderson)

RESOLUTION 2023-28

A RESOLUTION TO APPROVE THE FORMATION OF AN ENERGY AUTHORITY AND TO ALLOW THE ENERGY AUTHORITY TO ASSUME THE OPERATIONS OF CLEVELAND UTILITIES

WHEREAS, the Board of Directors of Cleveland Utilities ("CU") has determined that CU should provide broadband services under the Authority of Tennessee Code Annotated Section 7-52-601, et seq., and otherwise applicable law, subject only to the approval of the City Council of the City of Cleveland, Tennessee (the "City"); and

WHEREAS, in connection with the development of the broadband business plan for CU, the Board of Directors and the management team of CU have evaluated the potential benefits associated with the formation of an energy Authority pursuant to the provisions of the Municipal Energy Authority Act, Tennessee Code Annotated Section 7-36-101, et seq. (the "Authority Act"); and

WHEREAS, the Board of Directors has determined that the formation of an energy Authority by the City Council will provide the optimal business structure for CU's existing electric, water, and wastewater operations and for CU's broadband operations; and

WHEREAS, the management team of CU has presented a proposed form of the Certificate of Incorporation for Cleveland Utilities Authority, a copy of which is attached as Exhibit A; and

WHEREAS, the Board of Directors recommends the City Council to consider the formation of an Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND duly adopts a resolution by a two-thirds (2/3), or greater vote, and finds and determines that it is wise, expedient, necessary, and advisable that an Authority be formed, it shall authorize the City Manager to proceed to form the Authority, and the City Council shall approve the form of the Certificate of Incorporation proposed to be used by the Authority; and

BE IT FURTHER RESOLVED, according to the powers of this Act, the Authority in most ways will have the power to Act as an independent local jurisdiction where the City will have to consider how to give the Authority control over the hundreds of millions of dollars in public assets to the independent Authority; and

BE IT FURTHER RESOLVED, that after the approval of this resolution the City Council will have no Authority to unilaterally to change the Articles of Incorporation, or ever reverse this decision, and this Authority will act in perpetuity; and

BE IT FURTHER RESOLVED, according to the powers of this Act the Authority Board will have complete control and supervision of any system of the Authority and to make all such rules governing the rendering of services; and

BE IT FURTHER RESOLVED, according to the powers of this Act the City Council would not have any approval powers or have any Authority over water rates, wastewater rates, broadband rates, electric rates, or the budget of Cleveland Utilities in perpetuity; and

BE IT FURTHER RESOLVED, according to the powers of this Act, upon transfer of an electric, water, and wastewater system from the City to an Authority and the assumption or satisfaction of all obligations of the Board, the all jurisdiction and all control of the City over such system must be transferred to the Authority, and supervisor board having oversight over such system shall cease to exit.

ADOPTED this 10th day of April, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

CERTIFICATE OF INCORPORATION
OF THE
CLEVELAND UTILITIES AUTHORITY

1. **Name.** The name of the corporation is CLEVELAND UTILITIES AUTHORITY (the "Authority"). The legal name of the Authority may only be amended by an amendment to this Certificate of Incorporation. The Authority may adopt assumed corporate names from time to time by following the process outlined in Tennessee Code Annotated § 7-36-105(d).

2. **Approval of Formation**. Permission to organize the Authority has been granted by a resolution of the City Council of the City of Cleveland, Tennessee that was duly adopted on April 10th, 2023, a copy of which is attached as Appendix A hereto and which resolution remains in full force and effect.

3. **Principal Office**. The location of the principal office of the Authority shall be 2450 Guthrie Avenue NW, Cleveland, Tennessee 37311.

4. **Purpose**. The Authority shall be for the purpose of planning, acquiring, constructing, improving, furnishing, equipping, financing, owning, operating, and maintaining electric, water, or wastewater utility and telecommunications systems within or outside the corporate limits of the City of Cleveland, Tennessee (the "City of Cleveland"), and to exercise all powers granted to utility authorities by the Municipal Energy Authority Act as enacted by Public Chapter No. 995 of the 2016 Public Acts of the State of Tennessee (the "Act"), as amended, with respect to electric, water, wastewater, and telecommunications services.

5. **Board of Directors.**

(a) **Number of Directors**. The Board of Directors of the Authority shall have seven (7) members. At least three (3) Directors are directly appointed by the City Council from a combination of the Mayor and/or any of the seven (7) Council members.

(b) **Initial Directors, Classifications and Terms of Office**. The names, classifications and initial terms of the initial Board of Directors are:

Name	Director Classification	Term of Office
Aubrey Ector	At large Director	June 30, 2025
Joe Cate	At large Director	June 30, 2026
Eddie Cartwright	At large Director	June 30, 2024
Debbie Melton	At large Director	June 30, 2023
David May, Jr.	Rep from Cleveland City Council	September 30, 2024
TBD	Rep from Cleveland City Council	June 30, 2024
TBD	Rep from Cleveland City Council	June 30, 2025

Except as otherwise provided in the Act or this section, initial Directors shall serve until reappointment and confirmation or until their successor(s) are duly appointed by and confirmed by the City Council of the City of Cleveland.

(c) **Subsequent Directors; Qualifications**. All subsequent appointments shall be for four-year terms commencing on [July 1] and ending on [June 30,] and such Directors shall continue to serve following expiration of their respective four-year terms until reappointment and confirmation or until their successors are duly appointed and confirmed. Each appointment shall be made by the City Council of the City of Cleveland and shall be subject to the confirmation of the City Council of the City of Cleveland. Each initial Director and each subsequent appointment shall also be subject to the

following additional requirements:

(i) No person shall be eligible to be a member of the Board of Directors unless such person shall be a property holder and resident of the City of Cleveland and shall have resided for at least one (1) year prior to such person's appointment and shall be at least twenty-five (25) years of age.

(ii) No regular compensated officer or employee of the City of Cleveland shall be eligible for appointment until at least one (1) year after the expiration of the term of such public office, except that three (3) members of the Board of Directors shall be chosen as hereinafter provided from the City Council of the City of Cleveland.

(iii) The Directors serving as the representatives from the City Council of the City of Cleveland shall not serve as a Director beyond the Director's term of office on the City Council of the City of Cleveland.

(d) **Vacancies.** Vacancies on the Board of Directors of the Authority due to death, resignation, ineligibility or removal shall be filled by the City Council of the City of Cleveland in the same manner as provided under subsection (c), immediately above, and shall be effective immediately for the remainder of the unexpired term upon the confirmation of the City Council of the City of Cleveland.

(e) **Removal.** Any Director may be removed from office for cause upon a vote of two-thirds (2/3) of the members of the City Council of the City of Cleveland, but only after preferment of formal charges by resolution of a majority of the members of the City Council of the City of Cleveland.

6. **Duration.** The duration of the Authority shall be perpetual.

7. **Corporate Form**. The Authority shall be a public corporation, a political subdivision of the State, and a body politic and corporate.

8. **Powers; Regulatory Authority.**

(a) Subject to the provisions of subsection (c), below, with respect to the water and wastewater requirements of the City of Cleveland, the Authority shall have all the privileges, powers and authority granted and provided for a utility authority by the Act with respect to electric, water, wastewater, and telecommunications services, as the Act presently exists or may be hereafter amended from time to time.

(b) Subject to the provisions of subsection (c), below, with respect to the water and wastewater requirements of the City of Cleveland, the Authority shall have the authority to establish policies, rules and regulations with respect to electric, water, and wastewater services in the same manner and to the same extent as the Board of Public Utilities of the City of Cleveland exercises such authority as of the date of this Certificate of Incorporation. The Authority shall be subject to such regulatory requirements and limitations under Title 18 of the City of Cleveland Code of Ordinances, as amended from time to time, in the same manner and to the same extent as would have applied to the Board of Public Utilities of the City of Cleveland. The Authority shall be subject to such regulatory requirements and limitations under all City of Cleveland Code of Ordinances. The Authority shall at no time extend wastewater services to new customers outside of City limits without an approving resolution by at least two-thirds (2/3) majority vote of the City Council of the City of Cleveland.

(c) The Authority shall be subject to such regulatory requirements and limitations under all City of Cleveland Code of Ordinances, as amended from time to time, in the same manner and to the same extent as would have applied to the Board of Public Utilities of the City of Cleveland, except as limited by Tennessee state law.

(d) Subject to the provisions of the above, The Authority shall meet annually with the City Council of Cleveland, TN as part of the annual budget retreat or equivalent public meeting to discuss and seek comments concerning upcoming capital, rate, and operational based decisions as part of The Authority's annual budget process. All comments will be reviewed by The Authority and included as part of the final budget presentation to The Authority Board.

(e) Subject to the provisions of the above, At the discretion of the City Manager of City of Cleveland, City Council of the City of Cleveland, Utility Authority Board or Utility Authority Designee, a quarterly meeting will be held with the President/CEO of The Authority or his designee(s) to discuss and plan for all projects related to the City of Cleveland and The Authority.

9. **In Lieu of Tax Payments**. The Authority shall make in lieu of tax payments in accordance with the provisions of the Act, as set forth at Tennessee Code Annotated § 7-36-122.

10. **Restrictions on Disposition of Plant**. The Authority shall not have any power to dispose of all or substantially all of the electric, water, or wastewater plant of the Authority, except upon the concurrence and consent of the City Council of the City of Cleveland and, in the case of a disposition of all or substantially all of the electric plant of the Authority, upon approval of a majority of those voting in a referendum called by the City Council of the City of Cleveland in accordance with Tennessee Code Annotated § 7-52-132 and the provisions of the Act.

11. **Residual Interest of the City of Cleveland.** If the Authority ceases to exist, or in the event of the sale of all or substantially all of the assets of the electric system and/or the water and wastewater system of the Authority, all of its assets associated with the applicable utility system remaining after all of the obligations and liabilities of such system have been satisfied or discharged shall pass to, and become the property of, the City of Cleveland.

12. **Amendment**. This Certificate of Incorporation may only be amended as provided in Tennessee Code Annotated § 7-36-106 and a resolution of the City Council of the City of Cleveland that approves the amendment by at least a two-thirds (2/3) majority vote.

IN WITNESS WHEREOF, this Certificate of Incorporation has been subscribed and acknowledged by the Mayor of the City of Cleveland, Tennessee before an officer authorized by the State of Tennessee to take acknowledgments of deeds, on the day and month set forth below.

_____
Joseph A. Fivas, City Manager
City of Cleveland, Tennessee

STATE OF TENNESSEE :
COUNTY OF BRADLEY :

Personally appeared before me, _____, a Notary Public, Kevin Brooks, with whom I am personally acquainted, who acknowledged that he is the duly elected Mayor of the City of Cleveland, Tennessee and that he executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this _____ day of _____, 2023.

_____
Notary Public

My Commission Expires: _____

Councilman Webb moved that Resolution 2023-28 be accepted as presented. The motion was seconded by Councilman May. Councilman Estes asked for an amendment. He would like the language from the Interlocal Agreement 3A concerning the water and wastewater regulations added to the Certificate of Incorporation. He feels the more teeth we can add is better on the front end. Mr. Kimball asked for the language to be read so we know what we are amending. Councilman Estes requested a short recess.

Mayor Brooks announced the Council would recess for 10 minutes.

Mayor Brooks then called the meeting back into session at 4:00.

Councilman Estes stated the intent of the amendment is to strengthen the language and not to change the spirit of the intent of the incorporating documents. He then read the following language to add to the end section 8b in the Certificate of Incorporation:

No connection to city sewer shall be allowed for any property outside the city limits unless the owner(s) of the property submit a written request to the city for annexation and that request approved by City Council.

Councilman Webb asked how that would affect the industrial properties. Mr. Berry stated when you previously restricted access to the sewer system through annexation you had language in the ordinance that allowed it in the cases of economic development projects that were recommended by the Industrial Development Board. Councilman Webb asked if that language should be referenced here as well. Councilman Estes stated he was advised not to do that as it would look like the new Authority was still under our authority. We could add language concerning industrial property or we can make it for residential only. Councilman Webb stated he still has concerns. He then stated he would like to withdraw his motion and offer another motion. Councilman May withdrew his second.

Councilman Webb moved to approve the Authority with the expansion of the Utility Board to seven members, with two additional members coming from the City Council and/or Mayor. The motion was seconded by Councilwoman McKenzie.

Councilman Cassada stated he would like to offer a substitute motion to delay approval of the Authority for 30 days or until May 22 meeting. Mayor Brooks announced the substitute motion failed for lack of a second.

Mayor Brooks stated the motion on the floor is to approve the Authority (Resolution 2023-28) with the expansion of the Utility Board to seven members, with two additional members coming from the City Council and/or Mayor. Councilman Estes stated he still would like the language from the Interlocal Agreement Section 3a to be added to Section 8b of the Certificate of Incorporation. Councilman Webb asked Mr. Kimball if there would be any issues. Mr. Kimball stated it is language in the Interlocal Agreement and it is probably a better way to say what he was trying to do earlier. It refers to Title 18 and requires a 2/3 vote of the City Council. Mr. Kimball then clarified two changes that would happen to the Certificate of Incorporation 1) increasing the Board from five to seven, and 2) the addition of the language in paragraph 3a from the Interlocal Agreement to Section 8b. [The Authority shall be subject to such regulatory requirements and limitations under Title 18 of the City of Cleveland Code of Ordinances, as amended from time to time, in the same manner and to the same extent as would have applied to the Board of Public Utilities of the City of Cleveland. The Authority shall be subject to such regulatory requirements and limitations under all City of Cleveland Code of Ordinances. The

Authority shall at no time extend wastewater services to new customers outside of City limits without an approving resolution by at least two-thirds (2/3) majority vote of the City Council of the City of Cleveland.] Councilman Webb stated he would accept the amendment. Councilwoman McKenzie agreed with the amendment. Councilman Webb stated the two additional members come from either the City Council or the Mayor. Councilman Cassada asked for clarification of the motion. Mr. Kimball stated the resolution is for all, everything to be under the Authority. Councilman Cassada stated this Council is giving up everything to this Authority. When citizens call about electric rates, we have to say we gave it away and there is nothing we can do about it. He does not support this resolution. He is good with broadband, but we should not give our electric away.

Upon roll call, Councilman Webb, Councilwoman McKenzie, Councilman Estes, Councilman May and Councilman Hughes voted aye. Vice Mayor Johnson and Councilman Cassada voted no. The motion passed 5:2.

The following Resolution was then presented in full:

- **Resolution 2023-29** - A Resolution authorizing the approval of an Interlocal Agreement between the City of Cleveland and the new Authority. (Requested by Cleveland Utilities President Tim Henderson)

RESOLUTION 2023-29

A RESOLUTION AUTHORIZING THE CITY COUNCIL OF CITY OF CLEVELAND TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE CLEVELAND UTILITIES AUTHORITY

WHEREAS, the City Council has approved the formation of the Cleveland Utilities Authority; and

WHEREAS, the two will need to work closely with each other to give services to the City of Cleveland; and

WHEREAS, the City is in full control of the Rights-of-Ways within the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED THE CITY COUNCIL OF THE CITY OF CLEVELAND duly adopts a resolution for an interlocal agreement with the Cleveland Utilities Authority.

ADOPTED this 10th day of April, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Resolution 2023-29 be accepted as presented. The motion was seconded by Councilman Hughes; and upon roll call, Councilmen May, Hughes, Webb, Estes, Vice Mayor Johnson and Councilwoman McKenzie voted aye. Councilman Cassada voted no. The motion passed 6:1.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, April 24, 2023.

ADJOURNMENT

There being no future business the meeting was adjourned at 4:18 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
APRIL 24, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, APRIL 24, 2023 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; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Patti Pettit, Parks and Recreation Director; Chris Gaylor, Assistant IT Director; Cathy Andrews, CDBG Coordinator; Zachary Colescott, Regional Jetport Manager; Sharon Marr with Mainstreet Cleveland; Doug Berry with the Chamber of Commerce; Bryan Turner, Assistant Development and Engineer Director; Warbrit Lowery; John Thurman with MHM; Dustin Tommey, David Goodwill and Mackenzie Colsten with City Fields and Tim Siniard with the *Cleveland Daily Banner*.

PLEDGE OF ALLEGIANCE AND INVOCATION

Following the Pledge of Allegiance to the American Flag, a moment of silence was observed for Tim Delk. Following the 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 10, 2023 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

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

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Michelle Goldston addressed the City Council concerning the renovation of Mosby Park and the year long timeline. She mentioned several concerns with the fencing, security, and first responder access. When residents ask, they are told “it will get finished”. They are frustrated as it has been a year. She then asked for a completion date for when kids will have full access to the park and pool. Will it be completed and if so, when? Mr. Fivas stated yes, the things you have talked about should be done in a month. Ms. Goldston questioned before May 30, before Memorial Day? Mr. Fivas stated should be, pretty much everything is done except for the landscaping. Ms. Goldston stated there’s no power in the second pavilion and asked when they would start on the pool. Ms. Petitt stated they are already working on the pool. Ms. Goldston added the fence fell down on the pool about three weeks ago and it was temporarily fixed. Will it be fixed permanently? Ms. Petitt stated yes, it will be fixed permanently.

Alma Dotson addressed the City Council concerning the safety of the fencing at Mosby Park. There is no adequate safety entrance or exit for ambulances, should something happen in the park. The back side on First Street would be very appropriate and an easy fix to make a gate there. She would like to see that done.

HEARING PETITIONS AND COMMUNICATIONS

There were no hearing petitions.

CONSENT AGENDA

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

a. **Final Passage - Zoning Ordinance 2023-09** – heretofore passed on first reading April 10, 2023 and found in Minute Book 31, Page 112; Rezoning 1.40 acres, more or less, for property located at Blackburn Road from CH Highway Commercial to R2 Low Density Single and Multi-Family Residential and includes Tax Map 065D Group F Parcel 002.01 (Planning Commission: Approved 9-0).
b. **Final Passage - Zoning Ordinance 2023-10** – heretofore passed on first reading April 10, 2023 and found in Minute Book 31, Page 113; Rezoning 0.41 acres, more or less, for property located at Ohio Avenue from R-1 Single Family Residential to R-3 High Density Single and Multi-Family Residential and includes Tax Map 049C Group B Parcel 021.00 (Planning Commission: Approved 9-0).
c. **Bid Report** – Cherokee Hotel Abatement and Demolition.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **April 24, 2023**
RE: **Bid Summary – Cherokee Hotel Abatement & Demolition**

SUMMARY:
The City advertised to accept sealed bids on April 11, 2023, for the Cherokee Hotel Abatement and Demolition project. Bids are listed below:

- AAA Remediation **$182,199.00**
- E. Luke Greene **$692,777.00**
- Environmental Abatement, Inc. **$442,500.00**
- Triple E Construction **$894,707.00**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Proposal submitted by low bidder, AAA Remediation, was found to be incomplete. Staff recommends awarding the contract to the 2nd lowest bidder, Environmental Abatement, Inc.

d. **Bid Report** – Laundry and Dry Cleaning Services.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **April 24, 2023**
RE: **Bid Summary – Laundry & Dry Cleaning**

SUMMARY:
Sealed bids were received on April 18, 2023, for Laundry & Dry Cleaning Services. The bids are listed below:

VENDOR:	Champion Cleaners			
DRESS PANT	4.89		SPORT COAT (CIVILIAN)	4.74
DRESS SHIRT	4.58		SUIT - 2 PIECES (CIVILIAN)	9.78
EISENHOWER JACKET	5.57		BLACK FATIGUES - 2 PIECES	9.80
SERVICE JACKET, FUR LINED	7.75		JEANS	4.74
DRESS SHIRT, LAUNDRY	2.38		SHORTS	4.39
DRESS PANT, LAUNDRY	4.90		DRESS	7.44
KNIT SHIRT	4.74		BLOUSE	4.74
BROWN FATIGUES, LAUNDRY	4.90		RAINCOAT	12.15
KNIT PULLOVER, LAUNDRY	4.74		SUIT JACKET	4.74
TIES	2.71		VEST	4.20
BULLET PROOF VEST (CARRIER)	4.00		SEWING OF INSIGNIAS	4.84
SWEATER (CIVILIAN)	5.41			

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, 2023.

e. **Motion** – Extending the Paving Contract with Talley Construction for an additional one-year period [July 1, 2023-June 30, 2024].
f. **Change Order #1** – Cleveland Fire Station 1 Roofing Project [$12,383.00; new contract total $163,453.00].

TO: **Mayor and City Council**
FROM: **Bryan Turner, Assistant Director of Development & Engineering**
DATE: **March 27, 2023**
RE: **Fire Station #1 Roof Project - Change Order #1**

SUMMARY:
The change order will allow the roofing contractor on site to replace the old nonfunctioning skylights with new skylights. This change order will not affect the completion time of the project and includes all skylights.

g. **Surplus Property** – Declaring a 2004 Ford Explorer as surplus property and to be sold to Bradley Cleveland Community Services Agency.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **April 24, 2023**
RE: **Surplus Property**

SUMMARY:
The City Manager has requested the City Council declare the asset listed below as surplus property to be sold to Bradley/Cleveland Community Service Agency.

- 2004 Ford Explorer VIN 1FMZU72KX4ZA61694

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

h. **Resolution 2023-30** – Authorizing the Mayor to sign a grant agreement with the United States Department of Transportation for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE21).

RESOLUTION 2023-30

WHEREAS, the City has received the attached grant agreement from the United States Department of Transportation (hereafter "USDOT") for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE21) Grant Program; and

WHEREAS, the grant provides funding to develop a plan and preliminary drawings for a new east-west connector corridor in downtown Cleveland; and

WHEREAS, the City Council desires to enter into the attached grant agreement with USDOT for the project described, 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 grant agreement with USDOT for the project described herein, and further authorizes the Mayor to execute the same on behalf of the City of Cleveland, and to execute any other documents or take such actions as may be necessary to accept the grant.

This 24th day of April 2023.
APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

i. **Resolution 2023-31** – Authorizing the Mayor to sign an agreement with McCarty Holsaple McCarty (MHM) for professional architectural services for the Cherokee Hotel Restoration.

RESOLUTION 2023-31

WHEREAS, the City is proceeding with redevelopment of the Cherokee Hotel; and

WHEREAS, in connection with said project, City staff are recommending that the City Council select McCarty Holsaple McCarty (MHM) to provide professional architectural services for the project; and

WHEREAS, the proposal from MHM for this project is attached hereto and incorporated herein by reference along with an agenda item memorandum prepared by Bryan Turner; and

WHEREAS, based upon the recommendation of City staff, the City Council desires to accept this proposal and to enter into an agreement with MHM for this project and to authorize the Mayor to execute any agreements and any other documents with MHM for this project 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 of MHM for the referenced project, and the City Council further authorizes the Mayor to execute any agreements or other documents with MHM for this project on behalf of the City of Cleveland.

This 24th day of April 2023.
APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

j. **Resolution 2023-32** – Authorizing the Mayor to sign contract amendment for LIC North/Pleasant Grove Church Road to extend the contract period to July 31, 2023.

RESOLUTION 2023-32

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 April 24, 2023, City Council meeting, but before the end of the existing contract expiration date; 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 24th day of April, 2023.
APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

k. **Resolution 2023-33** – Authorizing staff to submit an application for the Energy Efficiency and Conservation Block Grant program to support energy efficiency.

RESOLUTION 2023-33

WHEREAS, the City of Cleveland has made every effort to make responsible use of city funds and evaluates opportunities to leverage those funds through other funding mechanisms including grants or similar programs; and

WHEREAS, the United States Department of Energy has allocated $430 million in funding through the Energy Efficiency and Conservation Block Grant Program (EECBG); and

WHEREAS, the City of Cleveland is eligible to apply for $76,790 for projects related to a wide variety of projects that cut carbon emissions, improve energy efficiency and reduce energy use; and

WHEREAS, the EECBG program requires a Pre-Award Information Sheet to be submitted by April 28, 2023 and a full application deadline of January 31, 2024; and

WHEREAS, the EECBG program offers options to apply for formula funding through a traditional grant application or a simplified voucher program; and

WHEREAS, the EECBG program guidelines recommend communities that are similarly sized with Cleveland and entitled to similar formula funding amounts to apply through the voucher program; and

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 Pre-Award Information and any associated pre-application requirements for the EECBG program so support city-related energy efficiency projects.

This 24th day of April, 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

l. **Reappointment** - *Board of Zoning Appeals* – Charlotte Peak for an additional 3-year term to expire November 2025.
m. **Reappointment** - *Board of Zoning Appeals* – Mathew Coleman for an additional 3-year term to expire November 2025.
n. **Reappointment** - *Building Board of Adjustments and Appeals* – Dennis Epperson for an additional 3-year term to expire January 2026.
o. **Reappointment** - *Building Board of Adjustments and Appeals* – Jim Williams for an additional 3-year term to expire January 2026.
p. **Reappointment** - *Building Board of Adjustments and Appeals* – Alan Colloms for an additional 3-year term to expire January 2026.
q. **Reappointment** - *Building Board of Adjustments and Appeals* – Chad Dean for an additional 3-year term to expire January 2026.
r. **Reappointment** - *Building Board of Adjustments and Appeals* – Keith Davis for an additional 3-year term to expire January 2026.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Estes reminded everyone of Lee's graduation on May 6th. This will be the largest graduation and a lot of out of towners. Secondly, he noticed smoke in town and arrived as Police and Fire responded. They were all very professional. It was fascinating to see them work, handle traffic and patrons.

Councilman Cassada thanked staff for completion of the Candies Greenway. Secondly, the sand at Deer Park has washed away and asked if it will be replaced. Ms. Petitt stated they will have it taken care of.

Councilman May thanked Public Works for the tile work on Blythe Ferry Road before the asphalt so there will be more roadway. He still has concerns on the west side of Moreland Drive and asked if it could be added as a project? He understands we have no right-of-way, and it might need a retainer wall. It would be nice to straighten it out and make it safer. Mr. Fivas stated they have looked at it several times and the right-of-way is at the white line, on pretty much on both sides. It can be added as a project, but I don't know what the extent that is. Councilman May asked how do we see if it can be corrected, made safer and what would be involved. Mr. Fivas stated the issue, if you go too far back on the wall, if you build a retaining wall, then you probably lose all the trees in the back yards of those three or four houses. They would be exposed so we would need a workaround for that. We can program it and get a budget number. There is enough of a crash history that indicates there is a safety issue.

Councilman Cassada added he has had a few residents speak to him concerning speeding along Freewill Road and if staff could take a look and make a recommendation. Mr. Fivas stated yes, our Traffic Engineer can perform a study to obtain data and we can see what the program reports.

Councilman Webb stated if you haven't seen the construction progress at Mouse Creek/Paul Huff Parkway it is really looking good. He appreciates all that have been involved.

Vice Mayor Johnson stated he has received a call from Mr. Ron Williams concerning the wetlands at Candies Lane and if the walkways can be cleaned up a bit. Mr. Fivas stated he also spoke with Mr. Williams, who had good points and staff will go out and see what can be done. Lastly, Vice Mayor Johnson asked about the lighting on Martin Drive and the three homes that need streetlights. Mr. Fivas stated Cleveland Utilities provided us with a map, and staff is currently looking into the history of why that portion of the roadway is not inside the city limits.

Mayor Brooks asked if the concrete culvert at Peerless/25th Street could staff maintain the brush overgrowth there in the ditch. He feels it's our city and local control, our guys should just do it and if the State gets frustrated it will be handled then. Mr. Fivas responded the brush isn't an issue, and of course we have that project that's programmed that will widen out, in both directions, that culvert that will fix it in the future, but we will go take a look.

NEW BUSINESS AND ORDINANCES

There was no new business.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. The next City Council meeting will be held on Monday, May 8, 2023.

b. Public Hearing and First Reading of the FY2024 Budget will be on Monday May 8, 2023.

ADJOURNMENT

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

_____ _____

Mayor City Clerk

REGULAR SESSION
MAY 8, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MAY 8, 2023 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; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Patti Pettit, Parks and Recreation Director; Chris Gaylor, Assistant IT Director; Cathy Andrews, CDBG Coordinator; Zachary Colescott, Regional Jetport Manager; Sharon Marr with Mainstreet Cleveland; Doug Berry with the Chamber of Commerce; Cameron Fisher 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 24, 2023 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

There were 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 the FY2024 Budget. Mayor Brooks asked if anyone would like to speak in favor of the approval of the budget. No one spoke. Mayor Brooks then asked if anyone would like to speak in opposition to the approval of the budget. 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 Betty Owens for consideration of an ordinance to zone 10.76 acres, more or less, for property located at Benton Pike NE from IH Heavy Industrial zoning to MU Mixed Use zoning and includes Tax Map 058 Parcels 006.00 and 008.00. Robert Varnell, Planning Director stated currently there is no planned use, but they are looking at commercial options. It is a good zone for the area. The Planning Commission did approve this request 6-0 with 3 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 to the rezoning. 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, unanimously passed.

a. **Resolution 2023-34 –** Approving the FY2024 Appropriations.

RESOLUTION 2023-34

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 2023-2024:

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: 24001 FY2024 OPERATING BUDGET FOR PERIOD 99

General Fund			2022 REVISED BUD	2023 REVISED BUD	2024 DEPT HEAD	2024 FINANCE	2024 CITY MANAGER	2024 ADOPTED
110700	Appropriations							
5B	Operating							
110700	57000	Jntly Fund	10,468.64	19,288.00	25,000.00	35,000.00	35,000.00	29,500.00
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	10,404.00	10,612.00	10,500.00	10,500.00	10,500.00	10,500.00
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	9,944.76	10,000.00	10,000.00	10,000.00	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	12,500.00	12,500.00	12,500.00	12,500.00	18,000.00
110700	57080	CrtCommSvc	60,000.00	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	UnitedWay	1,000.00	1,000.00	.00	.00	.00	.00
110700	57120	SETHRATran	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	700,000.00	700,000.00
110700	57140	EMA	108,382.60	110,000.00	110,000.00	110,000.00	110,000.00	110,000.00
110700	57150	MainStProj	4,000.00	4,000.00	4,000.00	4,000.00	9,000.00	9,000.00
110700	57160	SETDD Lgl	1,000.00	1,000.00	.00	.00	.00	.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	20,000.00	.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	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	16,000.00	18,500.00	13,000.00	13,000.00	18,500.00	18,500.00
110700	57290	WaterDogs	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00
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	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
110700	57400	VocSchool	30,700.00	30,700.00	30,700.00	30,700.00	30,700.00	30,700.00
	TOTAL Operating		1,387,200.00	1,382,900.00	1,381,000.00	1,391,000.00	1,451,500.00	1,451,500.00
	TOTAL Appropriations		1,387,200.00	1,382,900.00	1,381,000.00	1,391,000.00	1,451,500.00	1,451,500.00

b. **Resolution 2023-35 –** 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 2023-35

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 $2,590,141 in tax equivalents for FY2024.

Section 2. The Cleveland Utilities Board water system is hereby directed to pay to the City of Cleveland $261,157 in tax equivalents for FY2024.

Section 3. The Cleveland Utilities Board wastewater system is hereby directed to pay to the City of Cleveland $244,852 in tax equivalents for FY2024.

Section 4. This resolution shall become effective July 1, 2023 the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

c. **Resolution 2023-36 –** Regarding the Cleveland City Schools Federal Project Fund.

RESOLUTION 2023-36

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 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

d. **Resolution 2023-37 -** Annual Review of the City's Debt Management Policy.

RESOLUTION 2023-37

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.

Approved this 8th day of May, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

e. **Resolution 2023-38** – Amending the solid waste contract with Waste Connections.

RESOLUTION 2023-38

WHEREAS, the City Council approved Resolution 2023-21 on March 13, 2023, which Resolution approved of certain rate changes and service changes to the City's solid waste agreement with Waste Connections of Tennessee, Inc.; and

WHEREAS, as a result of the City Council's approval of Resolution 2023-21, the City Manager and the City's Public Works Department have worked with representatives of Waste Connections of Tennessee, Inc. to prepare the attached addendum to the existing agreement between the parties to incorporate the changes authorized by Resolution 2023-21; and

WHEREAS, City staff are requesting that the City Council approve of the attached addendum to the agreement between the City and Waste Connections of Tennessee, Inc.; and

WHEREAS, the City Council now desires to approve of the attached addendum to the agreement with Waste Connections of Tennessee, Inc. and to further authorize the Mayor to execute the same on behalf of the City of Cleveland. [on file in the City Clerk's Office.]

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 to the City's existing agreement with Waste Connections of Tennessee, Inc., and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 8th day of May 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

f. **Resolution 2023-39** - Approval of contract with Brian Wishneff & Associates, LLC to provide professional tax credit consulting services in connection with the renovation of the Cherokee Hotel.

RESOLUTION 2023-39

WHEREAS, City staff are continuing to work on the renovation of the Cherokee Hotel; and

WHEREAS, in connection with this renovation project, the City has received the attached proposal and agreement from Brian Wishneff & Associates, LLC to provide professional tax credit consulting services in connection with the renovation of the Cherokee Hotel; and

WHEREAS, Brian Wishneff & Associates, LLC is willing to provide these professional services to the City on the terms and conditions described in the attached agreement; and

WHEREAS, City staff are requesting that the City Council approve of the attached agreement between the City and Brian Wishneff & Associates, LLC for these professional tax credit consulting services this project; and

WHEREAS, the City Council now desires to approve of the attached agreement with Brian Wishneff & Associates, LLC, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with Brian Wishneff & Associates, LLC for this project, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [on file in the City Clerk's Office.]

This 8th day of May 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

g. **Resolution 2023-40** – Approving the 2023-2024 Annual Action Plan for the CDBG Program.

RESOLUTION 2023-40

RESOLUTION FOR APPROVAL OF THE
2023-2024 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 $384,598 for FY 2023-2024; and

WHEREAS, public hearings were held on January 24, 2023, and February 21, 2023, to hear comments and input from the public. A draft was available on April 1, 2023, which began a thirty-day comment period ending on May 2, 2023. A copy of the Plan was made available at the Development and Engineering Services Office as advertised in the *Cleveland Daily Banner* on April 1, 2023;

WHEREAS, comments made during public hearings regarding the Action Plan were received and reviewed by City staff;

NOW, THEREFORE, BE IT RESOLVED, the *2023-2024 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 8th day of May 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

h. **Resolution 2023-41** – Approving Change Order #2 for the Mosby Park Improvements.

RESOLUTION 2023-41

WHEREAS, the City previously entered a contract with B&W Contractors, Inc. dba Cherokee Construction Company for the Mosby Park project (hereafter referred to as "the Project"); and

WHEREAS, the large building at Mosby Park that provides entrance into the pool needs a new paint job; and

WHEREAS, the City's building official has received a proposal and Change Order #2 for this additional work requested by City staff; and

WHEREAS, this change order increases the scope of work to allow the contractor currently working on the park to paint the exterior walls and the metal roof to match the new work at the redesigned park; and

WHEREAS, this change order is to be paid for using available CDBG and CIP funds; and

WHEREAS, the proposal for this additional work and Change Order #2 for the additional work are attached to this Resolution; and

WHEREAS, the City Manager and the City's building official are recommending that the City accept the contractor's proposal for this additional work and enter into the attached change order #2 to the existing agreement with Cherokee Construction Company; and

WHEREAS, the attached proposal and change order #2 will increase the contract price by $16,200 for the additional work provided and as more specifically described in the attached proposal and change order form; and

WHEREAS, the City Council now desires to accept the proposal and change order #2 to the agreement with Cherokee Construction Company 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 proposal and change order #2 to the existing agreement with Cherokee Construction Company for the referenced project described herein, and it further authorizes the Mayor to execute the change order on behalf of the City of Cleveland. [on file in the City Clerk's Office.]

This 8th day of May 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

i. **Resolution 2023-42** – Authorizing the City to purchase fire apparatus through a master intergovernmental cooperative purchasing agreement #FS12-19 and administered by HGACBUY.

RESOLUTION 2023-42

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE FIRE SERVICE APPARATUS THROUGH A MASTER INTERGOVERNMENTAL

COOPERATIVE PURCHASING AGREEMENT #FS12-19, AS AMENDED, WHICH IS ADMINISTERED BY HGACBUY.

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 G&W Diesel Services, Inc. ("Company") and HGACBuy a government cooperative purchasing program authorized by the Houston-Galveston Area Council ("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 fire service 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 with HGACBuy 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 #FS12-19, as amended, held by the Houston-Galveston Area Council 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 service apparatus as a participating public agency under MICPA Contract #FS12-19, as amended, held by Houston-Galveston Area Council as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through HGACBuy for the City of Cleveland and its citizens.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

j. **Resolution 2023-43** – Authorizing the Mayor to sign a purchase agreement with G&W Diesel for a new Pierce Enforcer Pumper truck.

RESOLUTION 2023-43

WHEREAS, the Cleveland Fire Department has received the attached purchase agreement from G&W Diesel dba Emergency Vehicle Specialists for a new Pierce Enforcer Pumper truck; and

WHEREAS, this proposed purchase will be through the HGACBuy cooperative contract #FS12-19 in the amount of $963,978.00; and

WHEREAS, the City Council now desires to approve of the attached purchase agreement with G&W Diesel dba Emergency Vehicle Specialists for this Pumper truck, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached purchase agreement with G&W Diesel dba Emergency Vehicle Specialists for this Pumper truck, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [on file in the City Clerk's Office.]

This 8th day of May 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

k. **Motion** – Designating Depositories for the City of Cleveland.

ANDREW JOHNSON BANK
CAPSTAR BANK (ATHENS FEDERAL COMMUNITY BANK)
BANK OF CLEVELAND
FIRST CITIZENS NATIONAL BANK (SOUTHERN HERITAGE BANK)
FIRST HORIZON (FIRST TENNESSEE BANK)
SMART BANK (FSG BANK)
PINNACLE BANK
REGIONS BANK
SOUTHEAST BANK AND TRUST
TRUIST BANK
UNITED COMMUNITY BANK

l. **Motion** – Declaring the service weapon of Sergeant Buddy Mitchell as surplus property and given to him as a token of the City's appreciation for his 31-years of dedicated service to the Cleveland Police Department.
m. **Motion** – Observing Juneteenth (June 19, 2023) as a city holiday for city employees.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Estes thanked Jonathan Jobe for his help on a project. He then asked Patti Petitt to do whatever we can to get lifeguards, including paying for their certification. He understands there is a shortage of lifeguards, this could help find them, and help keep the pools open throughout the season. Lastly, City Fields has built a number of houses already this month and is helping homeowners utilize the down payment assistance program. They are certifying people in hvac, forklifts and welding, etc. This is a group that is changing Cleveland.

Councilman May thanked Tommy Myers for the sections where Public Works widened the roadway and the contractor resurfaced Blythe Ferry Road. Hopefully it will make it safer.

Councilman Hughes stated on a Saturday, the Special Olympics were held at Cleveland Middle School. City and County worked together in having this special event for our young people. He appreciates the hard work. He then asked Mr. Jobe about the Mimosa and Peerless Road property. Mr. Jobe stated a letter has been sent to the property owner, Duane Goff and he will reach out to the renters.

Councilman Webb stated he spoke with Bradley County Assessor Stanley Thompson during the break concerning the assessment ratio and the impact to our budget. Mr. Thompson

agreed to attend an upcoming meeting to further explain the impact. Secondly, earlier Mr. Stinnett mentioned the UV project at the Wastewater plant was estimated to cost $7.5 million. Over six years ago, it was estimated to cost roughly $2-3 million. That is what they are working against. Lastly, the budget message has a listing of capital projects completed since 2018. It is a significant list of 125 projects, and we should not lose sight of what we have funded and accomplished. Councilman May added what shape would we be in if we had not refinanced our variable rate debt. It was good timing on the bond issue. Councilman Webb stated Mr. Fivas and his staff are the ones that have made it possible. Without the management staff of the City, we wouldn't be where we are today.

Vice Mayor Johnson stated we have come a long way. Years ago, paving would be where we always had to cut in order to balance the budget. It is looking better. Secondly, he is glad to see the addition of the Juneteenth holiday for our city employees. He encouraged everyone to read about its history.

Councilwoman McKenzie thanked city staff for their work on the budget. She is glad, once again, we have no tax increase. The departments work hard, in and out of the office, and she appreciates it. Mr. Fivas recognized the Finance budget staff, department heads and budget officers all work hard to bring a balanced budget. Councilwoman McKenzie added they make us look good. Mayor Brooks concurred and added he was thankful for no tax increase and for the Jetport budget cover as a nod to our retiring Director, Mark Fidler.

Councilman Webb stated tire dumping continues to be a problem and reminded everyone that a reward fund has been established for the conviction of dumpers.

Mayor Brooks stated in the past we have discussed tandem recycling program, not from Waste Connections, but through a separate bid. Mr. Fivas stated yes, once we get through the budget, we will transition to looking at options. Mayor Brooks added other than SPCA, dogs and cats, recycling is right up there as an important thing people are concerned about.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

a. **Zoning Ordinance 2023-11** – Rezoning 10.76 acres, more or less, for property located at Benton Pike NE from IH Heavy Industrial zoning to MU Mixed Use zoning and includes Tax Map 058 Parcels 006.00 and 008.00 (Planning Commission: Approved 6-0; 3 absent).

Zoning Ordinance 2023-11

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, rezoned from IH Heavy Industrial Zoning District to MU Mixed Use Zoning District.

> Approximately 10.76 acres, more or less, located at Benton Pike as shown on the attached map.
>
> For reference, same property is being shown on Tax Map 058 Parcel 006.00 and 008.00, 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.

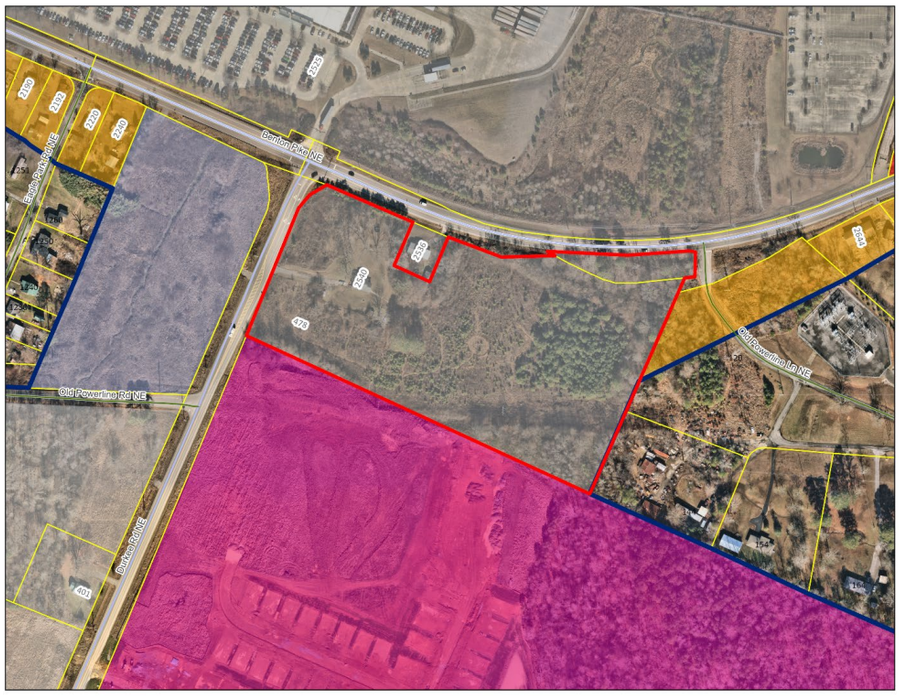
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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 2023-11 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:

b. **Ordinance 2023-12** – Amending Title 17, Section 17-107 of the Municipal Code pertaining to the sanitation user fees for Solid Waste and Refuse Collection.

ORDINANCE 2023-12

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 JULY 1, 2023

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	$10.95 monthly per unit
Commercial	$2.88 per cubic yard
Commercial Recycle	$2.52 per cubic yard
Commercial Residential Accounts (small business, picked up like a residence)	$10.95 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 $14.25 monthly per unit effective July 1, 2023.

B. The commercial rate referenced in Section 17-107 of the Cleveland Municipal Code is hereby set at $3.75 per cubic yard effective July 1, 2023.

C. The commercial recycling rate referenced in Section 17-107 of the Cleveland Municipal Code is hereby set at $3.28 per cubic yard effective July 1, 2023.

D. The commercial/residential rate for small businesses which are picked up like a residence is hereby set at $14.25 monthly per unit effective July 1, 2023.

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 Webb moved that Ordinance 2023-12 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:

c. **Ordinance 2023-13** – Amending Title 16, Chapter 2, Section 16-203(1) of the Municipal Code pertaining to Street Cut Fees.

ORDINANCE 2023-13

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 $450 to $550 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 five hundred and fifty dollars ($550.00).

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, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman May moved that Ordinance 2023-13 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:

d. **Ordinance 2023-14 –** Adopting the 2023 Tax Rate ($1.7130).

ORDINANCE 2023-14

TAX ORDINANCE – YEAR 2023

AN ORDINANCE TO PROVIDE AND FIX FOR THE CITY OF CLEVELAND, TENNESSEE, FOR THE YEAR 2023, 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 2023, 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

Vice Mayor Johnson moved that Ordinance 2023-14 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:

e. **Ordinance 2023-15 –** Adopting the FY2024 Budget.

ORDINANCE 2023-15

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 $299,316,731. All of these sources are available for appropriation.

Anticipated Revenues	2021-2022 (ACTUAL)	2022-2023 (ESTIMATED)	2023-2024 PROPOSED
Revenues:			
General Fund	$58,620,318	$56,069,000	$57,695,410
Special Revenue Funds:			
Solid Waste Management	3,520,557	4,235,100	5,643,896
State Street Aid	1,652,064	1,451,000	1,463,000
General Purpose School	48,368,767	49,287,773	54,170,087
Schools Food Service	4,814,512	3,800,333	3,830,858
Cleveland Public Library	799,819	795,500	822,600
Drug Enforcement	37,710	23,700	23,700
Byrne Memorial Justice Asst. Grant	12,821	0	0
Community Dev. Block Grant	869,486	375,000	375,000
E-Ticketing	405	0	0
Recycling Grant	0	0	0
Schools Federal Projects	9,265,202	0	0
Metropolitan Planning Organization	133,179	198,000	200,000
Debt Service	126,170	151,450	151,800

Anticipated Revenues, cont'd:	2021-2022 (ACTUAL)	2022-2023 (ESTIMATED)	2023-2024 PROPOSED
Revenues:			
Capital Projects Funds:			
ARPA Projects Fund	4,664,634	4,847,720	0
THDA Home Grant	53,972	0	0
Blythe Sidewalks Diabetes Grant	182,000	0	0
Capital Improvements Program	4,425,465	625,000	0
Sales Tax Capital Projects Fund	5,293,400	4,757,000	4,947,680
Cleveland City Schools - CIP	15,070	117,671	0
Enterprise Funds:			
Stormwater Management	1,815,603	1,893,300	1,901,300
Cleveland Utilities Electric Division	107,935,625	99,291,253	101,312,387
Cleveland Utilities Water/Wastewater Division	35,076,591	36,897,348	41,437,277
Trust Funds:			
Meiler Trust Fund	1,894	300	500
Internal Service Fund:			
Health Insurance Trust Fund	5,581,470	5,854,160	6,079,504
Total Revenues	293,266,734	270,670,608	280,054,999
Other financial sources			
Operating transfers in:			
General Fund:	2,904,133	2,962,317	3,096,150
Special Revenue Funds:			
Solid Waste Management	850,000	150,000	0
State Street Aid	0	0	0
General Purpose School	5,609,037	5,801,500	6,024,900
Cleveland Public Library	679,900	684,000	707,000
Community Dev. Block Grant	30,000	30,000	50,000
Recycling Grant	0	0	0
Metropolitan Planning Organization	89,000	151,500	100,000
Debt Service	7,993,328	7,371,224	8,318,682
Capital Projects Funds:			
Capital Improvement Program	2,004,718	2,965,000	965,000
Blythe Sidewalks Diabetes Grant	0	0	0
Internal Service Fund			
Health Insurance Trust Fund	0	0	0
Total Operating Transfer In:	$20,160,116	$20,115,541	$19,261,732

Anticipated Revenues	2021-2022 (ACTUAL)	2022-2023 (ESTIMATED)	2023-2024 PROPOSED
Other financial sources:			
Operating transfers in, cont'd:			
Capital Contributions			
Enterprise Funds:			
Stormwater Management	0	0	0
Cleveland Utilities Electric Division	161,974	0	0
Cleveland Utilities Water/Wastewater Division	961,596	0	0
Internal Service Funds:			
Health Insurance Trust	0	0	0
Total Capital Contributions:	1,123,570	0	0
Bond & Note Proceeds and Capital Lease			
General Fund	455,575	0	0
General Purpose School Fund	32,234	0	0
Capital Improvement Program	20,245,074	0	0
Cleveland City Schools -CIP	0	0	0
Debt Service	0	0	0
Total Bond & Note Proceeds:	$20,732,883	$0	$0
Total Other Financing Sources	$42,016,569	$20,115,541	$19,261,732
Total Revenues and Other Financing Sources	$335,283,303	$290,786,149	$299,316,731

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	2021-2022 (ACTUAL)	2022-2023 (ESTIMATED)	2023-2024 PROPOSED
General Fund	$39,665,949	$42,856,942	$45,830,633
Special Revenue Funds:			
Solid Waste Management	3,819,031	4,353,600	5,550,405
State Street Aid	684,436	1,006,825	1,002,126
General Purpose School	51,817,938	54,473,723	58,941,078
Schools Food Service	3,516,542	3,800,333	4,067,858
Cleveland Public Library	1,474,005	1,478,700	1,529,100
Drug Enforcement	17,616	23,600	23,600
Byrne Memorial. Justice Asst. Grant	12,821	0	0
Community Dev. Block Grant	789,514	404,999	424,715
E Ticketing	834	0	0
Recycling Grant	0	0	0
Schools Federal Project	9,268,480	0	0
Metropolitan Planning Organization	282,683	339,200	299,500
Debt Service	7,446,780	8,367,154	8,465,481
Capital Projects Funds:			
ARPA Projects Fund	1,604,044	7,663,929	0
THDA Home Grant	53,972	0	0
Blythe Sidewalks Diabetes Grant	182,000	0	0
Capital Improvements Program	6,877,725	3,585,000	965,000
Sales Tax Capital Projects Fund	4,839,497	4,750,299	4,942,680
Cleveland City Schools - CIP	721,548	4,416,544	0
Enterprise Funds:			
Stormwater Management	1,007,910	1,619,050	1,796,831
Cleveland Utilities Electric Division	96,136,763	92,031,818	94,412,927
Cleveland Utilities Water/Wastewater Division	28,784,578	31,557,795	34,122,243
Trust Funds:			
Meiler Estate Trust Fund	0	0	0
Internal Service Fund:			
Health Insurance Trust Fund	3,978,705	5,188,017	5,395,537
Total Expenditures	262,983,371	267,917,528	267,769,714

Nonoperating Revenues (Expenses)	2021-2022 (ACTUAL)	2022-2023 (ESTIMATED)	2023-2024 PROPOSED
Enterprise Funds:			
Stormwater Management	0	0	0
Cleveland Utilities Electric Division	(404,028)	(491,596)	(435,253)
Cleveland Utilities Water/Wastewater Division	(1,240,874)	(1,500,688)	(1,480,932)
Debt Service	0	(5,000)	(5,000)
Internal Service Fund:			
Health Insurance Trust Fund	0	0	0
Total Nonoperating Revenues (Expenses)	(1,644,902)	(1,997,284)	(1,921,185)

Other Financing Uses	2021-2022 (ACTUAL)	2022-2023 (ESTIMATED)	2023-2024 PROPOSED
Operating Transfers Out			
General Fund	15,987,497	15,767,000	14,768,175
Special Revenue Funds:			
Solid Waste Management	0	0	0
State Street Aid	447,836	444,042	459,698
General Purpose School	816,913	831,932	834,309
Recycling Grant	0		
Schools Federal Project	3,737	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	110,250	103,400
Cleveland Utilities Electric Division	2,417,873	2,466,230	2,590,141
Cleveland Utilities Water/Wastewater Division	486,260	496,087	506,009
Internal Service Fund:			
Health Insurance Trust	0	0	0
Nonexpendable Trust Funds:			
Meiler Estate Trust Fund	0	0	0
Total Operating Transfers Out	20,160,116	20,115,541	19,261,732
Total Other Financing Uses	21,805,018	22,112,825	21,182,917
Total Expenditures and Other Financing Uses	284,788,389	290,030,353	288,952,631

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	2021-2022 (ACTUAL)	2022-2023 (ESTIMATED)	2023-2024 PROPOSED
General Fund	6,326,580	407,375	192,752
Special Revenue Funds:			
Solid Waste Management	551,526	31,500	93,491
State Street Aid	519,792	133	1,176
General Purpose School	1,375,187	(216,382)	419,600
Schools Food Service	1,297,970	0	(237,000)
Cleveland Public Library	5,714	800	500
Drug Enforcement	20,094	100	100
Byrne Memorial Justice Asst. Grant	0	0	0

Increase (Use) of Fund Balance or Net Assets	2021-2022 (ACTUAL)	2022-2023 (ESTIMATED)	2023-2024 PROPOSED
Special Revenue Funds cont'd:			
Community Development Block Grant	109,972	1	285
E Ticketing	(429)	0	0
Recycling Grant	0	0	0
Schools Federal Project	(7,015)	0	0
Metro. Planning Organization (MPO)	(60,504)	10,300	500
Debt Service	672,718	(849,480)	1
Capital Projects Funds:			
ARPA Projects Fund	3,060,590	(2,816,209)	0
Capital Improvements Program	19,797,532	5,000	0
THDA Home Grant	0	0	0
Blythe Sidewalks Diabetes Grant	0	0	0
Sales Tax Capital Projects Fund	453,903	6,701	5,000
Cleveland City Schools - CIP	(706,478)	(4,298,873)	0
Enterprise Funds:			
Stormwater Management	807,693	164,000	1,069
Cleveland Utilities Electric Division	9,138,935	4,301,609	3,874,066
Cleveland Utilities Water/Wastewater Division	5,526,475	3,342,778	5,328,093
Trust Funds:			
Meiler Estate Trust Fund	1,894	300	500
Internal Service Fund:			
Health Insurance Trust Fund	1,602,765	666,143	683,967
Total Incr. (Use) of Fund Balance or Net Assets	50,494,914	755,796	10,364,100

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 $33,815,849 General Fund fund balance and none of the $6,659,597 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: May 8, 2023
Final Reading: May 22, 2023

APPROVED AS TO FORM:

City Attorney

Mayor

City Clerk

Vice Mayor Johnson moved that Ordinance 2023-15 be approved on first reading. The motion was seconded by Councilwoman McKenzie. Councilman May reminded Mr. Fivas, as discussed in the Work Session, if staff could look giving all of the 5% salary increase to employees on July 1. Mr. Fivas replied he believes they will be able to figure it out, and if there are any changes, he will bring that language to adopt it. Upon roll call, the motion unanimously passed.

The following Ordinance was then presented in full:

f. **Ordinance 2023-16** – Amending Titel 20, Chapter 12, Section 20-1206(j) of the Municipal Codes pertaining to wreckers, towing services and background checks for wrecker operators.

ORDINANCE 2023-16

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, AMENDING TITLE 20, CHAPTER 12, SECTION 20-1206 (j) OF THE CLEVELAND MUNICIPAL CODE RELATING TO WRECKERS AND TOWING SERVICES AND BACKGROUND CHECKS FOR WRECKER OPERATORS

WHEREAS, the Cleveland Police Department is requesting that Section 20-1206(j) of the Cleveland Municipal Code be amended; and

WHEREAS, the City Council desires to amend this section of the Cleveland Municipal Code as requested by the Cleveland Police Department; and

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

Section 1. That Title 20 , Chapter 12, Section 20-1206 (j) of the Cleveland Municipal Code be amended to read as follows:

20-1206 (j): A Federal Bureau of Investigation nationwide fingerprint based criminal history check will be provided by the wrecker or towing operator for all employees that will be operating a wrecker for the company. The check will be required every two years on the even years. New drivers submitting a check in an odd year are exempt for the following even year and then will pick up with the subsequent even year check. A check will be required on all new drivers starting on or after July 1, 2023, and a check for all current and existing operators will be required with renewals in 2024.

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 2023-16 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:

g. **Ordinance 2023-17** – Amending Title 5 of the Municipal Code by adding Chapter 7, Hotel/Motel Tax

ORDINANCE 2023-17

AN ORDINANCE AMENDING TITLE 5 OF THE CLEVELAND MUNICIPAL CODE BY ADDING CHAPTER 7, HOTEL/MOTEL TAX.

WHEREAS, Title 5 of the Cleveland Municipal Code establishes procedures, requirements and restrictions pertaining to municipal finance and taxation; and

WHEREAS, the Tennessee Code Annotated has been amended to authorize cities to implement a hotel occupancy privilege tax; and

WHEREAS, the amendments adopted herein address the responsibilities of the City of Cleveland in regard to the aforementioned amendments to state law concerning the local hotel/motel tax; and

WHEREAS, the City Council has determined that the amendments adopted herein are necessary and appropriate.

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

SECTION 1. Title 5 of the Cleveland Municipal Code, Municipal Finance and Taxation, is hereby amended by adding a new Chapter 7 to read as follows:

CHAPTER 7
HOTEL/MOTEL TAX

SECTION

5-701. Definitions.
5-702 City business license required.
5-703 Levy of tax authorized.
5-704 Disposition of tax.
5-705 Collection of refund.
5-706 Remittance of tax.
5-707 Monthly tax return.
5-708 No advertising of rebates.
5-709 Delinquent taxes – interest and penalty.
5-710 Records – inspection.
5-711 Administration and enforcement.
5-712 Deposit of funds.

5-701. Definitions. Whenever used in this chapter, terms shall have the meanings as defined by the applicable sections of Tennessee Code Annotated unless the context necessarily requires otherwise.

5-702. City business license required. No person shall conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel in the city without having first obtained a valid and current city business license to do so.

5-703. Levy of tax authorized. The City Council of the City of Cleveland does hereby levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of four percent (4%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter.

5-704. Disposition of tax. The proceeds received by the City of Cleveland shall be designated and used to promote tourism and tourism development.

5-705. Collection and refund.

(1) Such tax shall be added by the operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the city, or if the occupancy was secured through a short-term rental unit marketplace, remitted to the State of Tennessee pursuant to Tennessee Code Annotated, title 67, chapter 4, part 15.

(2) When a person has maintained occupancy for 30 continuous days, the person shall receive from the operator a refund or credit for the tax previously collected from or charged to said person, and the operator shall receive credit, in the form of a deduction on the monthly tax return, for the amount of the tax if previously remitted to the city.

5-706. Remittance of tax.

(1) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, or accommodations in hotels within the city to the City Clerk, such tax to be remitted not later than the 20th day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the City for the tax shall be that of the operator.

(2) Any operator who is liable for the tax imposed under this chapter may round off all figures used on the tax return to the nearest dollar amount.

(3) For the purpose of compensating the operator for remitting the tax levied by this chapter, the operator shall be allowed to deduct two percent (2%) of the amount of the tax due and remitted to the City Clerk in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

5-707. Monthly tax return - annual audit. The City Clerk shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the City Clerk by the operator with such number of copies thereof as the City Clerk may reasonably require for the collection of such tax. The return of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such return shall be developed by the City Clerk with the approval of the City Manager. The City Clerk shall have the authority and right to audit and inspect records of each operator in the city.

5-708. No advertising of rebates. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

5-709. Delinquent taxes - interest and penalty. Taxes collected by an operator which are not remitted to the City on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty of fifty dollars ($50) per day per offense.

5-710. Records - inspection. It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve for a period of three years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of the payment to the city, which records the City Clerk shall have the right to inspect at all reasonable times.

5-711. Administration and enforcement. The City Clerk, under the guidance of the City Manager, in administering and enforcing the provisions of this chapter shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated title 67 or otherwise by law for the county clerks.

(1) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, title 67, chapter 23, it being the intent of this chapter that the provision of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The City Clerk shall also possess those powers and duties as provided in Tennessee Code Annotated, section 67-1-707, for the county clerks with respect to the adjustment and refunds of such tax.

(2) With respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this chapter shall be refunded by the city. The City Clerk shall have the authority to direct the refunding of same. Notice of any tax paid under protest shall be given to the City Clerk and any suit brought for recovery of tax paid under protest shall name the City Clerk.

5-712. Deposit of funds. The City Clerk is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in accounts within the various funds as required.

SECTION 2. Any Ordinance, Resolution, Motion or parts thereof in conflict herewith are hereby repealed and superseded. If any sentence, clause, phrase, or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction, such holding will not affect any other portion of this Ordinance.

SECTION 3. **BE IT FURTHER ORDAINED** that this Ordinance shall take effect upon final reading, the public welfare requiring it, however the tax imposed herein will not take effect until August 1, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Ordinance 2023-17 be approved on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

h. **Motion** – Approval of Sidewalk and Greenway Master Plan

AGENDA ITEM
MEMORANDUM

TO: **Mayor and City Council**
FROM: **Robert W. Varnell, Director of Planning and Community Development**
DATE: **May 4, 2023**
RE: **Sidewalk and Greenway Master Plan**

SUMMARY:

Applicant:	City of Cleveland
Request:	Sidewalk and Greenway Master Plan Approval

The City of Cleveland adopted the Sidewalk Ordinance requirements in November of 2022. This ordinance requires sidewalk construction and right-of-way dedication for residential, commercial, and industrial developments across the City. It also offers the option of a payment of a fee in lieu of construction which can be used by the City for future sidewalk improvements.

The Ordinance required the completion of a sidewalk and greenway master plan to guide sidewalk and greenway construction through the development process. The map includes locations where sidewalk construction is required as well as a zoning overlay which will guide planners in the future for enhancing the pedestrian network in Cleveland.

RECOMMENDATION:
City staff recommends approval of Sidewalk and Greenway Master Plan as an addendum to Title 16, Chapter 5. [map on file in the Development Office.]

i. **Motion** – Council appointment to the Cleveland Utilities Authority for a term to expire June 30, 2024.

Councilman Webb moved to appoint Councilman Dale Hughes to the Cleveland Utilities Authority for a term to expire June 30, 2024. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

j. **Motion** – Council appointment to the Cleveland Utilities Authority for a term to expire June 30, 2025.

Councilman May moved to appoint Mayor Kevin Brooks to the Cleveland Utilities Authority for a term to expire June 30, 2025. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

Cameron Fisher, Chairman of the Greenway Board asked that any future masterplans for the Greenway or any involvement with the Greenway, that the Board be informed. Councilman Estes stated this is not a masterplan like you think of a masterplan. This is more for sidewalks and how they can be incorporated into the Greenway. This is more an internal mapping for staff when helping to develop sidewalks and new developments. Mr. Fisher added it would also be beneficial if the city had 2-4 staff solely dedicated to upkeep of the Greenway and trails in the area.

Councilman Webb added he received a text from Milan Blake concerning the assessment ratio and his studies on the subject. He is asking that we work together on the issue. Out of 95 counties in Tennessee, there are 50 counties dealing with this issue.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. The next City Council meeting will be held on Monday, May 22, 2023.

b. City Offices will be closed Monday, May 29, 2023 in observance of Memorial Day.

c. City Offices will be closed Monday, June 19, 2023 in observance of Juneteenth.

ADJOURNMENT

Mayor Brooks asked for a moment of silence for retired Police Officer Ron Moore, who passed away over the weekend.

There being no future business the meeting was adjourned at 3:49 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
MAY 22, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, MAY 22, 2023 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; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Fire Chief Bobby Gaylor; Jonathan Jobe, Development and Engineering Director; Kris Miller, IT Director; Kim Brooks with Lee University; Warbeit Lowery; Sharon Marr with Mainstreet Cleveland; Doug Berry with the Chamber of Commerce; 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 May 8, 2023 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 during the Work Session the City Council recognized Fire Chief Bobby Gaylor on his upcoming retirement.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning the FY2024 Budget. Mr. Fivas thanked all city staff for their work on the budget. He then reminded the Council he distributed, during the Work Session, a revised Budget Message and an updated Authorized Employee list as well. Also, the grant for the SRO's will save some money, for us and the Schools. We have tweaked up the starting salaries for the Police Department with that and using that same money from the State to get them up a little bit closer to where they need to be. We are about $47k, take in the number of hours with the new 12-hour shifts, a new officer will make about $47k if they work all their shifts. Mayor Brooks thanked Mr. Fivas. Mayor Brooks then asked if anyone would like to speak in favor of the approval of the budget. No one spoke. Mayor Brooks then asked if anyone would like to speak in opposition to the approval of the budget. No one spoke. Mayor Brooks then declared the public hearing to be closed.

Mayor Brooks stated today we are to hear public comments concerning a change in the ownership interest of members for I-75 Wine & Spirits located at 1420 25th Street NW. Mayor Brooks asked if anyone would like to make a comment. No one spoke.

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.

a. **Final Passage - Zoning Ordinance 2023-11** – heretofore passed on first reading May 8, 2023 and found in Minute Book 31, Page 139; Rezoning 10.76 acres, more or less, for property located at Benton Pike NE from IH Heavy Industrial zoning to MU Mixed Use zoning and includes Tax Map 058 Parcels 006.00 and 008.00 (Planning Commission: Approved 6-0; 3 absent).
b. **Final Passage - Ordinance 2023-12** – heretofore passed on first reading May 8, 2023 and found in Minute Book 31, Page 140; Amending Title 17, Section 17-107 of the Municipal Code pertaining to the sanitation user fees for Solid Waste and Refuse Collection.
c. **Final Passage - Ordinance 2023-13** – heretofore passed on first reading May 8, 2023 and found in Minute Book 31, Page 141; Amending Title 16, Chapter 2, Section 16-203(1) of the Municipal Code pertaining to Street Cut Fees.
d. **Final Passage - Ordinance 2023-14 –** heretofore passed on first reading May 8, 2023 and found in Minute Book 31, Page 142; Adopting the 2023 Tax Rate ($1.7130).
e. **Final Passage - Ordinance 2023-15 –** heretofore passed on first reading May 8, 2023 and found in Minute Book 31, Page 144; Adopting the FY2024 Budget
f. **Final Passage - Ordinance 2023-16** – heretofore passed on first reading May 8, 2023 and found in Minute Book 31, Page 149; Amending Titel 20, Chapter 12, Section 20-1206(j) of the Municipal Codes pertaining to wreckers, towing services and background checks for wrecker operators.
g. **Final Passage - Ordinance 2023-17** – heretofore passed on first reading May 8, 2023 and found in Minute Book 31, Page 150; Amending Title 5 of the Municipal Code by adding Chapter 7, Hotel/Motel Tax.
h. **Motion –** Approving the Hote/Motel Tax Report form.
i. **Motion –** Issuing a new Certificate of Compliance to Anaya Beverages, LLC (I-75 Wine & Spirits) due to a change in the ownership interest of members.
j. **Surplus Property** – Declaring several weapons as surplus and to be used as a trade-in on future purchase of weapons for the Cleveland Police Department.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **May 22, 2023**
RE: **Surplus Property**

SUMMARY:
The Cleveland Police Department has requested the City Council declare the following items as surplus property to be traded in for credit toward purchase of equipment.

Tear Gas Gun Serial # 8040
Tear Gas Gun Serial # 8059
Smith & Wesson Revolver Model 36 Serial # 3779A15
Smith & Wesson Revolver Model 37 Serial # 264J91
Smith & Wesson Revolver Model 19-5 Serial # ABM9765
Smith & Wesson Revolver Model 36 Serial # BDU4025
Smith & Wesson Revolver Model 37 Serial # 232105

COMMITTEE FINDINGS:
No Board or Committee action.

FISCAL ANALYSIS:
No fiscal impact.

RECOMMENDATION:
City staff recommends approval of this item.

k. **Resolution 2023-44** – Designating the City of Cleveland as a Bee City USA affiliate.

RESOLUTION 2023-44

A RESOLUTION DESIGNATING THE CITY OF CLEVELAND, TENNESSEE AS A BEE CITY USA® AFFILIATE

WHEREAS, the mission of BEE CITY USA is to galvanize communities to sustain pollinators, responsible for the reproduction of almost 90% of the world's flowering plant species, by providing them with healthy habitat, rich in a variety of native plants and free to nearly free of pesticides; and

WHEREAS, thanks to the more than 3,600 species of native bees in the United States, along with introduced honeybees, we have very diverse dietary choices rich in fruits, nuts, and vegetables; and

WHEREAS, bees and other pollinators have experienced population declines due to a combination of habitat loss, poor nutrition, pesticides (including insecticides, fungicides, and herbicides), parasites, diseases, and climate change; and

WHEREAS, pollinator-friendly communities can benefit local and regional economies through healthier ecosystems, increased vegetable and fruit crop yields, and increased demand for pollinator-friendly plant materials from local growers; and

WHEREAS, ideal pollinator-friendly habitat is comprised of mostly native wildflowers, grasses, vines, shrubs, and trees blooming in succession throughout the growing season to provide diverse and abundant nectar and pollen, since many wild pollinators prefer or depend on the native plants with which they co-adapted; is free to nearly free of pesticides, as many pesticides can harm pollinators and/or their habitat; comprises undisturbed spaces of leaf and brush piles, unmown fields or field margins, fallen trees and other dead wood for nesting and overwintering; and provides connectivity between habitat areas to support pollinator movement and resilience; and

WHEREAS, Integrated Pest Management (IPM) is a long-term approach to maintaining healthy landscapes and facilities that minimizes risks to people and the environment by: identifying and removing the causes of pest problems rather than only attacking the symptoms from the pests; employing pests' natural enemies along with cultural, mechanical, and physical controls when prevention is not enough; and using pesticides only when no other method is feasible or effective; and

WHEREAS, supporting pollinators fosters broad-based community engagement in environmental awareness and sustainability; and

WHEREAS, Cleveland, Tennessee should be certified a *BEE CITY USA* community because of the City Council’s commitment to protecting and preserving the community’s natural resources including pollinators and their habitats; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, in order to enhance understanding among local government staff and the public about the vital role that pollinators play and what each of us can do to sustain them, the City of Cleveland, Tennessee chooses to support and encourage healthy pollinator habitat creation and enhancement, resolving as follows:

1. The City of Cleveland is hereby designated as the BEE CITY USA sponsor.
2. The City Manager shall designate a BEE CITY USA Liaison.
3. Facilitation of Cleveland’s BEE CITY USA program, by a Bee City Committee shall be assigned by the City Manager.

4. The Bee City Committee is authorized to and shall:
    a. **Celebration**: Host at least one educational event or pollinator habitat planting or restoration each year to showcase Cleveland's commitment to raising awareness of pollinator conservation and expanding pollinator health and habitat.
    b. **Publicity & Information**: Install and maintain at least one authorized BEE CITY USA street sign in a prominent location, and create and maintain a webpage on the Cleveland website which includes, at minimum a copy of this resolution and links to the national BEE CITY USA website; contact information for your BEE CITY USA Liaison and Committee; reports of the pollinator-friendly activities the community has accomplished the previous year(s); and your recommended native plant species list and integrated pest management plan (explained below).
    c. **Habitat**: Develop and implement a program to create or expand pollinator-friendly habitat on public and private land, which includes, but is not limited to, Identifying and inventorying City's real property that can be enhanced with pollinator-friendly plantings; creating a recommended locally native plant list to include wildflowers, grasses, vines, shrubs, and trees and a list of local suppliers for those species; and, tracking (by square footage and/or acreage) annual area of pollinator habitat created or enhanced.
    d. **Pollinator-Friendly Pest Management:** Create and adopt an integrated pest management (IPM) plan designed to prevent pest problems, reduce pesticide use, and expand the use of non-chemical pest management methods.
    e. **Policy & Plans**: Establish, through the City, a policy in the City's Comprehensive Plan to acknowledge and commit to the BEE CITY USA designation and review the Plan and other relevant documents to consider improvements to pest management policies and practices as they relate to pollinator conservation, identify appropriate locations for pollinator-friendly plantings, and consider other appropriate measures.
    f. **Renewal:** After completing the first calendar year as a BEE CITY USA affiliate, each February, apply for renewal of Cleveland's BEE CITY USA designation following the format provided by BEE CITY USA, including a report of the previous year's BEE CITY USA activities, and paying the renewal fee based on Cleveland's population.

Adopted this 22nd day of May, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

l. **Resolution 2023-45** - Authorizing an application for a Historic Development Grant.

RESOLUTION 2023-45

A RESOLUTION OF THE COUNCIL OF THE CITY OF CLEVELAND AUTHORIZING THE APPLICATION FOR A HISTORIC DEVELOPMENT GRANT

WHEREAS, In April 2021 the Tennessee General Assembly developed the Historic Development Grant Program (HDGP) and allocated $4.8 million to renovate and preserve the State's historic buildings; and

WHEREAS, the City of Cleveland has been designated as a Certified Local Government by the National Park Service due to the commitment to preserve, protect, and increase awareness of the unique cultural heritage found in our community's built environment; and

WHEREAS, structures in the City of Cleveland are listed on the National Register of Historic Places, or are part of a National Register District; and

WHEREAS, the City of Cleveland is a certified Tennessee Main Street Community; and

WHEREAS, the Council of the City of Cleveland seeks to provide for the rehabilitation and preservation of our community's built historic assets.

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

SECTION 1: The City of Cleveland is hereby authorized to submit a letter of intent, application, and administration for the Historic Development Grant.

SECTION 2: The Mayor is authorized to sign documents necessary and appropriate to the letter of intent, application, and administration of the grant.

SECTION 3: The City of Cleveland is further authorized to provide a sum to serve as a match for any funds provided by this grant.

SECTION 4: This Resolution shall take effect from and after its passage, the welfare of the City requiring it.

Adopted this 22nd day of May, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

m. **Resolution 2023-46** - Authorizing an application for an Urban & Community Forestry Inflation Reduction Act Grant.

RESOLUTION 2023-46

A RESOLUTION OF THE COUNCIL OF THE CITY OF CLEVELAND AUTHORIZING THE APPLICATION FOR AN URBAN & COMMUNITY FORESTRY INFLATION REDUCTION ACT GRANT

WHEREAS, the Council of the City of Cleveland desires to improve community and urban forest resilience to climate change, pests, and storm events through best management and maintenance practices; and

WHEREAS, the City of Cleveland has been designated as a Tree City for more than 31 years; 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, the City of Cleveland's Forestry and Landscape Division, and the Stormwater Division work to protect the dynamic ecosystems that provide critical benefits to people and wildlife; and

WHEREAS, the Council of the City of Cleveland seeks to provide equitable access to trees and green spaces, which necessitates long-term urban forest planning, assessing the health of existing flora, enhancing watersheds, and addressing exotic invasive pest species.

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

SECTION 1: The City of Cleveland is hereby authorized to submit an application for and administer the Urban and Community Forestry Inflation Reduction Act Grant.

SECTION 2: The Mayor is authorized to sign documents necessary and appropriate to the application and administration of the grant.

SECTION 3: The City of Cleveland is further authorized to provide a 50% sum to serve as a match for any funds provided by this grant, not to exceed $250,000.

SECTION 4: This Resolution shall take effect from and after its passage, the welfare of the City requiring it.

Adopted this 22nd day of May, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

n. **Resolution 2023-47** – Authorizing an application to the Tennessee Agricultural Enhancement Program for the Community Tree Planting grant.

RESOLUTION 2023-47

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;

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;

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;

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;

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 Tinsley Park;

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 money provided by this grant.

Adopted this 22nd day of May 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Cassada inquired about District meetings and when could they begin scheduling. Mr. Fivas replied this is a good time to begin and for those that would like to have District meetings, please reach out.

Councilman May stated he appreciates they are able to give employees a 5% increase. Also, year to year we need a comp study. We are going to have to keep us in the ballgame with surrounding cities, so we don't lose our good employees.

Councilman Hughes congratulated Fire Chief Bobby Gaylor on his upcoming retirement. He then thanked all the staff who worked on the Mouse Creek Road project. It is a nice, professional job.

Councilman Webb recognized Dewayne Belew and all those that worked on the Relay For Life. Their goal was $115,000 and over the weekend it was announced they had now exceeded $161,000. The City Council appreciates all the work Dewayne, and all the volunteers do for this event.

Vice Mayor Johnson congratulated Fire Chief Bobby Gaylor on his upcoming retirement and thanked him for a job well done over the years.

Councilwoman McKenzie stated she visited the LIC North/Pleasant Grove Church Road construction site and thanked the engineers who worked with the residents and some of their concerns. One gentleman was happy to see the guardrail remained. Secondly, she asked Chief Gibson for extra patrol for speeding on Westside Drive/Georgetown Road in the curve.

Councilman Estes echoed Councilman May's request for annual comp study. He also appreciates the strides made with Public Works and Police. Also, applauded the City Schools for the massive step they took in this area as well.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

a. **Ordinance 2022-18** – Amending the FY2023 Budget.

ORDINANCE 2023-18

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE TO AMEND THE 2022-2023 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 2022-2023 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			
	FY2023 Budget Amendment - May 2023			
	ORIGINAL BUDGET	May 2023 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
GENERAL FUND				
Tax Revenues:	45,870,000	46,780,000	910,000	Property Tax, Franchise Tax
Licenses & permits:	1,609,800	1,609,800	0	
Intergovernmental:	5,755,200	5,794,100	38,900	State Hwy Grant
Charges for services:	1,085,000	1,211,170	126,170	Recreational Program Fees, CPD Contracted Svcs
Fines & forfeits:	426,500	426,500	0	
Interest income:	25,000	745,385	720,385	Interest
Miscellaneous:	50,500	246,855	196,355	Sundry Income, Ins Reimb, Donations
Public Enterprise Revenue:	1,247,000	1,730,000	483,000	Fuel Sales
Subtotal	56,069,000	58,543,810	2,474,810	
Other Funding Sources:	2,962,317	2,962,317	0	
Total Revenues	59,031,317	61,506,127	2,474,810	
Legis. & Judicial	351,000	364,893	13,893	Legal Svcs
Administration	692,025	694,143	2,118	Professional Development
Jetport	1,339,360	1,828,854	489,494	Fuel
Human Resources	506,900	499,253	(7,647)	Grant Exp, Employee Appreciation
Finance	1,417,900	1,416,136	(1,764)	Salaries, Equipment
Information Technology	1,048,012	1,044,370	(3,642)	Parttime
Development & Engineering	1,975,200	1,979,947	4,747	Parttime, Vehicle Maint, Building Maint
Codes Enforcement	263,800	265,003	1,203	Insurance
Police	12,626,040	12,696,931	70,891	Equipment, Extra Duty, Prof Dev, Ins
Animal Control	616,585	623,109	6,524	Supplies, Ins
Fire	11,653,040	11,692,172	39,132	Overtime, Vehicle Maint, Recruiting
PW Operations	2,779,325	2,709,698	(69,627)	Safety Markings
Street Lighting & Signals	1,915,700	1,915,700	0	
Fleet	718,625	720,306	1,681	Maintenance
Forestry & Landscaping	904,300	1,020,146	115,846	Vehicle Maint, Fuel
Parks & Recr.	1,463,875	1,506,703	42,828	Program Development, Donations
College Hill Rec Center	462,090	466,209	4,119	Pool Exp, Program Dev
Cleveland Comm Center	409,865	418,413	8,548	Pool Exp, Program Dev
Tinsley Park	330,400	338,355	7,955	Pool Exp, Ins
Appropriations	1,382,900	1,382,900	0	
Subtotal:	42,856,942	43,583,241	726,299	
Transfers	15,767,000	16,799,586	1,032,586	Debt Service, CIP
Total Expenditures	58,623,942	60,382,827	1,758,885	
Increase (use) of fund balance	407,375	1,123,300	715,925	

	City of Cleveland, Tennessee			
	FY2023 Budget Amendment - May 2023			
	ORIGINAL BUDGET	May 2023 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
SPECIAL REVENUE FUNDS:				
Solid Waste Mgmt. Fund				
Revenues	4,235,100	4,298,983	63,883	Interest, Misc Revenue
Transfers from Other Funds	150,000	150,000	0	
Total Rev. & Transfers In	4,385,100	4,448,983	63,883	
Expenditures	4,353,600	4,369,970	16,370	Fuel, Repairs, Commercial
Increase (Use) of Fund Balance:	31,500	79,013	47,513	
State Street Aid Fund				
Revenues	1,451,000	1,524,867	73,867	Interest
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	1,451,000	1,524,867	73,867	
Expenditures	1,006,825	1,226,858	220,033	Equipment, Ins
Transfers Out	444,042	444,042	0	
Total Expenditures & Transfers:	1,450,867	1,670,900	220,033	
Increase (Use) of Fund Balance:	133	(146,033)	(146,166)	
Cleveland Public Library Fund				
Revenues	795,500	798,500	3,000	Misc Revenues, Interest
Transfers from Other Funds	684,000	684,000	0	
Total Rev. & Transfers In	1,479,500	1,482,500	3,000	
Expenditures	1,478,700	1,505,500	26,800	Mem Expenses, Equipment
Increase (Use) of Fund Balance:	800	(23,000)	(23,800)	
Drug Enforcement Trust Fund				
Revenues	23,700	68,247	44,547	Misc Revenues, Fines, Interest
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin.	23,700	68,247	44,547	
Expenditures	23,600	23,600	0	
Increase (Use) of Fund Balance:	100	44,647	44,547	
E-Ticketing Grant				
Revenues	0	0	0	
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin.	0	0	0	
Expenditures	0	23,389	23,389	PY Carryover
Increase (Use) of Fund Balance:	0	(23,389)	(23,389)	
Bryne Mem. Justice Asst. Grant				
Revenues	0	37,354	37,354	Annual Grant
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin.	0	37,354	37,354	
Expenditures	0	37,354	37,354	Equipment, BCSO
Increase (Use) of Fund Balance:	0	0	0	

	City of Cleveland, Tennessee			
	FY2023 Budget Amendment - May 2023			
	ORIGINAL BUDGET	May 2023 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
Community Dev. Block Grant				
Revenues	375,000	597,484	222,484	COVID Funding, Carryovers
Transfers from Other Funds	30,000	30,000	0	
Total Rev., Transfers & Other Fin.	405,000	627,484	222,484	
Expenditures	404,999	634,763	229,764	Project Carryovers, Down Pmt Asst
Increase (Use) of Fund Balance:	1	(7,279)	(7,280)	
MPO Fund				
Revenues	198,000	198,000	0	Federal Funding
Transfers from Other Funds	151,500	151,500	0	General Fund Transfer
Total Rev., Transfers & Other Fin.	349,500	349,500	0	
Expenditures	339,200	339,301	101	Personnel Expenditures
Increase of Fund Balance:	10,300	10,199	(101)	
School Food Service Fund				
Revenues	3,800,333	3,193,761	(606,572)	USDA Breakfast/Other
Transfers from Other Funds	0	0	0	
Total Rev. & Transfers In	3,800,333	3,193,761	(606,572)	
Expenditures			0	
Transfer to Other Funds	3,800,333	3,429,529	(370,804)	Personnel, Benefits
Total Expenditures & Transfers:	3,800,333	3,429,529	370,804	
Increase (Use) of Fund Balance:	0	(235,768)	(235,768)	
School General Fund				
Revenues	49,287,773	51,857,798	2,570,025	Grants
Transfers from Other Funds	5,801,500	5,801,500	0	
Total Rev. & Transfers In	55,089,273	57,659,298	2,570,025	
Expenditures	55,305,655	58,963,583	3,657,928	Vocational Ed, Transportation, Capital Outlay
Transfer to Other Funds			0	
Total Expenditures & Transfers:	55,305,655	58,963,583	3,657,928	
Increase (use) of Fund Balance:	(216,382)	(1,304,285)	(1,087,903)	

	City of Cleveland, Tennessee			
	FY2023 Budget Amendment - May 2023			
	ORIGINAL BUDGET	May 2023 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
CAPITAL OUTLAY FUNDS:				
Capital Improv. Program Fund				
Revenues	625,000	4,030,542	3,405,542	Grants
Transfers & Other Fin.	2,965,000	3,896,493	931,493	General Fund Tfr
Total Rev., Transfers & Other Fin.	3,590,000	7,927,035	4,337,035	
Expenditures	3,585,000	35,838,842	32,253,842	Various Projects
Transfers to Other Funds	0	0	0	
Total Expenditures & Other Uses	3,585,000	35,838,842	32,253,842	
Increase (Use) of Fund Balance:	5,000	(27,911,807)	(27,916,807)	
Sales Tax Capital Projects Fund				
Revenues	4,757,000	4,938,304	181,304	Interest
Total Rev., Transfers & Other Fin.	4,757,000	4,938,304	181,304	
Expenditures	4,750,299	7,502,006	2,751,707	Carryover - various projects
Total Expenditures & Other Uses	4,750,299	7,502,006	2,751,707	
Increase (Use) of Fund Balance:	6,701	(2,563,702)	(2,570,403)	

	City of Cleveland, Tennessee			
	FY2023 Budget Amendment - May 2023			
	ORIGINAL BUDGET	May 2023 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
CCS Capital Funds				
Revenues	0	117,671	117,671	Interest
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	0	117,671	117,671	
Expenditures	0	4,534,215	4,534,215	Carryover - various projects
Increase (Use) of Fund Balance:	0	(4,416,544)	(4,416,544)	
American Rescue Plan				
Revenues	0	4,715,501	4,715,501	ARPA Grant - 2nd Installment
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	0	4,715,501	4,715,501	
Expenditures	950,000	7,759,223	6,809,223	Public Safety, Tech Improv, Appropriations, City Hall
Increase (Use) of Fund Balance:	(950,000)	(3,043,722)	(2,093,722)	
Internal ServiceFunds:				
Health Insurance Trust Fund				
Revenues	5,854,160	5,947,621	93,461	Interest
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	5,854,160	5,947,621	93,461	
Expenditures	5,188,017	5,946,017	758,000	Increase Claims and Fees
Increase (Use) of Fund Balance:	666,143	1,604	(664,539)	
Debt Service Fund:				
Revenues	151,250	286,214	134,964	Interest
Transfers and Other Fin.	7,371,224	7,472,317	101,093	General Fund Tfr
Total Rev., Transfers & Other Fin..	7,522,474	7,758,531	236,057	
Expenditures	8,372,154	8,473,247	101,093	Equipment Lse
Increase (Use) of Fund Balance:	(849,680)	(714,716)	134,964	
Enterprise Funds:				
Storm Water Management Fund				
Revenues	1,893,300	1,974,546	81,246	Interest
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	1,893,300	1,974,546	81,246	
Expenditures	1,619,050	2,613,341	994,291	Equipment, Depr, Various projects
Increase (Use) of Fund Balance:	274,250	(638,795)	(913,045)	

	City of Cleveland, Tennessee			
	FY2023 Budget Amendment - May 2023			
	ORIGINAL BUDGET	May 2023 Amendment - Final	INCREASE (DECREASE)	EXPLANATION
Fiduciary Funds:				
Meiler Estate/Animal Shelter Trust Fund				
Revenues	500	7,032	6,532	Interest
Transfers from Other Funds	0	0	0	
Total Rev., Transfers & Other Fin..	500	7,032	6,532	
Expenditures	0	0	0	
Increase (Use) of Fund Balance:	500	7,032	6,532	

Councilman May moved that Ordinance 2023-18 be voted for passage 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 2023-48

A RESOLUTION MODIFING THE MINIMUM & MAXIMUM PAY FOR POLICE AND FIRE DEPARTMENT AND REQUESTING THE CITY MANAGER TO INCLUDE A BUDGET PROPOSAL TO ADJUST ALL CITY STAFF MINIMUM AND MAXIMUM PAY, AND REQUESTING CITY MANAGER TO INVESTIGATE OPTIONS TO INCREASE THE COST OF LIVING COMPENSATION FOR FISCAL YEAR 2024 FOR OUR CURRENT EMPLOYEES.

WHEREAS, The Cleveland Mayor and City Council believes it's biggest asset are the employees who work at the City; and

WHEREAS, Every Police Department is experiencing difficulties in recruiting certificated police officers; and

WHEREAS, The Cleveland Police Department is beginning to reduce some of it's non-emergency services to residents and we are not seeing applicants for new open police positions; and

WHEREAS, The City Manager and Police Chief have met on many occasions and have a plan to implement new policies to address our police officer recruitment and staffing during the next budget period; and

WHEREAS, Although, the Fire Department is at 100 percent staffing, we have seen the Fire Department Minimum salaries increase; and

WHEREAS, the city staff has used the same salary comps and methodology to determine the new Minimum and Maximum salaries for the Police Department and Fire Department, and

WHEREAS, All City employees Minimum salaries should increase with the passage of the FY 2024 budget, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the city of Cleveland, Tennessee in regular session assembled, the City Council does hereby approve the following:

1) The new Police Department and Fire Department Minimum and Maximum salaries as indicated below, and during the Fiscal Year 2024 budget proposal the City Manager will propose to increase all employees Minimum and Maximum salaries in the classification plan.

NEW FIRE DEPARTMENT MINIMUM AND MAXIMUM CLASSIFICATION PLAN: (Current starting salary is $37,722.13)

(Grade 201) Fire Trainee:	$37,722 to $59,566	(Not Certified)
(Grade 202) Certified Firefighter:	$41,103 to $59,566	
(Grade 203) Engineer:	$44,838 to $65,522	
(Grade 204) Lieutenant:	$49,321 to $75,068	
(Grade 205) Captain:	$54,252 to $83,492	
(Grade 206) Battalion Chief:	$59,677 to $97,797	

NEW POLICE DEPARTMENT MINIMUM AND MAXIMUM CLASSIFICATION PLAN: (Current starting salary is $39,686.08)

(Grade 301) Police Trainee:	$39,686 to $67,433 (Not Post Cert)
(Grade 302) Certified Officer:	$45,000 to $67,433
(Grade 303) Corporal:	$49,500 to $74,176
(Grade 304) Detective/Sergeants:	$54,450 to $81,593
(Grade 305) Lieutenant:	$59,895 to $92,274
(Grade 306) Captain:	$65,884 to $99,184

2) All City employees will receive a 1.0% adjustment to their grade for minimum and maximum salaries.

3) After the City fully implements the 5.0% annual cost of living increase on July 1st, 2023, then city staff will use the our computer software to implement all of these new classification plan modifications to make sure all employees are adjusted according to our policies and the time within their current position to review to make sure that all employees are adjusted to make sure there is no compaction in relation to there new Minimum and Maximum salary.

4) The City Manager and Police Chief have agreed to be aggressive in recruiting 'lateral transfers' from other police agencies and using new policies to pay increased salaries for police officers with experience.

5) These Minimum salary increase and our current estimated 3.5% cost of living will increase our budget expenditures by an estimated $2.0 million, and the City Manager will recommend a combination of budget reductions, efficiency modifications, retirement and healthcare changes, organizational structure changes, and fee increases to account for these new budget expenditures. The City Manager has not propose a property tax increase to implement this new plan in Fiscal Year 2024 budget.

IN WITNESS WHEROF, the parties have hereunto set their hands and seals on this 22nd day of May, 2023.

ADOPTED this 22nd day of May, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Cassada moved that Resolution 2023-48 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. The next City Council meeting will be held on Monday, June 12, 2023.

b. City Offices will be closed Monday, May 29, 2023 in observance of Memorial Day.

ADJOURNMENT

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

_____ _____

Mayor City Clerk

REGULAR SESSION
JUNE 12, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JUNE 12, 2023 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; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Interim Fire Chief Rock Eulo; Jonathan Jobe, Development and Engineering Director; Dustin Roberts with IT; Kim Brooks with Lee University; Representative Kevin Raper; Bradley County Commissioner Ledford; Luke Sizemore with City Fields; Sharon Marr with Mainstreet Cleveland; Doug Berry with the Chamber of Commerce; Mayor Emeritus Tom Rowland; Sandra Rowland 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 May 22, 2023 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

Representative Kevin Raper presented Mayor Emeritus Tom Rowland with a framed proclamation recognizing and honoring him as the longest serving Mayor in Cleveland.

Mr. Fivas introduced Interim Fire Chief Rock Eulo. Chief Eulo stated he has been with the department for 22-years and is excited to serve in this role for the Cleveland Fire Department. His wife is a teacher at Walker Valley High School, who teaches German, his daughter attends Lee University and plays soccer, his son is a sophomore at Walker Valley High School who plays football and basketball.

Mr. Fivas continued he felt this was an opportunity to schedule meeting with our Legislative delegation to discuss transportation grants, such as North Ocoee/25th Street project. With no objection, he will try to get something scheduled in the next thirty days.

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 Javier Sanchez for consideration of an ordinance to zone 1.51 acres, more or less, for property located at 20th St. NE from IL Light Industrial zoning to CG General Commercial Zoning and includes Tax Map 050 Parcel 020.01. Robert Varnell stated the applicant is looking at a commercial use and the way we've structured our ordinances, you have to be zoned CG. Surrounding properties are warehouse facilities. Staff approves the rezoning and the Planning Commission approved the item 9-0. 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 declared the public hearing to be closed.

Mayor Brooks announced he was reappointing Ken Melton to the Cleveland Housing Authority for an additional five-year term to expire November 2027.

CONSENT AGENDA

Mayor Brooks stated the Consent Agenda was presented during the Work Session. City Manager Joe Fivas removed the following items for further discussion with the City Attorney.

- **Contract Extension** – Extending the current contract for Plumbing Service/Maintenance with Goodaker Plumbing for an additional one-year term.
- **Contract Extension** – Extending the current contract for Electrical Service/Maintenance with Conley Electric for an additional two-year term.
- **Motion** – Authorizing the Mayor to sign an Incoming Loan Form with the Museum Center related to the Cherokee Chieftain.

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

a. **Final Passage – Ordinance 2023-18** – heretofore passed on first reading May 22, 2023 and found in Minute Book 31, Page 159; Amending the FY2023 Budget.
b. **Resolution 2023-49** – 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, 2022 through June 30, 2023.

RESOLUTION 2023-49

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, 2022, through June 30, 2023, with a fee of $60,000.00; 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. [on file in the City Clerk's Office.]

Adopted this 12th day of June, 2023.
APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

c. **Resolution 2023-50** – Authorizing the Mayor to sign the TDOT State Highway Maintenance contract for a period of twenty-four months.

RESOLUTION 2023-50

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 12th day of June, 2023.
APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

d. **Resolution 2023-51** – Memorializing the intended uses of Fletcher Park.

RESOLUTION 2023-51
A RESOLUTION MEMORIALIZING
THE INTENDED USES OF FLETCHER PARK
CITY OF CLEVELAND, TENNESSEE

WHEREAS, Recognizing the benefit to the general health and welfare of the community, the Cleveland City Council desires to memorialize by resolution the intended uses of Fletcher Park, and;

WHEREAS, The intention is to preserve the park for passive uses such as walking, bicycle trails, picnic areas and pavilions, fishing piers, playgrounds and play areas, wildlife, educational areas relating to the preservation of the environment and promotion of healthy living standards, and;

WHEREAS, Permanent structures should be of low impact to the environment and aid in the preservation of the natural beauty of the property. No permanent structures are allowed related to non-passive types of recreation such as soccer, baseball, softball, football, tennis, and pickleball, and;

WHEREAS, The park allows low impact structures for disc golf and other passive recreational activities, all structures supporting such activities, shall be constructed of materials such as green/gray colored concrete and other earth tone colored materials, and;

WHEREAS, There will be no permanent commercial sales of food, supplies and materials on park property, and;

WHEREAS, Lighting in the park is limited to only installations addressing safety, security, and directional issues. These lighting guidelines do not allow lighting for recreational purposes, and;

WHEREAS, The park allows fencing, but only when the safety of the general public requires it, and;

WHEREAS, The Cleveland City Council appreciates the generous donation of the property and funds to develop it by the Fletcher family to the citizens and recognizes the tremendous value it continues to provide for all.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND TENNESSEE, the following:

Section 1: The Mayor & City Council hereby memorializes the intended uses of Fletcher Park.

Section 2: The City of Cleveland hereby expresses sincere appreciation for the generous donation of this property and funds to develop it from the Fletcher family.

Adopted this 12th day of June 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

e. **Resolution 2023-52** – Authorizing staff to submit an application for the Firehouse Subs Public Safety Foundation Grant.

RESOLUTION 2023-52
A RESOLUTION AUTHORIZING THE SUBMISSION OF THE 2023 FIREHOUSE SUBS PUBLIC SAFETY GRANT

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

WHEREAS, the City is eligible to apply for a $25,000 Firehouse Subs Public Safety Grant, which grant, if approved, does not require any matching funds from the City; and

WHEREAS, if this grant is approved, the grant funding shall be used to purchase an off road ATV to allow Fire Responders access to areas where current apparatus cannot respond; and

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

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

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

Adopted this 12th day of June, 2023.
APPROVED AS TO FORM:
/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

f. **Resolution 2023-53** – Authorizing the Mayor to sign contract documents related to the Traffic Modernization Grant once finalized by the State of Tennessee.

RESOLUTION 2023-53

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN CONTRACT DOCUMENTS RELATING TO THE TRAFFIC SIGNAL MODERNIZATION GRANT

WHEREAS, the Tennessee Department of Transportation has funds available through the Traffic Signal Modernization Program which is designed to help communities modernize existing traffic signal equipment and operations; and

WHEREAS, the City of Cleveland has been awarded a $100,000 grant to be used for installation of Accessible Pedestrian Signals at Keith Street and 17th Street and to upgrade the existing traffic signal cabinet, with no matching funds required from the City; and

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 contract and all necessary forms with the State of Tennessee on behalf of the City of Cleveland for the above referenced grant.

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 grant with TDOT for the project described herein, and it further authorizes the Mayor to execute any related documents necessary in order to accept the grant.

Adopted this 12th day of June, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

g. **Resolution 2023-54** – Authorizing a loan agreement in the principal amount of not to exceed $3,100,000 in connection with a Wastewater Facilities Project (WWTP UV Disinfection Project) (Cleveland Utilities).

CITY OF CLEVELAND
SRF 2022-473-01
AUTHORIZING RESOLUTION 2023-54

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WASTEWATER 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 (WWTP UV Disinfection Project), Department of Environment and Conservation Number SRF 2022-473-01 (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 three million one hundred thousand dollars ($3,100,000) 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 three million one hundred thousand dollars ($3,100,000), for the purpose of funding all or a portion of the total estimated cost of the Project, which is seven million seven hundred fifty thousand dollars ($7,750,000), by Tim Henderson, 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 _____, 2023.

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

h. **Resolution 2023-55** – Authorizing a loan agreement in the principal amount of not to exceed $2,700,000 in connection with a Wastewater Facilities Project (Durkee Road/Benton Pike Annexation Area Sewer Project) (Cleveland Utilities).

CITY OF CLEVELAND
SRF 2023-484
AUTHORIZING RESOLUTION 2023-55

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WASTEWATER 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 (Durkee Road/Benton Pike Annexation Area Sewer Project), Department of Environment and Conservation Number SRF 2023-484 (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 two million seven hundred thousand dollars ($2,700,000) 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 two million seven hundred thousand dollars ($2,700,000), for the purpose of funding all or a portion of the total estimated cost of the Project, which is four million four hundred seventy-one thousand dollars ($4,471,000), by Tim Henderson, 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 _____, 2023.

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

i. **Bid Summary** – Street Striping and Thermoplastic Markings to be awarded to low bidder Volunteer Highway Supply.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **June 12, 2023**
RE: **Bid Summary – Street Striping and Thermoplastic Markings**

SUMMARY:
Sealed bids were received on May 31, 2023, for the street striping and thermoplastic markings. The bids are listed below:

- Volunteer Highway Supply **$159,200.00**
- Highway Markings, Inc. **$178,362.50**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff recommends award to low bidder, Volunteer Highway Supply.

j. **Bid Summary** – Brush Chipping Services to be awarded to low bidder Big Woody's Tree Service.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **June 12, 2023**
RE: **Bid Summary – Brush Chipping**

SUMMARY:
The City advertised to accept sealed bids on May 23, 2023, for brush chipping services. Bids are listed below:

- Big Woody's Tree Service **$375.00/Hr.**
- Watson's Contracting **$475.00/Hr.**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff recommends award to low bidder, Big Woody's Tree Service.

k. **Bid Summary** – Concrete Services to be awarded to low bidder Black Construction.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **June 12, 2023**
RE: **Bid Summary – Concrete Services**

SUMMARY:
The City advertised to accept sealed bids on May 30, 2023, for concrete services. Bids are listed below:

- Black Construction **$456,612.50**
- Kane Industries **$991,200.00**

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff recommends award to low bidder, Black Construction.

l. **Motion** – Declaring the service weapon of Officer John Milen as surplus property and given to him as a token of the City's appreciation for his 31-years of dedicated service to the Cleveland Police Department.
m. **Motion** – Retiring Officer Varnell's K-9, Torq, after 7-years of service to the Cleveland Police Department**.**
n. **Motion** – Declaring the service weapon of Sergeant Mark Darnell as surplus property and given to him as a token of the City's appreciation for his 26-years of dedicate service to the Cleveland Police Department.
o. **Motion** – Declaring the service weapon of Crime Scene Tech Shane Clark as surplus property and give to him as a token of the City's appreciation for his 25-years of dedicated service to the Cleveland Police Department.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman May asked for further information to be provided on the facility maintenance program, how the program will work and what it entails. Mr. Fivas stated yes, we are excited about completely reimaging how we work on our facilities. We are moving to have a system where we can be proactive from a facility standpoint. In the beginning it could cost additional funds upfront but in the coming years we will see better facilities and save money by doing maintenance, instead of waiting until something is broken. At the first meeting in July, we will show you what it looks like and the details of the structure. Overall, this is a weakness, and we want to consolidate it. We are impressed with the City Schools and Hal Taylor and having this stop-gap system and someone in charge of every facility. We should have a plan in July and will bring it before you then.

Councilman Hughes thanked city staff, Beverely Lindsey, Kim Miller, Rhonda Graham, the IT and Engineering Departments for the efforts on the City Picnic. The food and fellowship was excellent.

Councilman Webb inquired about the status of the renovation plan for Tinsley Park. Mr. Fivas stated staff meet last week with the Pickleball Association and looked at the final design. We have renderings of the facility and at the next meeting we will present that to you, along with the timeline. Councilman Webb then asked if there was a short-term plan for the welcome to Cleveland sign on 25th Street. The area is tired looking and needs attention. The mulch has washed away, you can see the watering hoses, the shrubs need trimming. It just needs attention. Mr. Fivas stated we will address the obvious cosmetic things. Our view on the area, we have an approved sidewalk project at Georgetown, that should help address the water from the hill. We need to run the sidewalk and create the edge coming down Georgetown and out towards the bridge. Redo the entire area with plantings, that's the project we hope to do in the next year. Short term, in the next couple of weeks we will fix the things you described. This area is the first impression of Cleveland, and we need to do better. Councilman Cassada asked if we could plant trees along the wall. Mr. Fivas stated it needs to be landscaped but we don't want any additional trees, due to maintenance. We need to improve maintaining our landscaping areas, especially at this location.

Vice Mayor Johnson stated he agrees with Councilman Webb the area does need some attention. The Cleveland Lions Club has asked him numerous times about their logo sign, along with many other civic organizational signs, that were once there. He asked if staff could look into replacing them. He continued looking at the budget, grant money and projects into 2025, it is a job well done by staff. It speaks loudly of the grant money we are receiving. Mr. Fivas stated it is a team effort.

Councilwoman McKenzie inquired on the timeline for the Civitan Park renovation. Mr. Jobe stated the animal statues are being fabricated and hopefully everything will be in place by September or October. Councilwoman McKenzie continued by mentioning several renovated and new buildings along South Lee Highway, which are improving the south side of Cleveland. Just this past week was a grand opening for Southside Fitness, in the old Dodge building. It is a fitness complex. They have programs, personal trainers, youth athletic training, boxing, wrestling, massage therapy, nutritionist, powerlifting, Zumba and a lot of other programs. They offer a scholarship, the William Carr, to help children afford some of these activities as well. She encouraged everyone to visit Southside Fitness for a tour. Lastly, she has received several concerns regarding the second trash cans with Waste Connections. She feels this could be a good opportunity to promote recycling in our community. This could take the need away for a second can. Mr. Fivas stated staff has been doing research and we already have a company in town with subscription service for recycling. We are looking into options, including an RFP.

Councilman Estes asked for information on the recycling company. Seth Sumner responded it is Blue Skies Recycling, who operate in McMinn and Bradley County. This is for curbside pickup at the residential locations. Councilman Estes then thanked Tommy Myers for repairing the potholes on Willow. Lastly, he encouraged all to walk on the Candies Greenway in the evening, down the muddy path through the woods. It is pretty nice. It is worth the time to see the beauty. Mr. Fivas stated Bradley County helped fund, through the HCI grant, which paid for a lot there and soon there will be concrete.

Councilman Cassada thanked city staff for minor improvements made in District 3 on things they previously spoke about. He appreciates keeping things nice and neat. Lastly, he asked for an update on the Cherokee Hotel renovation. Mr. Fivas responded this morning staff had a meeting with the contractor. Probably in June you will see chutes out the windows for demo. At the next meeting, Bryan Turner can give an update on what has been discovered. The architect is still working on space planning as well. Mr. Jobe added they met onsite with the State Historic grant administrator, and it was a very positive meeting.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

a. **Zoning Ordinance 2023-19** – Zoning 1.51 acres, more or less, for property located at 20th St. NE from IL Light Industrial zoning to CG General Commercial Zoning and includes Tax Map 050 Parcel 020.01 (Planning Commission: Approved 9-0).

Zoning Ordinance 2023-19

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, rezoned from IL Light Industrial Zoning District to CG General Commercial Zoning District.

Approximately 1.51 acres, more or less, located at 20th St. NE as shown on the attached map.

For reference, same property is being shown on Tax Map 050 Parcel 020.01, 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 May moved that Zoning Ordinance 2023-19 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

Councilman Estes moved to request and encourage the Bradley County Assessor's Office to pursue all possible avenues to rectify the revenue loss with the current appraisal ratios given from the Comptroller's Office. This includes the changing of the assessment schedule to every two years. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. City Offices will be closed Monday, June 19, 2023 in observance of Juneteenth.

b. The next City Council meeting will be held on Monday, June 26, 2023.
The Work Session will begin at 2:00 p.m. and the Regular Session at 3:00 p.m.

ADJOURNMENT

There being no future business the meeting was adjourned at 3:42 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
JUNE 26, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JUNE 26, 2023 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; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Interim Fire Chief Rock Eulo; Jonathan Jobe, Development and Engineering Director; Kris Miller, IT Director; Gideon Ratcliff with Mix104.1; and Tim Siniard with the *Cleveland Daily Banner*.

Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Johnson, who observed a moment of silence for the family of Michael David Ray who 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 June 12, 2023 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 asked if anyone would like to address the Council. No one spoke.

HEARING PETITIONS AND COMMUNICATIONS

a. **Public Hearing** – To hear public comments concerning a request by the City of Cleveland for consideration of a plan of service and a resolution to annex about 64.2 acres, more or less, for Right-of-Way located at Interstate-75 and includes the portion of Right-of-Way approximately between mile marker 24 and mile marker 20 and Right-of-Way located at Harrison pike from the intersection of Freewill Rd. and Old Harrison Lane SW to Holmes St. NW; as well as the plan of service and the resolution to annex, an ordinance to zone about 4.37 acres, more or less, from unincorporated county to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 041 Parcel 005.28 (Planning Commission: Approved 7-0; 2 absent).

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 for consideration of a plan of service and a resolution to annex about 64.2 acres, more or less, for Right-of-Way located at Interstate-75 and includes the portion of Right-of-Way approximately between mile marker 24 and mile marker 20 and Right-of-Way located at Harrison pike from the intersection of Freewill Rd. and Old Harrison Lane SW to Holmes St. NW; as well as the plan of service and the resolution to annex, an ordinance to zone about 4.37 acres, more or less, from unincorporated county to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 041 Parcel 005.28. Robert Varnell stated this item is for the Plan of Service, Annexation and Zoning of the Greenway property. The primary purpose is because the City is expanding the Greenway and the right of way is annexation is more emergency service driven from a planning perspective. Staff approves the item, and the Planning Commission approved it 7-0. Mayor Brooks asked if anyone would like to speak in favor of the Plan of Service, Annexation, or Zoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the Plan of Service, Annexation, or Zoning. No one spoke. Mayor Brooks declared the public hearing to be closed.

b. **Public Hearing** – To hear public comments concerning a request by City of Cleveland for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 3.76 acres, more or less, of property on Freewill Rd. from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 048D Group B Parcel 002.01 (Planning Commission: Approved 7-0; 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by City of Cleveland for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 3.76 acres, more or less, of property on Freewill Rd. from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 048D Group B Parcel 002.01. Robert Varnell stated this hearing is for the Plan of Service, Annexation and Zoning of a Cleveland Utilities facility. Staff approves the item, and the Planning Commission approved it 7-0. Mayor Brooks asked if anyone would like to speak in favor of the Plan of Service, Annexation, or Zoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the Plan of Service, Annexation, or Zoning. No one spoke. Mayor Brooks declared the public hearing to be closed.

c. **Public Hearing** – To hear public comments concerning a request by City of Cleveland for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 7.87 acres, more or less, of property located on Forrest Ave. NE from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 050I Group G Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by City of Cleveland for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 7.87 acres, more or less, of property located on Forrest Ave. NE from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 050I Group G Parcel 001.00. Robert Varnell stated this hearing is for the Plan of Service, Annexation and Zoning of a Cleveland Utilities facility. Staff approves the item, and the Planning Commission approved it 7-0. Mayor Brooks asked if anyone would like to speak in favor of the Plan of Service, Annexation, or Zoning. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the Plan of Service, Annexation, or Zoning. No one spoke. Mayor Brooks declared the public hearing to be closed.

d. **Public Hearing** – To hear public comments concerning a request by the Trustees of the Church of God of Prophecy for consideration of an ordinance to zone about 8.00 acres more or less, from R-3 High Density Single and Multi-Family Zoning to PUD Planned Unit of Development Zoning and includes Tax Map 041E Group C Parcels 006.00, 007.00, 013.00, 014.00, 015.00, and 016.00 (Planning Commission: Denied 7-0; 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by the Trustees of the Church of God of Prophecy for consideration of an ordinance to zone about 8.00 acres more or less, from R-3 High Density Single and Multi-Family Zoning to PUD Planned Unit of Development Zoning and includes Tax Map 041E Group C Parcels 006.00, 007.00, 013.00, 014.00, 015.00, and 016.00. Robert Varnell stated we are holding the public hearing but first reading of the ordinance will be tabled until a future meeting date. Mr. Fivas stated we will have it on the next agenda. 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.

e. **Public Hearing** – To hear public comments concerning a request by the City of Cleveland for consideration of an ordinance to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 1.6.4 Building definition and section 4.6.3.A to include a minimum square footage (Planning Commission: Approved 7-0; 2 absent).

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 for consideration of an ordinance to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, Section 1.6.4 Building definition and section 4.6.3.A to include a minimum square footage. Robert Varnell stated this item is cleaning up various ordinances within our Code as we have been doing over the last year. 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.

f. **Public Hearing** – To hear public comments concerning a request by Don Jacobsen and adjoining owners to abandon a section of unopened right-of-way located between Pugh St. NE and Lang St NE (Planning Commission: Approved 7-0; 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by Don Jacobsen and adjoining owners to abandon a section of unopened right-of-way located between Pugh St. NE and Lang St NE. Robert Varnell stated we are currently waiting on one signature, so to follow policy, first reading of the ordinance will be brought back at the next meeting. Mayor Brooks asked if anyone would like to speak in favor of the abandonment. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the abandonment. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

Mayor Brooks stated the Consent Agenda was presented during the Work Session. 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.

a. **Final Passage - Zoning Ordinance 2023-19** – heretofore passed on first reading June 12, 2023 and found in Minute Book 31, Page 176; Zoning 1.51 acres, more or less, for property located at 20th St. NE from IL Light Industrial zoning to CG General Commercial Zoning and includes Tax Map 050 Parcel 020.01 (Planning Commission: Approved 9-0).
b. **Resolution 2023-56** – Authorizing the Mayor to sign a grant contract with the Tennessee Arts Commission for the Arts Pathways for Youth Success Grant ($5,600/no local match).

RESOLUTION 2023-56

WHEREAS, the City has received the attached grant contract from the State of Tennessee, Tennessee Arts Commission, (hereafter "State") for the Arts Pathway for Youth Success Grant; and

WHEREAS, the City Council desires to enter into the attached grant contract with the State 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 the State 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 June 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

c. **Resolution 2023-57** - Authorizing the City to purchase equipment for the Public Works Department (Kubota Track Loader) through the Master Intergovernmental Cooperative Purchasing Agreement #031121-KBA.

RESOLUTION 2023-57

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE EQUIPMENT, PRODUCTS, OR SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING CONTRACT #031121-KBA, 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 Kubota Tractor Corporation ("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-KBA, 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-KBA, 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

d. **Resolution 2023-64** – Amending the Personnel Policies of the City of Cleveland Section VI, Benefits relating to 12-Hour Shift Accruals.

RESOLUTION 2023-64

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

THAT WHEREAS, the City Council of the City of Cleveland has previously established and adopted by Resolution on April 8, 2019 a revised Personnel Rules and Regulations document entitled "The City of Cleveland Personnel Rules and Regulations"; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee in Regular Session assembled this 26th day of June, 2023 that the document titled "The City of Cleveland Personnel Rules and Regulations" is hereby amended as follows:

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

Section VI – BENEFITS:

B. HOLIDAY PAY

Holiday hours are accumulated at the beginning of a calendar year. All employees, except fire department personnel working the 24 hours on/48 hours off schedule, and law enforcement personnel working 12-hour shifts, shall receive eight (8) hours of pay at the regular rate of pay for each legal holiday. Any of these employees who are non-exempt, and required to actually work on a legal holiday also shall receive pay at the regular rate of pay for each hour actually worked on a legal holiday. Only hours actually worked on a legal holiday will be used to calculate any overtime. Any untaken holiday hours remaining at the end of the calendar year shall be converted to vacation leave.

Non-exempt police personnel working 12-hour shifts may elect to take twelve (12) hours off at another time in lieu of payment for the holiday. This option is available provided that it does not adversely affect the scheduling of adequate personnel at all times. The decision on adequacy of personnel is reserved for the determination of the Chief of Police, who may delegate it to subordinate officers.

Non-exempt fire department personnel working the 24 hours on/48 hours off schedule shall each receive sixteen (16) hours of pay at the regular rate of pay for each legal holiday. This is the equivalent to the pay given all other employees. This pay shall be given in equal installments in each of the thirteen pay periods each year, in order to avoid large changes in payroll checks for these personnel. These personnel will maintain the 24 hours on/48 hours off schedule regardless of legal holidays. These hours shall not be used to calculate any overtime.

C. ANNUAL VACATION WITH PAY

Vacation will be granted to regular employees on a monthly basis, depending upon their length of service. The City Manager shall have the authority to grant additional vacation leave and determine the accrual rate for Department Heads and key personnel upon hiring as he/she deems necessary. The City Manager will then provide the additional vacation leave in writing to the employee, the Mayor and City Council, the affected Department Head, Human Resources Director, and the Human Resources, Health Care and Retirement Committee. The monthly accrual shall be shown on each payroll check stub, minus the amount of vacation taken, so that a running total of available vacation time appears on the payroll check stub. Up to thirty (30) days vacation, (240 hours for 8-hour employees, 360 for 12-hour employees, 720 for 24/48 hour employees) may be carried forward into the following calendar year. Employees will accrue vacation based on the schedules below.

Vacation time will be calculated according to the following schedules:

Employees Working a 40-Hour/Week Schedule:

Years of Service	#of Vacation Days	#of Vacation Hours	#of Vacation Hours/Month
0 – 1	5	40	3.33
1 – 5	10	80	6.67
5 – 10	15	120	10.00
10 – 15	17.5	140	11.67
15 - 20	20	160	13.33
20 +	25	200	16.67

Employees Working 12-hour shift Schedule:

Years of Service	#of Vacation Days	#of Vacation Hours	#of Vacation Hours/Month
0 – 1	5	60	5.00
1 – 5	10	120	10.00
5 – 10	15	180	15.00
10 – 15	17.5	210	17.50
15 - 20	20	240	20.00
20 +	25	300	25.00

Employees Working a 24/48 Hour Schedule:

Years of Service	#of Equivalent Vacation Days	#of Vacation Hours	#of Vacation Hours/Month
0 – 1	2.33	56	4.67
1 – 5	4.67	112	9.34
5 – 10	7.00	168	14.00
10 – 15	8.165	196	16.34
15 - 20	9.33	224	18.67
20 +	11.67	280	23.34

All employees working a 24/48 hour schedule that are hired on or after July 1, 1997 shall receive vacation leave according to the chart above.

All employees working a 24/48 hour schedule that were employed as of June 30, 1997 were given a one-time election of (1) moving to the vacation schedule in the chart above, and being placed on the new Classification and Compensation Plan at a higher rate of pay that converts the decrease in vacation leave to cash; or (2) remaining on the existing vacation schedule for 24/48 hour personnel as long as they hold a position with a 24/48 hour schedule.

Those employees working a 24/48 hour schedule as of June 30, 1997 that elected to remain on it shall receive vacation leave according to the chart below:

Years of Service	#of Equivalent Vacation Days	#of Vacation Hours	#of Vacation Hours/Month
0 - 1	5	120	10
1 - 5	10	240	20
5 - 15	15	360	30
15 - 20	20	480	40
20 +	25	600	50

Excessive accumulated annual vacation days shall be converted to sick leave and shall then be as described under Section VI Benefits, Paragraph D. Excessive leave days shall be defined as any accumulation over the total of thirty (30) days as of December 31st of each year.

For leave purposes the service an individual has to his/her credit includes all continuous time spent as a full-time employee of the City.

Vacations will be scheduled in advance for the mutual convenience of the employee and the City Government so proper adjustments can be made in the work schedules. Department Heads or designee, preparing vacation schedules will give choice of dates based on seniority of the personnel in his/her department and no employee may begin his/her annual leave until his/her request has been approved by the Department Head or designee.

An employee who is separated from the employment of the City shall be paid for his/her unused vacation leave on his/her last paycheck.

Legal holidays falling within a vacation period are not to be counted as vacation days. Employees may not sell vacation during their first year of employment. Employees with 1 – 14 years of continuous employment may sell a maximum of 5 vacation days to the City during any fiscal year. One week vacation pay shall equal (1/52) one fifty second of current salary for all employees. Employees with 15 or more years of continuous employment may sell a maximum of 10 days to the City during any fiscal year. Two weeks of vacation pay shall equal (2/52) two fifty seconds of current salary for all employees. Employees may not transfer earned leave to another employee. Under highly unusual circumstances, an employee may be allowed to borrow against future annual vacation, using the same criteria established under Subsection D of this Section for borrowing against future sick leave.

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

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

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Shawn McKay, City Clerk

e. **Motion** – Authorizing the Mayor to sign an Incoming Loan Form with the Museum Center related to the Cherokee Chieftain.
f. **RFP** – Selecting Great Southern Recreation as the provider for the playground equipment for Jim Sharp Park.
g. **Contract Extension** – Extending the current contract for Automotive Paint and Body Repairs with Cleveland Collision for an additional one-year period.
h. **Contract Extension** – Extending the current contract for Plumbing Service/Maintenance with Goodaker Plumbing for an additional one-year term.
i. **Contract Extension** – Extending the current contract for Electrical Service/Maintenance with Conley Electric for an additional two-year term.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Hughes asked for an update of the new developments off Peerless Road NW behind McAlister's near Callen Lane NW. Mr. Fivas replied that is a dentist office. Councilman Hughes then stated beyond Harbor Freight that site will be a hotel, correct. Mr. Jobe stated yes, but we do not know the franchise yet, as no plans have been submitted. Councilman Hughes then asked what other developments that we're not aware of will be going back there. Mr. Jobe stated he believes that is everything that has submitted plans. Councilman Hughes stated off Frontage Road, we have a Hampton Inn, Marriott, which is currently being built and an extended stay hotel. Several months ago, across from Target, the city cleaned out an area where the homeless were camping or a dump site. He has now received complaints from residents of Benjamin Crest they are there again with fires at night. He asked Mr. Fivas to include that area, along with the area off Adkisson Drive discussed last week. Mr. Fivas responded staff will take a look at both areas.

Councilman Webb asked for an update on Tinsley Park. Mr. Fivas distributed renderings of the park which showed the additional pickleball courts and the tournament facility. Staff has met with the Pickleball Association for their design input, and we are still pricing the cost of a covered facility. We are hopeful to do that if the budget allows. The material is a see-through product with an estimated life span of 30-40 years. We are working through the due diligence now. Councilman May asked about all the existing buildings, which all need maintenance and updating. Mr. Fivas stated the softball fields, we have met with several softball leagues and have plans to replace all the fences and essentially give it a good paint, and making other areas safe, we plan to invest funds. Our intent right now is to take down the restrooms and all the other buildings along the side and relocate them to a different location. We would put a new restroom that would be shared with the pickleball and baseball, over on that side. Councilman Cassada stated the baseball fields will have no restrooms. They will have to leave the gated facility to go over to the pickleball courts. Mr. Fivas stated we haven't been doing that many softball tournaments, but we can stamp their hands. Councilman Webb asked for a timeline. Mr. Fivas responded next spring. Mayor Brooks asked to begin or completion Spring 2024. Mr. Fivas stated completed Spring 2024. In order to do this work, it will probably require a hard shut down, for an extended amount time, of the park on certain elements. We are trying to figure out how to phase the work to keep as much as the park open during those times. Councilman May inquired about the drainage for the entire facility. Mr. Fivas stated the parking lot, they will rough up what is there and put stone there to create a new base, on top of the existing base, to help the drainage and make sure it is running where it should be. Mr. Jobe stated we might need a drain system, but we are raising the entire grade of the parking lot to force the drainage, to surface drain to the creek. With the digesters under the parking lot, it makes it challenging. We are looking at 6-8" higher than we are now because we can't undercut. We will have catch basins and large pipe going to the creek. Councilman Hughes asked if a good timeline would be when school starts, when the activity is limited, to start the process. Mr. Fivas stated the park will probably remain open until the fall, to get through swimming and a few nice months in the fall. We will start

construction, probably as early as the next couple of months. We will spend most of our time with the pickleball stuff. During that time, we will be taking down the rusted fence, replacing it and those types of activities. Probably, in September or October we will shut down everything except the pickleball courts. We will do a hard shut off and the people who want to play pickleball, or walk, will still have limited parking and some access. During that time is when we will redo the sidewalks, build the additional 80 parking spots that we'll probably have, build all the concrete around, build the parking lot up and hopefully that is done in spring, about the same time as the pickleball courts and then we can come in and pave. We have communicated with the leagues no fall softball and by Spring we want to have the pickleball and softball facilities open. They are already advertising for large regional tournaments for Fall 2024. Councilman May asked if the project would be bid as a total project or piecemealed. Mr. Fivas replied some will be piecemealed. The pickleball courts will be bid for a contractor. A separate contractor to do the fencing around the courts. A separate contractor for the restroom buildings. We already have a contractor for the paving. The drainage, we can do the drainage in-house and the stone. We have a sidewalk contractor. This is pretty normal how we approach a project. The big piece, pickleball courts, will be with a contractor. Councilman Webb asked about he picnic areas. Mr. Fivas stated all the pavilions will be redone. We are not tearing them down, as we feel there is enough there to work with. New roofing, painting, and drainage. Councilman Estes asked about closing sections of the Greenway. Mr. Jobe stated we won't have to shut it off unless we are working specifically in the area and then we can put up fencing to reroute walkers. We will probably close the dog park as well, to get grass growing again. Councilwoman McKenzie asked to receive a plan of the entire park renovation at the next meeting. Mr. Fivas stated staff is currently working on engineering drawings and we should have something available soon. Councilman Cassada asked if we have options for artificial turf for the dog park. Mr. Fivas stated we've had numerous in-house conversations and are looking at options. Councilman Cassada then asked about the swimming pool and the pump. Mr. Fivas stated it has been heavily used so far this summer. Ms. Pettit stated it is in pretty good shape right now. Mr. Fivas added it is certainly tired and needs replacing but it is functional right now. We will eventually have to do something. We are currently working on a strategic plan for Parks and Recreation and will be talking to several organizations and associations to discuss future needs. We want to have a plan so the Council can answer citizen questions efficiently. Councilman Webb thanked Mr. Fivas for the update. Tinsley Park is a huge asset to our community. It has gotten tired, and he feels everyone is looking forward to the updates.

Vice Mayor Johnson stated there was a great turnout for the Juneteenth Celebration at Avery Johnson Park. The only problem he heard, not enough parking. Additional parking would be appreciated. Secondly, Raymond Scott at 3840 Chilhowee Circle, is still experiencing water/drainage issues. When they wash laundry, water backs up into their basement. Mr. Fivas responded staff has worked on this and we solved their initial problem, water coming across the street in the front yard. Staff will reach out to them to see if there is anything we can do.

Councilwoman McKenzie stated last week was the grand opening of the Veterans Home. It is a beautiful facility and great addition to District 1. Secondly, traffic/speeding issues on Centenary Avenue and 14th Street NW. She has concerns that traffic will find alternate routes. She asked that both Centenary and 14th Street be monitored for speeders.

Councilman Estes made Robert Varnell aware he received several calls concerning the massive rezoning discussion in the College Hill area. Once he explained the plan, they were for it. He feels communication will help the citizens understand. He appreciates taking time to get it right.

Councilman Cassada had no report at this time.

Councilman May stated he is excited for a ribbon cutting Spring 2024 for Tinsley Park. He then asked for an update on the new Municipal Building. Mr. Jobe stated the asbestos removal and demo began today. They are removing all the asbestos hidden in the chasses and all the piping. Councilman May asked if we had a projected time for construction contracts. Mr. Jobe stated the architect has to have the entire package completed by February 2024, as it is due

to the federal government for the historic tax credits in March. We should see drawings from the architect sometime December/January. It will be a tight schedule but people at the State and Federal levels are excited about our project.

Mr. Fivas reminded everyone that Broad/Inman Street will be closed next week for another street cut. The first two street cuts have been remarkably well. While we have the road open Cleveland Utilities is looking at the electric, water and sewer lines to see if any repairs or additions need to be done before paving. Councilman May stated before paving Inman Street, for electric, water and wastewater be looked at for the Cherokee Hotel and if anything needs to be repaired or added. Mr. Fivas stated we are close to making a request to underground some of the wires on Church Street, especially the pole behind the building. We have heard there is a water leak on Inman from the hotel, so we are asking them to do an analysis, because now is the time to get it fixed. Mayor Brooks added if we can make the Inman/Broad Street intersection look as good as the Edwards improvements, it is remarkable what has been done and that is a great goal.

Mr. Fivas added the Civitan Park has had a lot of activity and progress. The animals are being manufactured and we hope to have the park open before Stuart Elementary starts back in the fall.

NEW BUSINESS AND ORDINANCES

a. **Resolution 2023-58** – A resolution to adopt a plan of service for about 68.57 acres, more or less, for Right-of-Way located at Interstate-75 and includes the portion of Right-of-way approximately between mile marker 24 and mile marker 20 and Right-of-Way located at Harrison pike from the intersection of Freewill Rd. and Old Harrison Lane SW to Holmes St. NW (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-58

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

INTERSTATE-75 and GREENWAY (040 005.28)

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

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

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

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

A. That a public hearing is hereby held at 3:00 pm on June 26, 2023, at the Cleveland Municipal Building, 190 Church St NE, on the proposed annexation of territory by owner consent, and Plan of Services, to wit:

Beginning at the southwest corner of the lands of James and Julia Taylor, as recorded in BCROD deed book 311 page 268, said point being located in the eastern right of way of Interstate 75 and also being a corner of the existing City Limits; thence leaving the existing City Limits and following the eastern right of way of Interstate 75 in a northerly direction with the western line of the lands of Taylor 3760 feet, more or less, to the northwest corner of the lands of Taylor, said corner also being the southwest corner of the lands of Larry and Teresa Grant, as recorded in BCROD deed book 2134 page 446; thence with the western line of the lands of Grant 345 feet, more or less, to the northwest corner of the lands of Grant,

said point also being located in the southern right of way of Harris Creek Road; thence following the eastern right of way of Interstate 75 and crossing Harris Creek Road in a northeasterly direction 90 feet, more or less, to the southwest corner of the lands of Robert and Ruth Williams, as recorded in BCRD deed book 1183 page 562; thence with the western line of the lands of Williams in a northeasterly direction 417 feet, more or less, to the northwest corner of the lands of Williams, said point also being a corner of the lands of Robert Herman Williams, as recorded in BCROD deed book 107 page 58; thence with the western line of the lands of Robert Herman Williams in a northeasterly direction 320 feet, more or less, to the northwest corner of the lands of Robert Herman Williams, said point also being a corner of the lands of Robert H Williams, as recorded in BCROD deed book 177 page 895; thence with the western line of the lands of Robert H Williams 425 feet, more or less, to the northwest corner of the lands of Robert H Williams, said point also being a corner of the lands of Lynn Stone as recorded in the BCROD deed book 1553 page 389; thence with the western line of the lands of Stone 996 feet, more or less, to the northwest corner of the lands of Stone, said point also being the southwest corner of the lands of Sarah Whitaker, as recorded in BCROD deed book 232 page 430; thence with the western line of the lands of Stone in a northeasterly direction 1670 feet, more or less, to the north west corner of the lands of Whitaker, said point also being located in the southern right of way of Sipes Road; thence crossing Sipes Road in a northeasterly direction 170 feet, more or less, to the southwest corner of the lands of Virginia Matheny, as recorded in BCROD deed book 282 page 187; thence with the western line of the lands of Matheny in a north easterly direction 1786 feet more or less to the northwest corner of the lands of Matheny, said point being located in the southern right of way of Harrison Pike; thence leaving the eastern right of way of Interstate 75 with the northern line of the lands of Matheny in a south easterly direction 705 feet, more or less, to a point where the centerline extended of Holmes Street would meet the northern line of the lands of Holmes; thence leaving the northern line of the lands of Holmes and crossing Harrison Pike in a northwesterly direction 45 feet, more or less, to a point where the centerline of Holmes Street intersects the northern right of way of Harrison Pike; thence in a northwesterly direction 23 feet, more or less, to an iron pin located at the southeast corner of the plat of Philippi Baptist Church as recorded in BCROD plat book 29 page 69; thence in a northwesterly direction with the southern line of the Philippi Baptist Church plat 390 feet, more or less, to a point where the southern line of the Philippi Baptist Church plat intersects the northern right of way of Harrison Pike and the eastern right of way of Interstate 75; thence continuing with the eastern right of way of Interstate 75 and the western lines of the Philippi Baptist Church plat in a northerly direction 520 feet, more or less, to the northwest corner of the Philippi Baptist Church plat, said point also being a corner of the right of way of Old Harrison Pike and Interstate 75; thence crossing Old Harrison Pike in a northwesterly direction 40 feet, more or less, to the northern corner of the intersection of the Old Harrison Pike right of way and the Interstate 75 right of way, said point also being the southwest corner Darlene Davis Trustees as recorded in BCROD deed book 2756 page 601; thence in a northeasterly direction with the western line of Darlene Davis Trustees 595 feet, more or less, to the northwest corner of the lands of Darlene Davis Trustees, said point also being located in the southern right of way of Raines Drive and the eastern right of way of Interstate 75; thence crossing Raines Drive in a northeasterly direction with the eastern right of way of Interstate 75 63 feet, more or less to the southwest corner of the lands of State of Tennessee as recorded in BCROD deed book 123 page 563; thence in a northeasterly direction with the western line of the lands of the State of Tennessee 90 feet, more or less, to the northern point of the lands of the State of Tennessee, said point also being a corner of the lands of Carl Harden as recorded in the BCROD deed book 226 page 843; thence in a northeasterly direction with the western line of the lands of Harden 104 feet, more or less, to the northwest corner of the lands of Harden, said point also being located in the southern line of the lands of Judy Barrett as recorded in the BCROD deed book 1963 page 336; thence with the southern line of the lands of Barrett in a westerly direction 15 feet, more or less, to the southwest corner of the lands of Barrett, said pint also being a corner in the southern right of way of 3rd Street and the eastern right of way of Interstate 75; thence crossing 3rd Street with the eastern right of way of Interstate 75 230 feet, more or less, to a point where the northern right of way of 3rd Street intersects the eastern right of way of Interstate 75, said point also being the southwest corner of the lands of Glenn Hawkins Jr as recorded in BCROD deed book 1997 page 360; thence with the western line of the lands of Hawkins in a northeasterly direction 496 feet, more or less, to the northwest corner of the lands of Hawkins; thence with the northern line of the lands of Hawkins in a south easterly direction 55 feet, more or less, to the southwest corner of the lands of Thomas Hickman as recorded in BCROD deed book 291 page 366; thence with the western line of the lands of Hickman 632 feet, more or less, to the northwest corner of the lands of Hickman, said point also being I the southern right of way of Old Freewill Drive and the eastern right of way of Interstate 75; thence crossing Old Freewill Drive in a northwesterly direction with the eastern right of way

of Interstate 75 97 feet, more or less, to a point where the northern right of way of Old Freewill Drive intersect the eastern right of way of Interstate 75, said point also being a corner of the lands of Thomas Scott Chambers as recorded in BCROD deed book 1758 page 610; thence in a northeasterly direction with the northern line of the lands of Chambers and the eastern right of way of Interstate 75 450 feet, more or less, to the northernmost corner of the lands of Chambers, said point also being in the Eastern right of way of Interstate 75 and a corner of the lands of The Servants of Israel Foundation as recorded in BCROD deed book 2861 page 497; thence following the westernmost line of the lands of The Servants of Israel Foundation and the eastern right of way of Interstate 75 4,600 feet, more or less, to a corner in the lands of The Servants of Israel Foundation, said pit also being in the eastern right of way of Interstate 75, being a conner of the lands of Frank Mason as recorded in BCROD deed book 23 page 93, and also being a corner of the existing city limits; thence in a northeasterly direction following the existing city limits and the eastern right of way of Interstate 75 3,646 feet, more or less, to a point where the existing city limits crosses Interstate 75 in a northwesterly direction; thence with the existing city limits in a northwesterly direction 430 feet, more or less, to a point where the existing city limits intersects the western right of way of Interstate 75; thence in a south westerly direction with the western line of the right of way of Interstate 75 1913 feet, more or less, to corner of the lands of City of Cleveland Tn as recorded in BCROD book 2652 page 381; thence following the eastern line of the lands of City of Cleveland Tn in a northerly direction 2,255 feet ,more or less, to a point where the easter line of the lands of City of Cleveland Tn intersects the existing city limits; thence in a westerly direction with the existing city limits 162 feet, more or less, to a point where the existing city limits intersects the western line of the lands of City of Cleveland Tn; thence with the western line of the lands of City of Cleveland Tn in a southerly direction 1,950 feet, more or less, to a point where the western line of the lands of City of Cleveland Tn intersects the western right of way of Interstate 75, said point also being a corner of the lands of Clarence Shattuck, as record in BCROC deed book 2182 page 620; thence with the western right of way of Interstate 75 and the southern line of the lands of Shattuck 240 feet, more or less, to the southernmost point of the lands of Shattuck, said point also being the northeast corner of the lands of Thomas Andrew Shelton as recorded in BCROD deed book 1659 page 717; thence in a southerly direction with the eastern line of the lands of Shelton 720 feet, more or less, to the southern point of the lands of Shelton, said point being located in the existing city limits; thence leaving the western right of way of Interstate 75 in a southerly direction with the existing city limits 1877 feet, more or less, to a corner in the existing city limits; thence in a westerly direction with the existing city limits 60 feet, more or less, to a point where the existing city limits intersects the western right of way of Interstate 75, said point also being the northeast corner of the lands of Cleveland Utilities, as recorded in BCROD deed book 2095 page 160; thence in a southerly direction with the easter line of the lands of Cleveland Utilities and the western right of way of Interstate 75 312 feet, more or less, to the southeast corner of the lands of Cleveland Utilities, said point also being the northeast corner of the lands of Billie Jean Davis as recorded in BCROD deed book 389 page 1004; thence in southernly direction with the eastern line of the lands of Davis 303 feet, more or less, to an iron pin located at the southeast corner of the lands of Davis, said point also being the northeast corner of the T.B. Jackson Lots 13-18 Resubdivision Final Plat as recorded in BCROD plat book 22 page 99; thence in a southerly direction with the eastern line of the T.B. Jackson Final Plat south 46 degrees 36 minutes west, 361.11 feet to an iron pin, said point also being the north east corner of the lands of Brian Shoemaker as recorded in BCROD deed book 2400 page 942; thence in a southerly direction with the eastern line of the lands of Shoemaker 176 feet, more or less, to the southeast corner of the lands of Shoemaker, said point also being the northeast corner of the lands of Teresa Brannon as recorded in BCROD deed book 2400 page 940; thence in a southerly direction with the eastern line of the lands of Brannon 112.33 feet, more or less, to the southeast corner of the lands of Brannon, said point also being the northeast corner of the lands of State on TENN as recorded in BCROD deed book 123 page 563; thence in a southwesterly direction with the eastern line of the lands of State of TENN 115 feet, more or less, to the southern point of the lands of State of TENN, said point also being located in the northern right of way of Freewill Road and the western right of way of Interstate 75; thence crossing Freewill Road in a southerly direction with the western right of way of Interstate 75 143 feet, more or less, to the northeast corner of the lands of Charles M Buckner as recorded in BCROD deed book 1159 page 1042; thence in a southerly direction with the eastern line of the lands of Buckner 230 feet, more or less, to the southeast corner of the lands of Buckner, said point also being the northeast corner of the lands of Clarke Taylor as recorded in BCROD deed book 1996 page 503; thence in a southerly direction with the eastern line of the lands of Taylor 170 feet, more or less, to the southeast corner of the lands of Taylor, said point also being located in the northern right of way of Harrison Pike; thence leaving the right of way of Interstate 75 and following the southern line of the lands of Taylor in a northwesterly

direction 153 feet, more or less, to the southwest corner of the lands of Taylor, said point also being the northeast corner of the intersection of Harrison Pike and Freewill Road; thence crossing Freewill Road in a northwesterly direction 33 feet, more or less, to a point where the centerline of Old Harrison Lane if extended would meet the centerline of Freewill Road; thence crossing Harrison Pike in a southwesterly direction 124 feet, more or less, to the intersection of the centerline of Old Harrison Lane and the southern right of way of Harrison Pike; thence in a southeasterly direction 24 feet, more or less, to the southeast corner of the intersection of Old Harrison Lane and Harrison Pike; thence in a southeasterly direction with the southern right of way of Harrison Pike 209 feet, more or less, to the intersection of the southern right of way of Harrison Pike and the western right of way of Interstate 75, said point also being the northeast corner of the lands of Virginia Rae Matheny as recorded in BCROD deed book 282 page 186; thence in a southwesterly direction 2171 feet, more or less, to the southeast corner of the lands of Matheny, said point also being the northeast corner of the lands of Edward Goins as recorded in BCROD deed book 332 page 995; thence in a southwesterly direction with the eastern line of the lands of Goins 200 feet, more or less, to a corner of the lands of Goins, said point also being located in the eastern right of way of Old Goins Road and the western right of way of Interstate 75; thence crossing Old Goins Road in a southwesterly direction 77 feet, more or less, to the intersection of the western right of way of Old Goins Road and the western right of way Interstate 75, said point also being a corner of the lands of Goins; thence in a southerly direction with the eastern line of the lands of Goins 278 feet, more or less, to the southern point of the lands of Goins, said point also being located in the eastern line of the lands of Gerald Harris as recorded in BCROD deed book 1280 page 928; thence in a southerly direction with the eastern line of the lands of Harris 115 feet, more or less, to the southeast corner of the lands of Harris, said point also being the northeast corner of the lands of Okchoon Park as recorded in BCROD deed book 1931 page 480; thence in a southeasterly direction with the eastern line of the lands of Park 1383 feet, more or less, to the southeast corner of the lands of Park; thence continuing along the western right of way of Interstate 75 in a southeasterly direction 935 feet, more or less, to the northeast corner of the lands of Robert Carroll as recorded in BCROD deed book 2387 page 639; thence in a southwesterly direction with the easter line of the lands of Carroll 377 feet, more or less, to the southeast corner of the lands of Carroll, said point also being the northeast corner of the lands of Dennis Howell as recorded in BCROD deed book 2215 page 470; thence in a southwesterly direction with the eastern line of the lands of Howell 104 feet, more or less, to the southeastern corner of the lands of Howell, said corner also being the northeast corner of the lands of Dennis Lee Howell as recorded in BCROD deed book 342 page 650; thence in a southwesterly direction with the eastern line of Dennis Lee Howell 315 feet, more or less, to the southeast corner of the lands of Dennis Lee Howell, said point also being northeast corner of the lands of Jason Corum as recorded in BCROD deed book 2603 page 933; thence in a southwesterly direction with the eastern line of the lands of Corum 247 feet, more or less, to the southeast corner of the lands of Corum, said point also being located in the northern right of way of Harris Creek road and the western right of way of Interstate 75; thence following the right of way of Interstate 75 in a southwesterly direction crossing Harris Creek Road 120 feet, more or less, to a point wither the southern right of way of Harris Creek Road intersects the western right if way of Interstate 75, said point also being the northeast corner of the lands of Bowers Properties LLC as recorded BCROD deed book 2531 page 243; thence with the eastern line of the lands of Bowers Properties LLC in a southwesterly direction 4425 feet to a point where an eastern line of the lands of Bowers Properties LLC intersects a corner of the existing city limits; thence leaving the western right of way of Interstate 75 and following the city limits in an eastern direction crossing the Interstate 75 right of way 360 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 20, 2023
INTERSTATE 75 AND GREENWAY ROW
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 68.57 acres located along Interstate-75 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 2023.

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.

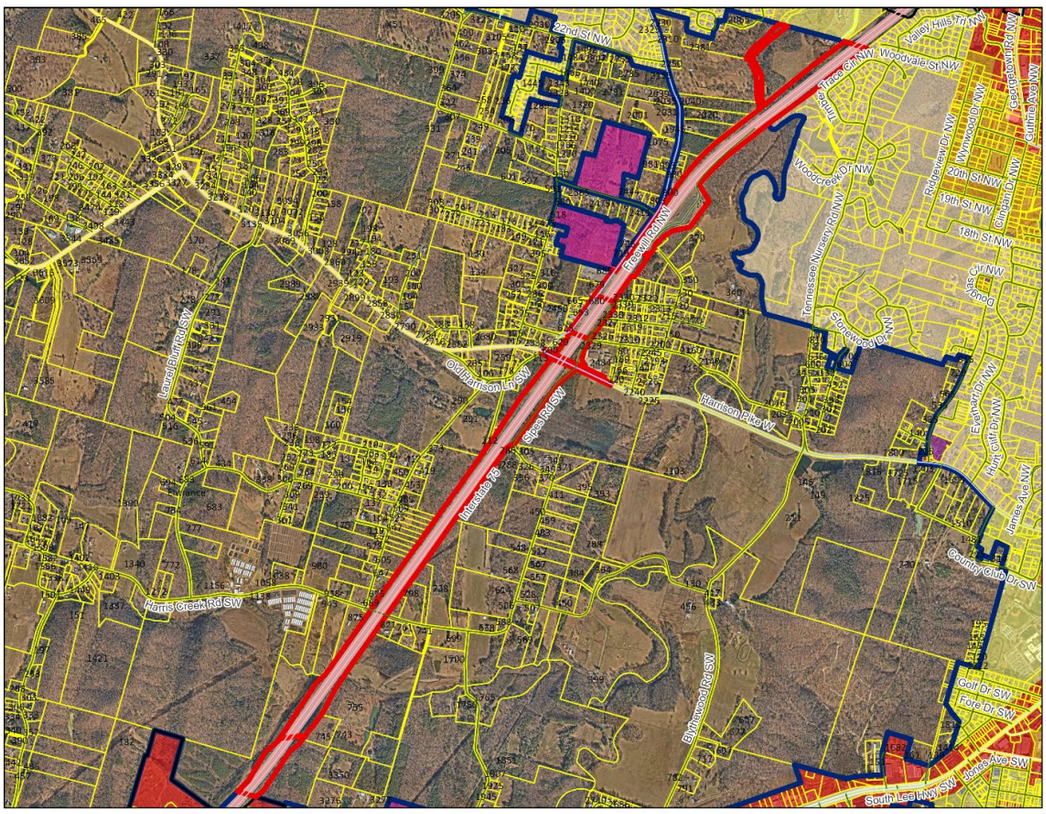
Introduction

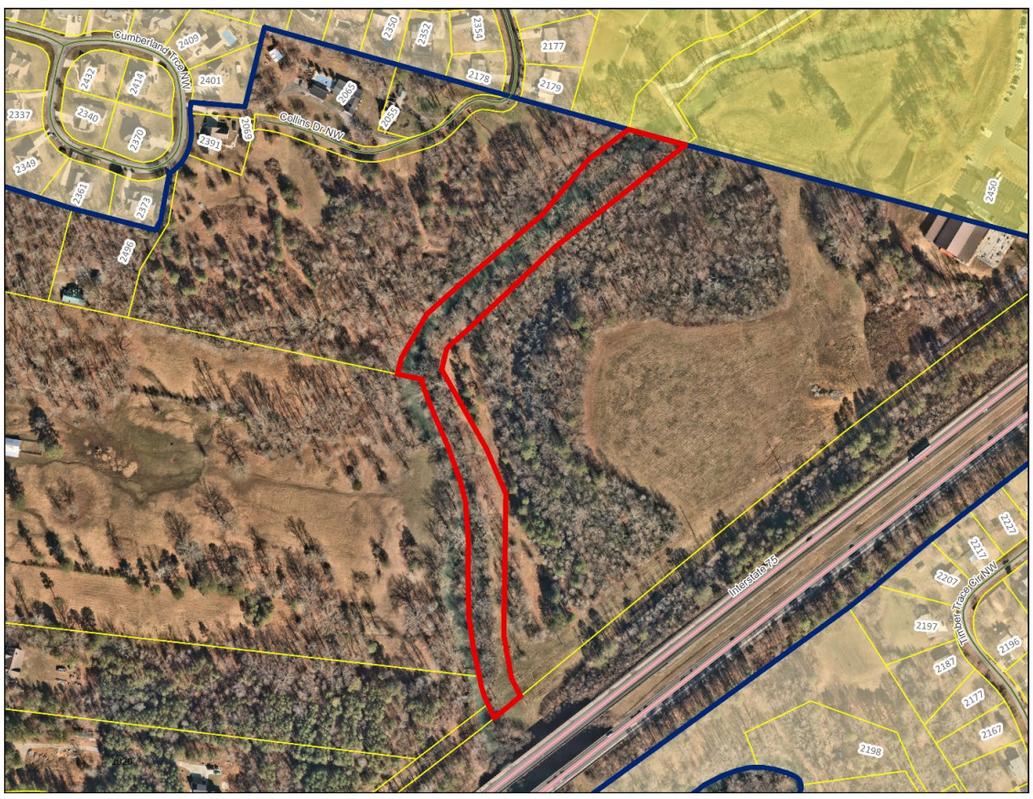
Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service 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 Interstate-75 Right-of-Way between mile marker 20 and 24, approximately, as well as greenway right-of-way also described as Tax Map 041 Parcel 005.28. The annexation would zone the greenway right-of-way property to R-2 Low Density Single and Multi-Family.

I-75 and Greenway Annexation
MAP





Legal Description

Beginning at the southwest corner of the lands of James and Julia Taylor, as recorded in BCROD deed book 311 page 268, said point being located in the eastern right of way of Interstate 75 and also being a corner of the existing City Limits; thence leaving the existing City Limits and following the eastern right of way of Interstate 75 in a

northerly direction with the western line of the lands of Taylor 3760 feet, more or less, to the northwest corner of the lands of Taylor, said corner also being the southwest corner of the lands of Larry and Teresa Grant, as recorded in BCROD deed book 2134 page 446; thence with the western line of the lands of Grant 345 feet, more or less, to the northwest corner of the lands of Grant, said point also being located in the southern right of way of Harris Creek Road; thence following the eastern right of way of Interstate 75 and crossing Harris Creek Road in a northeasterly direction 90 feet, more or less, to the southwest corner of the lands of Robert and Ruth Williams, as recorded in BCRD deed book 1183 page 562; thence with the western line of the lands of Williams in a northeasterly direction 417 feet, more or less, to the northwest corner of the lands of Williams, said point also being a corner of the lands of Robert Herman Williams, as recorded in BCROD deed book 107 page 58; thence with the western line of the lands of Robert Herman Williams in a northeasterly direction 320 feet, more or less, to the northwest corner of the lands of Robert Herman Williams, said point also being a corner of the lands of Robert H Williams, as recorded in BCROD deed book 177 page 895; thence with the western line of the lands of Robert H Williams 425 feet, more or less, to the northwest corner of the lands of Robert H Williams, said point also being a corner of the lands of Lynn Stone as recorded in the BCROD deed book 1553 page 389; thence with the western line of the lands of Stone 996 feet, more or less, to the northwest corner of the lands of Stone, said point also being the southwest corner of the lands of Sarah Whitaker, as recorded in BCROD deed book 232 page 430; thence with the western line of the lands of Stone in a northeasterly direction 1670 feet, more or less, to the north west corner of the lands of Whitaker, said point also being located in the southern right of way of Sipes Road; thence crossing Sipes Road in a northeasterly direction 170 feet, more or less, to the southwest corner of the lands of Virginia Matheny, as recorded in BCROD deed book 282 page 187; thence with the western line of the lands of Matheny in a north easterly direction 1786 feet more or less to the northwest corner of the lands of Matheny, said point being located in the southern right of way of Harrison Pike; thence leaving the eastern right of way of Interstate 75 with the northern line of the lands of Matheny in a south easterly direction 705 feet, more or less, to a point where the centerline extended of Holmes Street would meet the northern line of the lands of Holmes; thence leaving the northern line of the lands of Holmes and crossing Harrison Pike in a northwesterly direction 45 feet, more or less, to a point where the centerline of Holmes Street intersects the northern right of way of Harrison Pike; thence in a northwesterly direction 23 feet, more or less, to an iron pin located at the southeast corner of the plat of Philippi Baptist Church as recorded in BCROD plat book 29 page 69; thence in a northwesterly direction with the southern line of the Philippi Baptist Church plat 390 feet, more or less, to a point where the southern line of the Philippi Baptist Church plat intersects the northern right of way of Harrison Pike and the eastern right of way of Interstate 75; thence continuing with the eastern right of way of Interstate 75 and the western lines of the Philippi Baptist Church plat in a northerly direction 520 feet, more or less, to the northwest corner of the Philippi Baptist Church plat, said point also being a corner of the right of way of Old Harrison Pike and Interstate 75; thence crossing Old Harrison Pike in a northwesterly direction 40 feet, more or less, to the northern corner of the intersection of the Old Harrison Pike right of way and the Interstate 75 right of way, said point also being the southwest corner Darlene Davis Trustees as recorded in BCROD deed book 2756 page 601; thence in a northeasterly direction with the western line of Darlene Davis Trustees 595 feet, more or less, to the northwest corner of the lands of Darlene Davis Trustees, said point also being located in the southern right of way of Raines Drive and the eastern right of way of Interstate 75; thence crossing Raines Drive in a northeasterly direction with the eastern right of way of Interstate 75 63 feet, more or less to the southwest corer of the lands of State of Tennessee as recorded in BCROD deed book 123 page 563; thence in a northeasterly direction with the western line of the lands of the State of Tennessee 90 feet, more or less, to the northern point of the lands of the State of Tennessee, said point also being a corner of the lands of Carl Harden as recorded in the BCROD deed book 226 page

843; thence in a northeasterly direction with the western line of the lands of Harden 104 feet, more or less, to the northwest corner of the lands of Harden, said point also being located in the southern line of the lands of Judy Barrett as recorded in the BCROD deed book 1963 page 336; thence with the southern line of the lands of Barrett in a westerly direction 15 feet, more or less, to the southwest corner of the lands of Barrett, said pint also being a corner in the southern right of way of 3rd Street and the eastern right of way of Interstate 75; thence crossing 3rd Street with the eastern right of way of Interstate 75 230 feet, more or less, to a point where the northern right of way of 3rd Street intersects the eastern right of way of Interstate 75, said point also being the southwest corner of the lands of Glenn Hawkins Jr as recorded in BCROD deed book 1997 page 360; thence with the western line of the lands of Hawkins in a northeasterly direction 496 feet, more or less, to the northwest corner of the lands of Hawkins; thence with the northern line of the lands of Hawkins in a south easterly direction 55 feet, more or less, to the southwest corner of the lands of Thomas Hickman as recorded in BCROD deed book 291 page 366; thence with the western line of the lands of Hickman 632 feet, more or less, to the northwest corner of the lands of Hickman, said point also being I the southern right of way of Old Freewill Drive and the eastern right of way of Interstate 75; thence crossing Old Freewill Drive in a northwesterly direction with the eastern right of way of Interstate 75 97 feet, more or less, to a point where the northern right of way of Old Freewill Drive intersect the eastern right of way of Interstate 75, said point also being a corner of the lands of Thomas Scott Chambers as recorded in BCROD deed book 1758 page 610; thence in a northeasterly direction with the northern line of the lands of Chambers and the eastern right of way of Interstate 75 450 feet, more or less, to the northernmost corner of the lands of Chambers, said point also being in the Eastern right of way of Interstate 75 and a corner of the lands of The Servants of Israel Foundation as recorded in BCROD deed book 2861 page 497; thence following the westernmost line of the lands of The Servants of Israel Foundation and the eastern right of way of Interstate 75 4,600 feet, more or less, to a corner in the lands of The Servants of Israel Foundation, said pit also being in the eastern right of way of Interstate 75, being a conner of the lands of Frank Mason as recorded in BCROD deed book 23 page 93, and also being a corner of the existing city limits; thence in a northeasterly direction following the existing city limits and the eastern right of way of Interstate 75 3,646 feet, more or less, to a point where the existing city limits crosses Interstate 75 in a northwesterly direction; thence with the existing city limits in a northwesterly direction 430 feet, more or less, to a point where the existing city limits intersects the western right of way of Interstate 75; thence in a south westerly direction with the western line of the right of way of Interstate 75 1913 feet, more or less, to corner of the lands of City of Cleveland Tn as recorded in BCROD book 2652 page 381; thence following the eastern line of the lands of City of Cleveland Tn in a northerly direction 2,255 feet ,more or less, to a point where the easter line of the lands of City of Cleveland Tn intersects the existing city limits; thence in a westerly direction with the existing city limits 162 feet, more or less, to a point where the existing city limits intersects the western line of the lands of City of Cleveland Tn; thence with the western line of the lands of City of Cleveland Tn in a southerly direction 1,950 feet, more or less, to a point where the western line of the lands of City of Cleveland Tn intersects the western right of way of Interstate 75, said point also being a corner of the lands of Clarence Shattuck, as record in BCROC deed book 2182 page 620; thence with the western right of way of Interstate 75 and the southern line of the lands of Shattuck 240 feet, more or less, to the southernmost point of the lands of Shattuck, said point also being the northeast corner of the lands of Thomas Andrew Shelton as recorded in BCROD deed book 1659 page 717; thence in a southerly direction with the eastern line of the lands of Shelton 720 feet, more or less, to the southern point of the lands of Shelton, said point being located in the existing city limits; thence leaving the western right of way of Interstate 75 in a southerly direction with the existing city limits 1877 feet, more or less, to a corner in the existing city limits; thence in a westerly direction with the existing city limits 60 feet, more or less, to a point where

the existing city limits intersects the western right of way of Interstate 75, said point also being the northeast corner of the lands of Cleveland Utilities, as recorded in BCROD deed book 2095 page 160; thence in a southerly direction with the easter line of the lands of Cleveland Utilities and the western right of way of Interstate 75 312 feet, more or less, to the southeast corner of the lands of Cleveland Utilities, said point also being the northeast corner of the lands of Billie Jean Davis as recorded in BCROD deed book 389 page 1004; thence in southernly direction with the eastern line of the lands of Davis 303 feet, more or less, to an iron pin located at the southeast corner of the lands of Davis, said point also being the northeast corner of the T.B. Jackson Lots 13-18 Resubdivision Final Plat as recorded in BCROD plat book 22 page 99; thence in a southerly direction with the eastern line of the T.B. Jackson Final Plat south 46 degrees 36 minutes west, 361.11 feet to an iron pin, said point also being the north east corner of the lands of Brian Shoemaker as recorded in BCROD deed book 2400 page 942; thence in a southerly direction with the eastern line of the lands of Shoemaker 176 feet, more or less, to the southeast corner of the lands of Shoemaker, said point also being the northeast corner of the lands of Teresa Brannon as recorded in BCROD deed book 2400 page 940; thence in a southerly direction with the eastern line of the lands of Brannon 112.33 feet, more or less, to the southeast corner of the lands of Brannon, said point also being the northeast corner of the lands of State on TENN as recorded in BCROD deed book 123 page 563; thence in a southwesterly direction with the eastern line of the lands of State of TENN 115 feet, more or less, to the southern point of the lands of State of TENN, said point also being located in the northern right of way of Freewill Road and the western right of way of Interstate 75; thence crossing Freewill Road in a southerly direction with the western right of way of Interstate 75 143 feet, more or less, to the northeast corner of the lands of Charles M Buckner as recorded in BCROD deed book 1159 page 1042; thence in a southerly direction with the eastern line of the lands of Buckner 230 feet, more or less, to the southeast corner of the lands of Buckner, said point also being the northeast corner of the lands of Clarke Taylor as recorded in BCROD deed book 1996 page 503; thence in a southerly direction with the eastern line of the lands of Taylor 170 feet, more or less, to the southeast corner of the lands of Taylor, said point also being located in the northern right of way of Harrison Pike; thence leaving the right of way of Interstate 75 and following the southern line of the lands of Taylor in a northwesterly direction 153 feet, more or less, to the southwest corner of the lands of Taylor, said point also being the northeast corner of the intersection of Harrison Pike and Freewill Road; thence crossing Freewill Road in a northwesterly direction 33 feet, more or less, to a point where the centerline of Old Harrison Lane if extended would meet the centerline of Freewill Road; thence crossing Harrison Pike in a southwesterly direction 124 feet, more or less, to the intersection of the centerline of Old Harrison Lane and the southern right of way of Harrison Pike; thence in a southeasterly direction 24 feet, more or less, to the southeast corner of the intersection of Old Harrison Lane and Harrison Pike; thence in a southeasterly direction with the southern right of way of Harrison Pike 209 feet, more or less, to the intersection of the southern right of way of Harrison Pike and the western right of way of Interstate 75, said point also being the northeast corner of the lands of Virginia Rae Matheny as recorded in BCROD deed book 282 page 186; thence in a southwesterly direction 2171 feet, more or less, to the southeast corner of the lands of Matheny, said point also being the northeast corner of the lands of Edward Goins as recorded in BCROD deed book 332 page 995; thence in a southwesterly direction with the eastern line of the lands of Goins 200 feet, more or less, to a corner of the lands of Goins, said point also being located in the eastern right of way of Old Goins Road and the western right of way of Interstate 75; thence crossing Old Goins Road in a southwesterly direction 77 feet, more or less, to the intersection of the western right of way of Old Goins Road and the western right of way Interstate 75, said point also being a corner of the lands of Goins; thence in a southerly direction with the eastern line of the lands of Goins 278 feet, more or less, to the southern point of the lands of Goins, said point also being located in the eastern line of the lands of Gerald Harris as recorded in BCROD deed book 1280 page 928;

thence in a southerly direction with the eastern line of the lands of Harris 115 feet, more or less, to the southeast corner of the lands of Harris, said point also being the northeast corner of the lands of Okchoon Park as recorded in BCROD deed book 1931 page 480; thence in a southeasterly direction with the eastern line of the lands of Park 1383 feet, more or less, to the southeast corner of the lands of Park; thence continuing along the western right of way of Interstate 75 in a southeasterly direction 935 feet, more or less, to the northeast corner of the lands of Robert Carroll as recorded in BCROD deed book 2387 page 639; thence in a southwesterly direction with the easter line of the lands of Carroll 377 feet, more or less, to the southeast corner of the lands of Carroll, said point also being the northeast corner of the lands of Dennis Howell as recorded in BCROD deed book 2215 page 470; thence in a southwesterly direction with the eastern line of the lands of Howell 104 feet, more or less, to the southeastern corner of the lands of Howell, said corner also being the northeast corner of the lands of Dennis Lee Howell as recorded in BCROD deed book 342 page 650; thence in a southwesterly direction with the eastern line of Dennis Lee Howell 315 feet, more or less, to the southeast corner of the lands of Dennis Lee Howell, said point also being northeast corner of the lands of Jason Corum as recorded in BCROD deed book 2603 page 933; thence in a southwesterly direction with the eastern line of the lands of Corum 247 feet, more or less, to the southeast corner of the lands of Corum, said point also being located in the northern right of way of Harris Creek road and the western right of way of Interstate 75; thence following the right of way of Interstate 75 in a southwesterly direction crossing Harris Creek Road 120 feet, more or less, to a point wither the southern right of way of Harris Creek Road intersects the western right if way of Interstate 75, said point also being the northeast corner of the lands of Bowers Properties LLC as recorded BCROD deed book 2531 page 243; thence with the eastern line of the lands of Bowers Properties LLC in a southwesterly direction 4425 feet to a point where an eastern line of the lands of Bowers Properties LLC intersects a corner of the existing city limits; thence leaving the western right of way of Interstate 75 and following the city limits in an eastern direction crossing the Interstate 75 right of way 360 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 could service this area immediately with our existing Stations without any noticeable impact to the budget.

3. **Domestic Water, Sanitary Sewer Service, and Fire Hydrants**
   Not Applicable

4. **Electric Service**
   Not Applicable

5. **Public Works**
   Not Applicable

6. **Schools**
   Not Applicable

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. The greenway ROW portion of property is currently zoned FAR Forestry/Agricultural/Residential Zoning in the unincorporated County. The property is proposed as R-2 Low Density Single and Multi-Family 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
Not Applicable

9. Voting Rights and City Elections
Not Applicable

10. Stormwater
Not Applicable

11. Revenue
Not Applicable

Councilman May moved that Resolution 2023-58 be accepted as presented. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

b. **Resolution 2023-59** – A resolution to annex about 68.57 acres, more or less, for Right-of-Way located at Interstate-75 and includes the portion of Right-of-Way approximately between mile marker 24 and mile marker 20 and Right-of-Way located at Harrison pike from the intersection of Freewill Rd. and Old Harrison Lane SW to Holmes St. NW (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-59

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

ANNEXATION AREA

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

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

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

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

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

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

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on June 26, 2023.

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

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

Beginning at the southwest corner of the lands of James and Julia Taylor, as recorded in BCROD deed book 311 page 268, said point being located in the eastern right of way of Interstate 75 and also being a corner of the existing City Limits; thence leaving the existing City Limits and following the eastern right of way of Interstate 75 in a northerly direction with the western line of the lands of Taylor 3760 feet, more or less, to the northwest corner of the lands of Taylor, said corner also being the southwest corner of the lands of Larry and Teresa Grant, as recorded in BCROD deed book 2134 page 446; thence with the western line of the lands of Grant 345 feet, more or less, to the northwest corner of the lands of Grant, said point also being located in the southern right of way of Harris Creek Road; thence following the eastern right of way of Interstate 75 and crossing Harris Creek Road in a northeasterly direction 90 feet, more or less, to the southwest corner of the lands of Robert and Ruth Williams, as recorded in BCRD deed book 1183 page 562; thence with the western line of the lands of Williams in a northeasterly direction 417 feet, more or less, to the northwest corner of the lands of Williams, said point also being a corner of the lands of Robert Herman Williams, as recorded in BCROD deed book 107 page 58; thence with the western line of the lands of Robert Herman Williams in a northeasterly direction 320 feet, more or less, to the northwest corner of the lands of Robert Herman Williams, said point also being a corner of the lands of Robert H Williams, as recorded in BCROD deed book 177 page 895; thence with the western line of the lands of Robert H Williams 425 feet, more or less, to the northwest corner of the lands of Robert H Williams, said point also being a corner of the lands of Lynn Stone as recorded in the BCROD deed book 1553 page 389; thence with the western line of the lands of Stone 996 feet, more or less, to the northwest corner of the lands of Stone, said point also being the southwest corner of the lands of Sarah Whitaker, as recorded in BCROD deed book 232 page 430; thence with the western line of the lands of Stone in a northeasterly direction 1670 feet, more or less, to the north west corner of the lands of Whitaker, said point also being located in the southern right of way of Sipes Road; thence crossing Sipes Road in a northeasterly direction 170 feet, more or less, to the southwest corner of the lands of Virginia Matheny, as recorded in BCROD deed book 282 page 187; thence with the western line of the lands of Matheny in a north easterly direction 1786 feet more or less to the northwest corner of the lands of Matheny, said point being located in the southern right of way of Harrison Pike; thence leaving the eastern right of way of Interstate 75 with the northern line of the lands of Matheny in a south easterly direction 705 feet, more or less, to a point where the centerline extended of Holmes Street would meet the northern line of the lands of Holmes; thence leaving the northern line of the lands of Holmes and crossing Harrison Pike in a northwesterly direction 45 feet, more or less, to a point where the centerline of Holmes Street intersects the northern

right of way of Harrison Pike; thence in a northwesterly direction 23 feet, more or less, to an iron pin located at the southeast corner of the plat of Philippi Baptist Church as recorded in BCROD plat book 29 page 69; thence in a northwesterly direction with the southern line of the Philippi Baptist Church plat 390 feet, more or less, to a point where the southern line of the Philippi Baptist Church plat intersects the northern right of way of Harrison Pike and the eastern right of way of Interstate 75; thence continuing with the eastern right of way of Interstate 75 and the western lines of the Philippi Baptist Church plat in a northerly direction 520 feet, more or less, to the northwest corner of the Philippi Baptist Church plat, said point also being a corner of the right of way of Old Harrison Pike and Interstate 75; thence crossing Old Harrison Pike in a northwesterly direction 40 feet, more or less, to the northern corner of the intersection of the Old Harrison Pike right of way and the Interstate 75 right of way, said point also being the southwest corner Darlene Davis Trustees as recorded in BCROD deed book 2756 page 601; thence in a northeasterly direction with the western line of Darlene Davis Trustees 595 feet, more or less, to the northwest corner of the lands of Darlene Davis Trustees, said point also being located in the southern right of way of Raines Drive and the eastern right of way of Interstate 75; thence crossing Raines Drive in a northeasterly direction with the eastern right of way of Interstate 75 63 feet, more or less to the southwest corner of the lands of State of Tennessee as recorded in BCROD deed book 123 page 563; thence in a northeasterly direction with the western line of the lands of the State of Tennessee 90 feet, more or less, to the northern point of the lands of the State of Tennessee, said point also being a corner of the lands of Carl Harden as recorded in the BCROD deed book 226 page 843; thence in a northeasterly direction with the western line of the lands of Harden 104 feet, more or less, to the northwest corner of the lands of Harden, said point also being located in the southern line of the lands of Judy Barrett as recorded in the BCROD deed book 1963 page 336; thence with the southern line of the lands of Barrett in a westerly direction 15 feet, more or less, to the southwest corner of the lands of Barrett, said pint also being a corner in the southern right of way of 3rd Street and the eastern right of way of Interstate 75; thence crossing 3rd Street with the eastern right of way of Interstate 75 230 feet, more or less, to a point where the northern right of way of 3rd Street intersects the eastern right of way of Interstate 75, said point also being the southwest corner of the lands of Glenn Hawkins Jr as recorded in BCROD deed book 1997 page 360; thence with the western line of the lands of Hawkins in a northeasterly direction 496 feet, more or less, to the northwest corner of the lands of Hawkins; thence with the northern line of the lands of Hawkins in a south easterly direction 55 feet, more or less, to the southwest corner of the lands of Thomas Hickman as recorded in BCROD deed book 291 page 366; thence with the western line of the lands of Hickman 632 feet, more or less, to the northwest corner of the lands of Hickman, said point also being I the southern right of way of Old Freewill Drive and the eastern right of way of Interstate 75; thence crossing Old Freewill Drive in a northwesterly direction with the eastern right of way of Interstate 75 97 feet, more or less, to a point where the northern right of way of Old Freewill Drive intersect the eastern right of way of Interstate 75, said point also being a corner of the lands of Thomas Scott Chambers as recorded in BCROD deed book 1758 page 610; thence in a northeasterly direction with the northern line of the lands of Chambers and the eastern right of way of Interstate 75 450 feet, more or less, to the northernmost corner of the lands of Chambers, said point also being in the Eastern right of way of Interstate 75 and a corner of the lands of The Servants of Israel Foundation as recorded in BCROD deed book 2861 page 497; thence following the westernmost line of the lands of The Servants of Israel Foundation and the eastern right of way of Interstate 75 4,600 feet, more or less, to a corner in the lands of The Servants of Israel Foundation, said pit also being in the eastern right of way of Interstate 75, being a conner of the lands of Frank Mason as recorded in BCROD deed book 23 page 93, and also being a corner of the existing city limits; thence in a northeasterly direction following the existing city limits and the eastern right of way of Interstate 75 3,646 feet, more or less, to a point where the existing city limits crosses Interstate 75 in a northwesterly direction; thence with the existing city limits in a northwesterly direction 430 feet, more or less, to a point where the existing city limits intersects the western right of way of Interstate 75; thence in a south westerly direction with the

western line of the right of way of Interstate 75 1913 feet, more or less, to corner of the lands of City of Cleveland Tn as recorded in BCROD book 2652 page 381; thence following the eastern line of the lands of City of Cleveland Tn in a northerly direction 2,255 feet ,more or less, to a point where the easter line of the lands of City of Cleveland Tn intersects the existing city limits; thence in a westerly direction with the existing city limits 162 feet, more or less, to a point where the existing city limits intersects the western line of the lands of City of Cleveland Tn; thence with the western line of the lands of City of Cleveland Tn in a southerly direction 1,950 feet, more or less, to a point where the western line of the lands of City of Cleveland Tn intersects the western right of way of Interstate 75, said point also being a corner of the lands of Clarence Shattuck, as record in BCROC deed book 2182 page 620; thence with the western right of way of Interstate 75 and the southern line of the lands of Shattuck 240 feet, more or less, to the southernmost point of the lands of Shattuck, said point also being the northeast corner of the lands of Thomas Andrew Shelton as recorded in BCROD deed book 1659 page 717; thence in a southerly direction with the eastern line of the lands of Shelton 720 feet, more or less, to the southern point of the lands of Shelton, said point being located in the existing city limits; thence leaving the western right of way of Interstate 75 in a southerly direction with the existing city limits 1877 feet, more or less, to a corner in the existing city limits; thence in a westerly direction with the existing city limits 60 feet, more or less, to a point where the existing city limits intersects the western right of way of Interstate 75, said point also being the northeast corner of the lands of Cleveland Utilities, as recorded in BCROD deed book 2095 page 160; thence in a southerly direction with the easter line of the lands of Cleveland Utilities and the western right of way of Interstate 75 312 feet, more or less, to the southeast corner of the lands of Cleveland Utilities, said point also being the northeast corner of the lands of Billie Jean Davis as recorded in BCROD deed book 389 page 1004; thence in southernly direction with the eastern line of the lands of Davis 303 feet, more or less, to an iron pin located at the southeast corner of the lands of Davis, said point also being the northeast corner of the T.B. Jackson Lots 13-18 Resubdivision Final Plat as recorded in BCROD plat book 22 page 99; thence in a southerly direction with the eastern line of the T.B. Jackson Final Plat south 46 degrees 36 minutes west, 361.11 feet to an iron pin, said point also being the north east corner of the lands of Brian Shoemaker as recorded in BCROD deed book 2400 page 942; thence in a southerly direction with the eastern line of the lands of Shoemaker 176 feet, more or less, to the southeast corner of the lands of Shoemaker, said point also being the northeast corner of the lands of Teresa Brannon as recorded in BCROD deed book 2400 page 940; thence in a southerly direction with the eastern line of the lands of Brannon 112.33 feet, more or less, to the southeast corner of the lands of Brannon, said point also being the northeast corner of the lands of State on TENN as recorded in BCROD deed book 123 page 563; thence in a southwesterly direction with the eastern line of the lands of State of TENN 115 feet, more or less, to the southern point of the lands of State of TENN, said point also being located in the northern right of way of Freewill Road and the western right of way of Interstate 75; thence crossing Freewill Road in a southerly direction with the western right of way of Interstate 75 143 feet, more or less, to the northeast corner of the lands of Charles M Buckner as recorded in BCROD deed book 1159 page 1042; thence in a southerly direction with the eastern line of the lands of Buckner 230 feet, more or less, to the southeast corner of the lands of Buckner, said point also being the northeast corner of the lands of Clarke Taylor as recorded in BCROD deed book 1996 page 503; thence in a southerly direction with the eastern line of the lands of Taylor 170 feet, more or less, to the southeast corner of the lands of Taylor, said point also being located in the northern right of way of Harrison Pike; thence leaving the right of way of Interstate 75 and following the southern line of the lands of Taylor in a northwesterly direction 153 feet, more or less, to the southwest corner of the lands of Taylor, said point also being the northeast corner of the intersection of Harrison Pike and Freewill Road; thence crossing Freewill Road in a northwesterly direction 33 feet, more or less, to a point where the centerline of Old Harrison Lane if extended would meet the centerline of Freewill Road; thence crossing Harrison Pike in a southwesterly direction 124 feet, more or less, to the intersection of the centerline of Old Harrison Lane and the southern right of way of Harrison

Pike; thence in a southeasterly direction 24 feet, more or less, to the southeast corner of the intersection of Old Harrison Lane and Harrison Pike; thence in a southeasterly direction with the southern right of way of Harrison Pike 209 feet, more or less, to the intersection of the southern right of way of Harrison Pike and the western right of way of Interstate 75, said point also being the northeast corner of the lands of Virginia Rae Matheny as recorded in BCROD deed book 282 page 186; thence in a southwesterly direction 2171 feet, more or less, to the southeast corner of the lands of Matheny, said point also being the northeast corner of the lands of Edward Goins as recorded in BCROD deed book 332 page 995; thence in a southwesterly direction with the eastern line of the lands of Goins 200 feet, more or less, to a corner of the lands of Goins, said point also being located in the eastern right of way of Old Goins Road and the western right of way of Interstate 75; thence crossing Old Goins Road in a southwesterly direction 77 feet, more or less, to the intersection of the western right of way of Old Goins Road and the western right of way Interstate 75, said point also being a corner of the lands of Goins; thence in a southerly direction with the eastern line of the lands of Goins 278 feet, more or less, to the southern point of the lands of Goins, said point also being located in the eastern line of the lands of Gerald Harris as recorded in BCROD deed book 1280 page 928; thence in a southerly direction with the eastern line of the lands of Harris 115 feet, more or less, to the southeast corner of the lands of Harris, said point also being the northeast corner of the lands of Okchoon Park as recorded in BCROD deed book 1931 page 480; thence in a southeasterly direction with the eastern line of the lands of Park 1383 feet, more or less, to the southeast corner of the lands of Park; thence continuing along the western right of way of Interstate 75 in a southeasterly direction 935 feet, more or less, to the northeast corner of the lands of Robert Carroll as recorded in BCROD deed book 2387 page 639; thence in a southwesterly direction with the easter line of the lands of Carroll 377 feet, more or less, to the southeast corner of the lands of Carroll, said point also being the northeast corner of the lands of Dennis Howell as recorded in BCROD deed book 2215 page 470; thence in a southwesterly direction with the eastern line of the lands of Howell 104 feet, more or less, to the southeastern corner of the lands of Howell, said corner also being the northeast corner of the lands of Dennis Lee Howell as recorded in BCROD deed book 342 page 650; thence in a southwesterly direction with the eastern line of Dennis Lee Howell 315 feet, more or less, to the southeast corner of the lands of Dennis Lee Howell, said point also being northeast corner of the lands of Jason Corum as recorded in BCROD deed book 2603 page 933; thence in a southwesterly direction with the eastern line of the lands of Corum 247 feet, more or less, to the southeast corner of the lands of Corum, said point also being located in the northern right of way of Harris Creek road and the western right of way of Interstate 75; thence following the right of way of Interstate 75 in a southwesterly direction crossing Harris Creek Road 120 feet, more or less, to a point wither the southern right of way of Harris Creek Road intersects the western right if way of Interstate 75, said point also being the northeast corner of the lands of Bowers Properties LLC as recorded BCROD deed book 2531 page 243; thence with the eastern line of the lands of Bowers Properties LLC in a southwesterly direction 4425 feet to a point where an eastern line of the lands of Bowers Properties LLC intersects a corner of the existing city limits; thence leaving the western right of way of Interstate 75 and following the city limits in an eastern direction crossing the Interstate 75 right of way 360 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. [Plan of Service on file with Original Resolution.]

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 Webb moved that Resolution 2023-59 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

c. **Zoning Ordinance 2023-21** - An ordinance to zone about 4.37 acres more or less, from unincorporated county to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 041 Parcel 005.28 (Planning Commission: Approved 7:0; 2 absent).

Zoning Ordinance 2023-21

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, rezoned from FAR Zoning District to R-2 Low Density Single and Multi-Family Zoning District.

Approximately 4.37 acres, more or less, located near Interstate-75 as shown on the attached map.

For reference, same property is being shown on Tax Map 041 Parcel 005.28, 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.

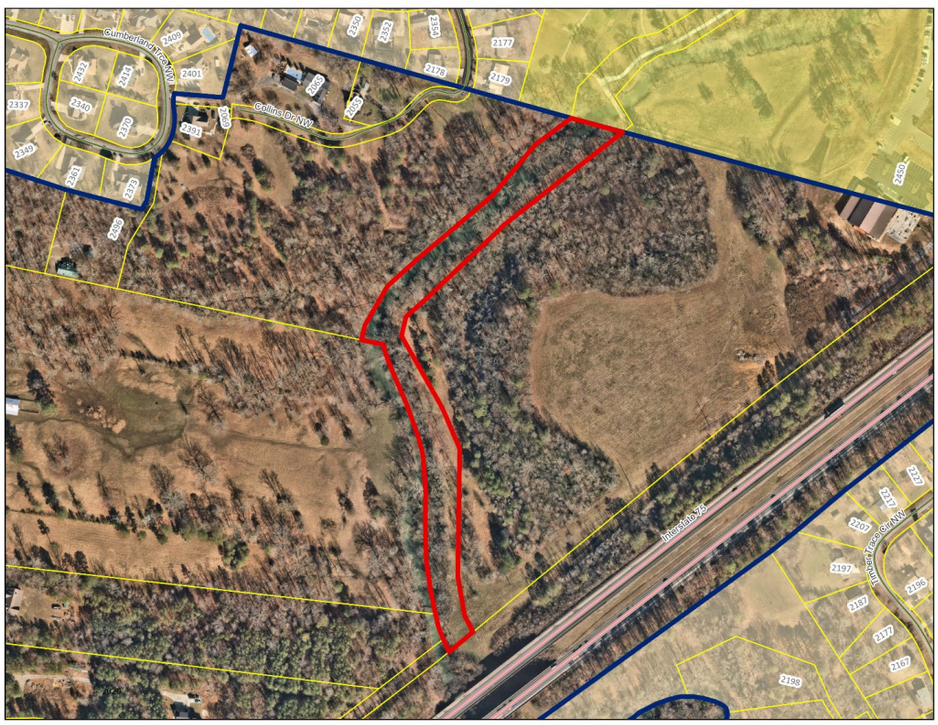
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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 2023-21 be approved on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

d. **Resolution 2023-60**– A resolution to adopt a plan of service for about 3.76 acres, more or less, for property located at Freewill Rd. NW and includes Tax Map 048D Group B Parcel 002.01 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-60

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

FREEWILL RD. (048D B 002.01)

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

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

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

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

A. That a public hearing is hereby held at 3:00 pm on June 26, 2023, 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 in the northwest corner of the lands of The Board of Public Utilities of the City of Cleveland, Tennessee, as recorded in BCROD deed book 2095 page 160; thence south 63 degrees 2 minutes east, 571.2 feet to an iron pin, said pin being located in the western right of way Freewill Road; thence with the right of way of Freewill Road south 43 degrees 13 minutes west, 300 feet to an iron pin; thence north 64 degrees 30 minutes west, 478 feet to an iron pin; thence north 25 degrees 10 minutes east, 300 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 20, 2023
FREEWILL RD. (048D B 002.01)
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 3.76 acres located on Freewill Rd., as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2023.

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 includes "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. The annexation would zone the property as IL Light Industrial. The property is described as Tax Map 048D Group B Parcel 002.01.

Freewill Rd. Map



Legal Description

Beginning at an iron pin located in the northwest corner of the lands of The Board of Public Utilities of the City of Cleveland, Tennessee, as recorded in BCROD deed book 2095 page 160; thence south 63 degrees 2 minutes east, 571.2 feet to an iron pin, said pin being located in the western right of way Freewill Road; thence with the right of way of Freewill Road south 43 degrees 13 minutes west, 300 feet to an iron pin; thence north 64 degrees 30 minutes west, 478 feet to an iron pin; thence north 25 degrees 10 minutes east, 300 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 could service this area immediately with our existing Stations without any noticeable impact to the budget.

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

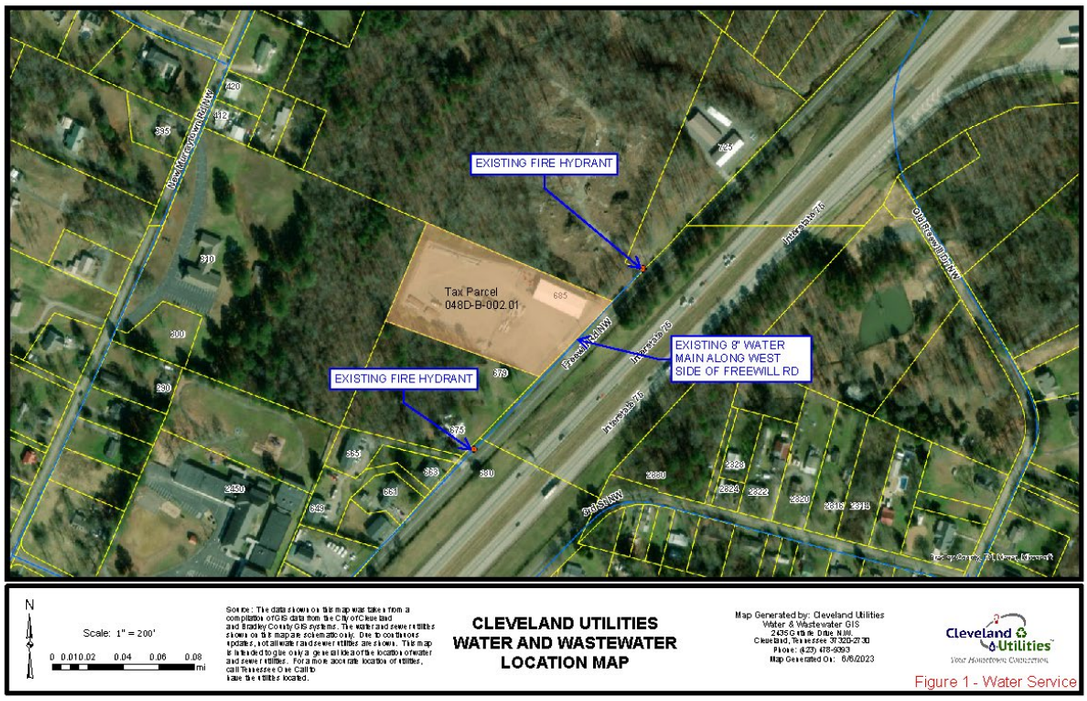
A. Domestic Water---Domestic water service is presently available to this parcel via an 8" water main along the west side of Freewill Road. See Figure 1 – Water Service.

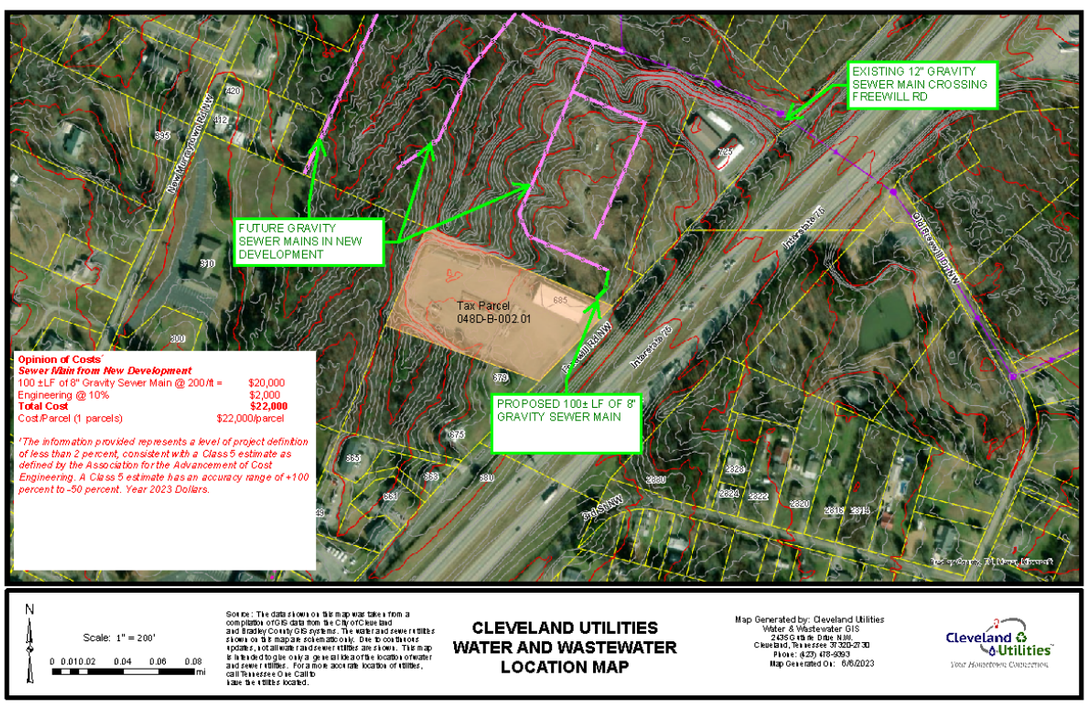
B. Sanitary Sewer--- Sewer service is presently not available to this parcel. To provide sewer to this parcel is approximately 100 LF of 8. gravity sewer main to be installed. The new sewer main would begin at the future manhole in the new Three Creek Townhomes development to the north of this parcel and head south to the parcel. To provide sewer service to the two parcels, the Opinion of Probable Cost is $22,0001. The sewer main can be completed within 8 years. See Figure 2 .Sewer Service.

C. Fire Protection--- There is an existing fire hydrant 135' northeast and an existing fire hydrant 300' southwest of the parcel along Freewill Road.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
685 Freewill Rd. (048D B 002.01)	**$0**	**$22,000**	**$0**	**$22,000**





4. Electric Service

The electric division has power to the property and can serve customers as needed.

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 the 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

This will cause no impact to the City School System.

7. Planning and Zoning

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

B. This property is currently zoned FAR Forestry/Agricultural/Residential Zoning in the unincorporated County. The property is proposed as IL Light Industrial 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 0 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.

Revenue

The total income from annexation would result in approximately **$774.75** in property tax revenue.

Councilman Cassada moved that Resolution 2023-60 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

e. **Resolution 2023-61** – A resolution to annex about 3.76 acres, more or less, of property located at Freewill Rd. NW and includes Tax Map 048D Group B Parcel 002.01 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-61

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

FREEWILL RD. NW ANNEXATION AREA

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

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

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

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

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

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

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on June 26, 2023.

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 in the northwest corner of the lands of The Board of Public Utilities of the City of Cleveland, Tennessee, as recorded in BCROD deed book 2095 page 160; thence south 63 degrees 2 minutes east, 571.2 feet to an iron pin, said pin being located in the western right of way Freewill Road; thence with the right of way of Freewill Road south 43 degrees 13 minutes west, 300 feet to an iron pin; thence north 64 degrees 30 minutes west, 478 feet to an iron pin; thence north 25 degrees 10 minutes east, 300 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. [Plan of Service on file with Original Resolution.]

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 Webb moved that Resolution 2023-61 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

f. **Zoning Ordinance 2023-22** – An ordinance to zone about 3.76 acres, more or less, of property on Freewill Rd. from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 048D Group B Parcel 002.01(Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-22

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, rezoned from FAR Zoning District to IL Light Industrial Zoning District.

Approximately 3.76 acres, more or less, located on Freewill Rd. as shown on the attached map.

For reference, the same property is being shown on Tax Map 048D Group B Parcel 002.01, 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 2023-22 be approved on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

g. **Resolution 2023-62** – A resolution to adopt a plan of service for about 7.87 acres, more or less, for property located at Forrest Ave. NE and includes Tax Map 050I Group G Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-62

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

FORREST AVE. (050I G 001.00)

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

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

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

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

A. That a public hearing is hereby held at 3:00 pm on June 26, 2023, 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 Ashley White, as recorded in BCRD deed book 2825 page 287; thence with the northern line of the lands of White in a northwesterly direction 160 feet, more or less, to the northwest corner of the lands of White, said corner also being the northeast corner of the lands of MJS Inc, as recorded in BCROD deed book 310 page 395; thence with the northern line of the lands of MJS Inc in a northwesterly direction 345 feet, more or less, to a point where the northern line of the lands of MJS Inc intersects the eastern line of Southern Railway Company, said point being located in the existing City Limits; thence following the eastern line of the Southern Railway Company in a northeasterly direction 1050 feet, more or less, to a point where the eastern line of Southern Railway Company intersect the western line of the lands of Keasler Land Holdings, as recorded in BCROD deed book 1965 page 753, said point being a corner in the existing City Limits; thence with the western line of the lands of Keasler Land Holdings LLC in a southeasterly direction 158 feet, more or less, to the northwestern corner of the right of way of Forrest Ave; thence with the western right of way of Forrest Ave in a southerly direction 892 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

City of Cleveland TENNESSEE

JUNE 20, 2023
FORREST AVE. (050I G 001.00)
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 7.87 acres located on Forrest Ave., 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 2023.

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.

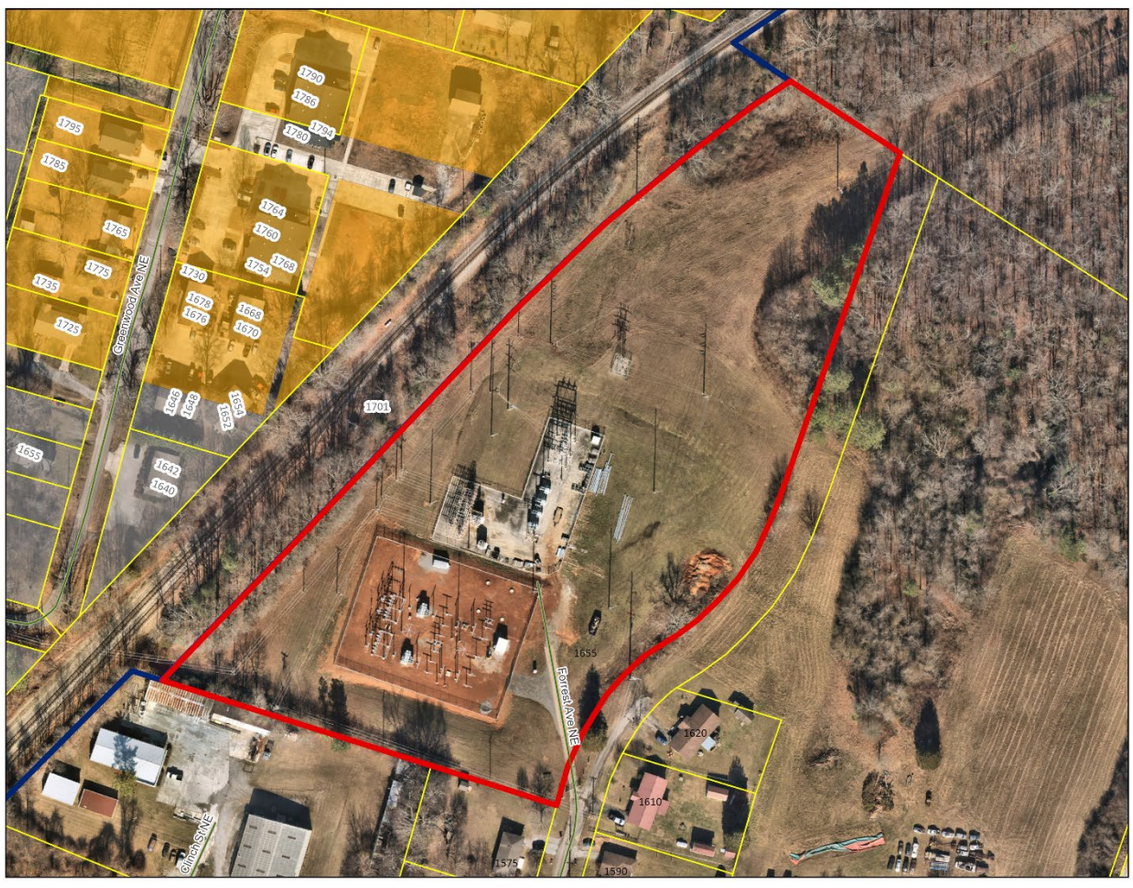
Introduction

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 includes "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. The annexation would zone the property as IL Light Industrial. The property is described as Tax Map 050I Group G Parcel 001.01.

Forrest Ave. Map



Legal Description

Beginning at the northeast corner of the lands of Ashley White, as recorded in BCRD deed book 2825 page 287; thence with the northern line of the lands of White in a northwesterly direction 160 feet, more or less, to the northwest corner of the lands of White, said corner also being the northeast corner of the lands of MJS Inc, as recorded in BCROD deed book 310 page 395; thence with the northern line of the lands of MJS Inc in a northwesterly direction 345 feet, more or less, to a point where the northern line of the lands of MJS Inc intersects the eastern line of Southern Railway Company, said point being located in the existing City Limits; thence following the eastern line of the Southern Railway Company in a northeasterly direction 1050 feet, more or less, to a point where the eastern line of Southern Railway Company intersect the western line of the lands of Keasler Land Holdings, as recorded in BCROD deed book 1965 page 753, said point being a corner in the existing City Limits; thence with the western line of the lands of Keasler Land Holdings LLC in a southeasterly direction 158 feet, more or less, to the northwestern corner of the right of way of Forrest Ave; thence with the western right of way of Forrest Ave in a southerly direction 892 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 Stations without any noticeable impact to the budget.

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

A. Domestic Water---Domestic water service is presently available to this parcel, and currently has an active water meter to service the parcel. See Figure 1-Water Service

B. Sanitary Sewer--- Sewer service is presently not available to this parcel. To provide sewer to these parcels, approximately 450 LF of approximately 3. PVC sewer force main is required to be constructed. The new sewer main would begin at an existing manhole at Forrest Avenue and 15th Street and follow Forrest Avenue to the parcel. A grinder pump would be required to be installed by others at time of sewer service hookup. To provide sewer service to the parcel, the Opinion of Probable Cost is $25,0001. The sewer main can be completed within 8 years. See Figure 2 .Sewer Service.

C. Fire Protection--- There is a fire hydrant 750. away from the parcel, at the intersection of 15th Street and Poplar Street. If fire protection is requested by others, approximately 450 LF of 6. DIP water main is needed from the intersection of 15th Street and Forrest Avenue, off of the existing 12. water main, north along Forrest Avenue to the corner of the parcel. To construct the water main, it is estimated to cost $28,9001 and can be completed within 8 years. See Figure 1 . Water Service.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
1655 Forrest Ave. (050I G 001.00)	$0	$25,000	$29,900	$54,900

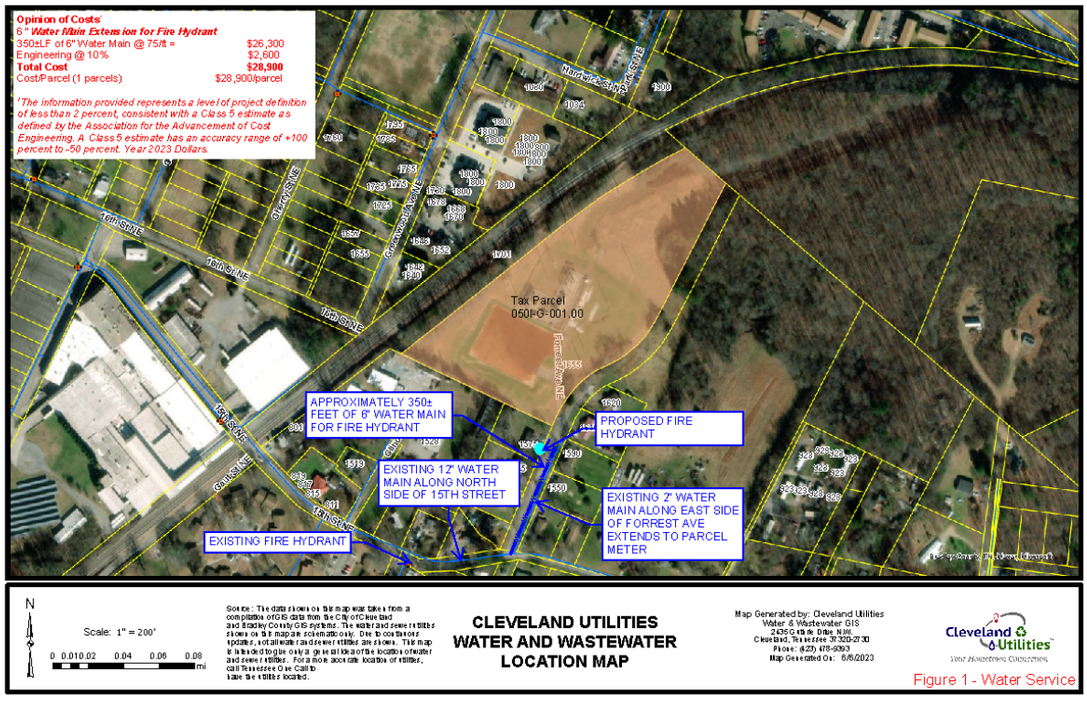
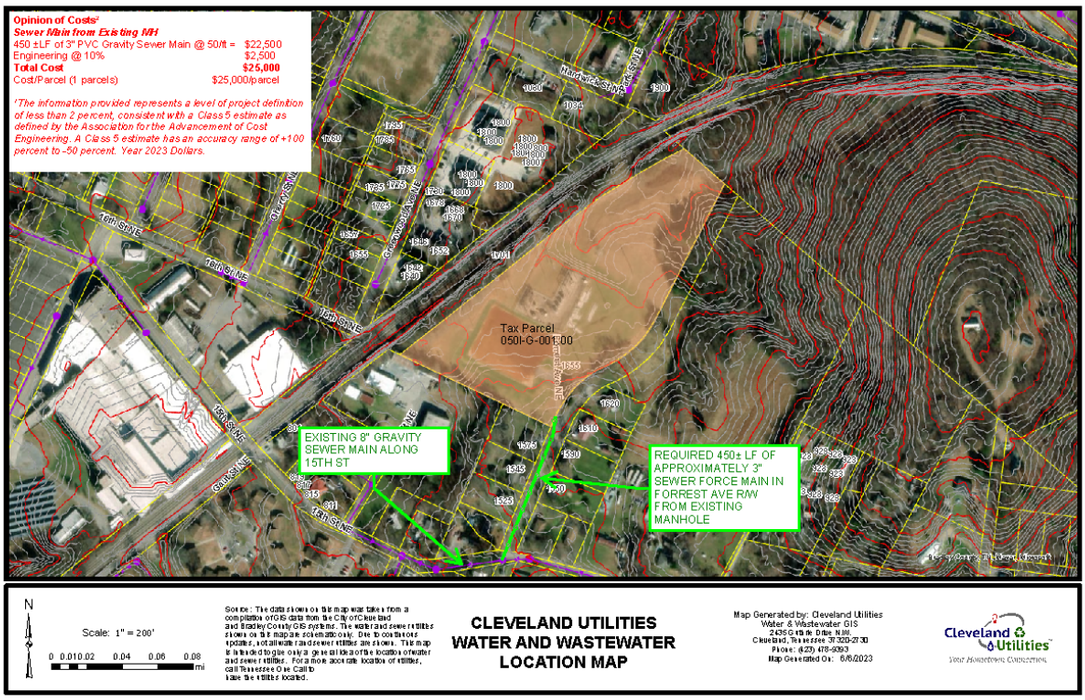


Figure 1 - Water Service



4. Electric Service

The electric division has power to the property and can serve customers as needed.

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 the 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

This will cause no impact to the City School System.

7. Planning and Zoning

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

B. This property is currently zoned FAR Forestry/Agricultural/Residential Zoning in the unincorporated County. The property is proposed as IL Light Industrial 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 0 residents to the 2nd 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.

Revenue

The total income from annexation would result in approximately **$514.50** in property tax revenue.

Councilman May moved that Resolution 2023-62 be accepted as presented. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

h. **Resolution 2023-63** – A resolution to annex about 7.87 acres, more or less, of property located at Forrest Ave. NE and includes Tax Map 050I Group G Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-63

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

FORREST AVE. ANNEXATION AREA

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

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

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

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

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

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

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on June 26, 2023.

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 Ashley White, as recorded in BCRD deed book 2825 page 287; thence with the northern line of the lands of White in a northwesterly direction 160 feet, more or less, to the northwest corner of the lands of White, said corner also being the northeast corner of the lands of MJS Inc, as recorded in BCROD deed book 310 page 395; thence with the northern line of the lands of MJS Inc in a northwesterly direction 345 feet, more or less, to a point where the northern line of the lands of MJS Inc intersects the eastern line of Southern Railway Company, said point being located in the existing City Limits; thence

following the eastern line of the Southern Railway Company in a northeasterly direction 1050 feet, more or less, to a point where the eastern line of Southern Railway Company intersect the western line of the lands of Keasler Land Holdings, as recorded in BCROD deed book 1965 page 753, said point being a corner in the existing City Limits; thence with the western line of the lands of Keasler Land Holdings LLC in a southeasterly direction 158 feet, more or less, to the northwestern corner of the right of way of Forrest Ave; thence with the western right of way of Forrest Ave in a southerly direction 892 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. [Plan of Service on file with Original Resolution.]

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 Webb moved that Resolution 2023-63 be accepted as presented. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

i. **Zoning Ordinance 2023-23** – An ordinance to zone about 7.87 acres, more or less, of property located on Forrest Ave. NE from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 050I Group G Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-23

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, rezoned from FAR Zoning District to IL Light Industrial Zoning District.

Approximately 7.87 acres, more or less, located on Forrest Ave. as shown on the attached map.

For reference, same property is being shown on Tax Map 050I Group G 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.

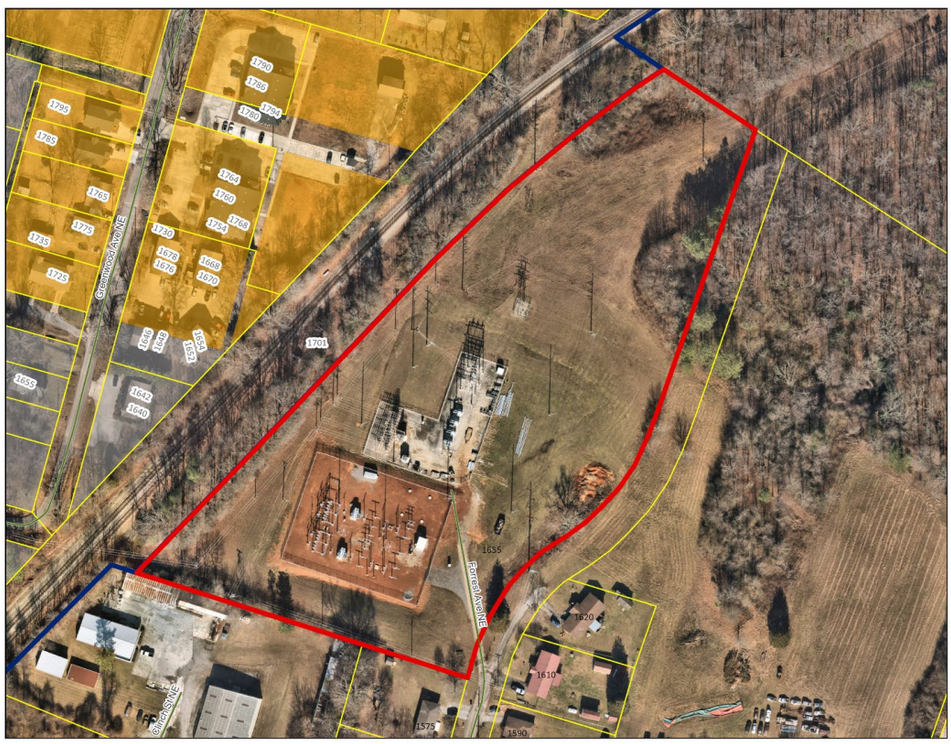
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Zoning Ordinance 2023-23 be approved on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

j. **Zoning Ordinance 2023-24** – An ordinance to zone about 8.00 acres more or less, from R-3 High Density Single and Multi-Family Zoning to PUD Planned Unit of Development Zoning and includes Tax Map 041E Group C Parcels 006.00, 007.00, 013.00, 014.00, 015.00, and 016.00 (Planning Commission: Denied 7-0; 2 absent).

Zoning Ordinance 2023-24 was pulled from the agenda by staff and to be brought back at a future meeting.

k. **Ordinance 2023-25** – An ordinance to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, Chapter 2, Section 1.6 Definitions to define dwellings and Section 4.6.A.3a to include a minimum square footage (Planning Commission: Approved 7:0; 2 absent).

ORDINANCE 2023-25

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 1.6 DEFINITIONS TO DEFINE DWELLING, DWELLING MULTI-FAMILY, DWELLING ONE-FAMILY, DWELLING, TOWNHOUSE, DWELLING, TWO-FAMILY, AND DWELLING UNIT: 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 defining a dwelling and associated types; and

WHEREAS, dwelling as referenced within the zoning ordinance has been updated; and

WHEREAS the City Council has determined that the existing ordinance should be revised to include updated definitions of dwelling, Multi-family, one-family, Townhouse, two-family, and unit; 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 1.6.0 shall include the following definition:

1.6.15 Dwelling. A permanent building or portion thereof built on a permanent foundation used for residential purposes must contain at least a kitchen, bathroom facilities, and a sleeping area. In no case shall the term dwelling include any of the following: motor homes, travel trailers, portable buildings, trailer coaches, storage buildings, tents, cargo container, single-wide modular homes regulated elsewhere in this ordinance, or any other structure not designed specifically for permanent residential dwelling.

1.6.19 Dwelling, Multi-family. A building containing three (3) or more units and designed or used to house three (3) or more families, living independent of each other in separate dwelling units with each unit having its own bedroom, kitchen, and bathroom facilities. Multi-Family dwellings shall have a gross floor area of not less than three hundred (300) square feet of living space per dwelling unit and shall be required to have a permanent foundation.

1.6.20 Dwelling, **One Family**. A building containing one (1) unit and designed or used to house not more than one (1) family. Single-family dwellings shall have a gross floor area of not less than five hundred (500) square feet of living space. Site built homes and permitted modular homes shall be required to have a permanent foundation.

1.6.21 Dwelling, Townhouse. A one-family dwelling in a row of at least two, each with no other dwelling or portion of other dwelling directly above or below, each dwelling unit of which having direct ground level access to the outside and is separated from any other unit by one or more common fire-resistant walls and other associated features.

1.6.22 Dwelling, Two-family. A building containing not more than two (2) units and designed or used to house no more than two (2) families, living independent of each other in separate dwelling units with each unit having its own bedroom, kitchen, and bathroom facilities. Two-Family dwellings shall have a gross floor area of not less than three hundred (300) square feet of living space per dwelling unit and shall be required to have a permanent foundation.

1.6.23 Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Section 2. The Cleveland Municipal Code Title 14, Chapter 2 Zoning Regulations, Section 4.6 A shall be amended to read:

4.6 A. 3.a. Is not self-propelled, but is transportable on its own or detachable wheels, or on a flat bedded or other trailer, in one or more sections which in the traveling mode is eight (8) body feet or more in width, or thirty-five (35) feet or more in length, or when erected on site is five hundred (500) or less 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 Hughes moved that Ordinance 2023-25 be approved on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

l. **Ordinance 2023-26** – Abandoning a section of unopened right-of-way located between Pugh St. NE and Lang St NE (Planning Commission: Approved 7-0; 2 absent).

Ordinance 2023-26 was pulled from the agenda by staff and to be brought back at a future meeting.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. City Offices will be closed on Tuesday, July 4, 2023 in observance of Independence Day.

b. The next City Council meeting will be held on Monday, July 10, 2023.

c. The July 24 City Council meeting will be cancelled due to TML Conference.

Mr. Fivas stated July 10, will be the re-grand opening and rededications at Mosby Park at 12 noon.

Councilman Cassada asked Mr. Fivas to have Councilman Estes' microphone fixed.

ADJOURNMENT

There being no future business the meeting was adjourned at 4:08 p.m.

_____ Mayor

_____ City Clerk

REGULAR SESSION
JULY 10, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JULY 10, 2023 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; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Interim Fire Chief Rock Eulo; Jonathan Jobe, Development and Engineering Director; Kris Miller, IT Director; Gideon Ratcliff with Mix104.1; Michell Goldston and Dustin Tommey with City Fields, and Tim Siniard with the *Cleveland Daily Banner*.

Following the Pledge of Allegiance to the American Flag and prayer by Steve Morgan, 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 June 26, 2023 and approve them as written. The motion was seconded by Councilman Webb; and upon roll call, the motion unanimously passed.

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

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Vice Mayor Johnson asked if anyone would like to address the Council. No one spoke.

HEARING PETITIONS AND COMMUNICATIONS

a. **Public Hearing** – To hear public comments concerning a request by Phyllis Lindbeck for consideration of an ordinance to zone about 2.52 acres, more or less, located at 373 Kile Lane SW, from IL Light Industrial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057 Parcel 015.05 (Planning Commission: Approved 7-0; 2 absent).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Phyllis Lindbeck for consideration of an ordinance to zone about 2.52 acres, more or less, located at 373 Kile Lane SW, from IL Light Industrial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057 Parcel 015.05. Robert Varnell stated the family would like to build an additional house on their property and therefore needs to be rezoned. Vice Mayor Johnson asked if anyone would like to speak in favor of the rezoning. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the rezoning. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

b. **Public Hearing** – To hear public comments concerning a request by JAHOLM Holdings LLC for consideration of an ordinance to zone about .22 acres, more or less, located at 1350 Wildwood Ave SE, from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057L Group H Parcel 014.00 (Planning Commission: Approved 7-0; 2 absent).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by JAHOLM Holdings LLC for consideration of an ordinance to zone about .22 acres, more or less, located at 1350 Wildwood Ave SE, from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057L Group H Parcel 014.00. Robert Varnell stated this has been a single-family home for some time and during a sale of the property it was found the property was zoned CH and needed to be rezoned to R-2 for closing. Vice Mayor Johnson asked if anyone would like to speak in favor of the rezoning. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the rezoning. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

c. **Public Hearing** – To hear public comments concerning a request by Steven and Elizabeth Clark for a night club permit to be located at 918 Sahara Drive and includes Tax Map 041L Group E Parcel 003.01.

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Steven and Elizabeth Clark for a night club permit to be located at 918 Sahara Drive and includes Tax Map 041L Group E Parcel 003.01. Robert Varnell stated this is our first applicant for the nightclub permit, they have met all the requirements and staff recommends approval. Councilman Hughes stated the last time we dealt with something similar it was close to homes, but this is surrounded by businesses. Mr. Varnell stated yes, and the requirements are 750' from a residential zoned property. Vice Mayor Johnson asked if anyone would like to speak in favor of the permit. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the permit. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

CONSENT AGENDA

Vice Mayor Johnson stated the Consent Agenda was presented during the Work Session. 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.

a. **Final Passage - Zoning Ordinance 2023-21** – heretofore passed on first reading June 26, 2023 and found in Minute Book 31, Page 202; an ordinance to zone about 4.37 acres more or less, from unincorporated county to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 041 Parcel 005.28 (Planning Commission: Approved 7:0; 2 absent).

b. Final Passage - Zoning Ordinance 2023-22 – heretofore passed on first reading June 26, 2023 and found in Minute Book 31, Page 211; an ordinance to zone about 3.76 acres, more or less, of property on Freewill Rd. from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 048D Group B Parcel 002.01(Planning Commission: Approved 7-0; 2 absent).

c. Final Passage - Zoning Ordinance 2023-23 – heretofore passed on first reading June 26, 2023 and found in Minute Book 31, Page 220; an ordinance to zone about 7.87 acres, more or less, of property located on Forrest Ave. NE from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 050I Group G Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

d. Final Passage - Ordinance 2023-25 – heretofore passed on first reading June 26, 2023 and found in Minute Book 31, Page 221; Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Chapter 2, Section 1.6 Definitions to define dwellings and Section 4.6.A.3a to include a minimum square footage (Planning Commission: Approved 7:0; 2 absent).

e. **Resolution 2023-65 –** Approving the 2023 Communications Agreement between the City, Bradley County, City of Charleston, and the Bradley County Emergency Communications District.

RESOLUTION 2023-65

WHEREAS, a 2023 Communications Agreement has been prepared and is attached hereto; and

WHEREAS, the City Council of the City of Cleveland desires to enter into said Agreement with Bradley County and City of Charleston.

NOW, THEREFORE, BE IT RESOLVED that the Mayor be, and hereby is, authorized to execute the 2023 Communications Agreement for and on behalf of the City of Cleveland, Tennessee. Said Agreement is attached hereto and made a part hereof by reference. [on file in the City Clerk's Office.]

Adopted this 10th day of July, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

f. **Resolution 2023-66** – Supporting City Fields in their application for a Robert Wood Johnson Foundation-Funded "Community Connectors" Grant.

RESOLUTION 2023-66

RESOLUTION TO SUPPORT CITY FIELDS IN THEIR APPLICATION FOR A ROBERT WOOD JOHNSON FOUNDATION-FUNDED "COMMUNITY CONNECTORS" GRANT APPLICATION AND TO WORK AS A PARTNER IN THE SUCCESS OF THE GRANT ACTIVITES

WHEREAS, City Fields is a non-profit community development corporation with history of working with the City of Cleveland and others to bring about positive change to elevate low-income neighborhoods in Cleveland; and

WHEREAS, City Fields has been a strategic partner with the City of Cleveland in its successful grant applications to the USDOT for planning, design, and construction related to the proposed downtown connector; and

WHEREAS, City Fields is seeking the "Community Connectors" grant to increase capacity within the College Hill and Blythe-Oldfield neighborhoods to participate in vital planning efforts for the new downtown connector, and the formation of an integrated transportation, land-use, housing, and economic development approach to revitalize these neighborhoods; and

WHEREAS, the City desires to provide support for the City Fields "Community Connectors" endeavor through provision of technical support, coordination with City-sponsored planning efforts affecting the College Hill and Blythe-Oldfield neighborhoods, and City staff participation in "Community Connectors" meetings as part of a core team, including participation in a "convening" of awardees expected in Atlanta, GA in November 2023,

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

1. The City supports the City Fields application for a "Community Connectors" grant for capacity building within the College Hill and Blythe-Oldfield neighborhoods to strengthen their capacity as planning partners in the proposed downtown connector, and in the formation of an integrated transportation, land-use, housing, and economic development approach for the neighborhoods.

2. The City staff will participate in the "Community Connectors" endeavor by providing technical support (e.g. maps, data, expertise) and coordination with City-sponsored planning efforts within these neighborhoods, and by participating in related meetings as members of a core team, including participation in an anticipated convening of awardees in Atlanta.

3. The Mayor is authorized to sign any documents necessary for the purpose of carrying out this project.

Approved this 10th day of July, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

g. **Resolution 2023-67** – Authorizing the Mayor to sign Change Order #3 with Summers-Taylor, Inc relating to the LIC North Project (Final Balance Summary)

RESOLUTION 2023-67

WHEREAS, the City has received the attached Supplemental Agreement and/or Request for Construction Change Order Request #3 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 #3 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 #3 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. [on file in the City Clerk's Office.]

This 10th day of July, 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

h. **Resolution 2023-68**– Approving a PILOT agreement for Project Baxter.

RESOLUTION 2023-68

A RESOLUTION APPROVING A PAYMENT-IN-LIEU-OF TAXES (PILOT) SCHEDULE AND DELEGATING AUTHORITY TO ENTER INTO A PILOT AGREEMENT

WHEREAS, the Industrial Development Board of the County of Bradley and the City of Cleveland, Tennessee (the "Board") has recommended a Payment-In-Lieu-Of-Taxes ("PILOT") schedule for Project Baxter (the "Company") which has a planned lease and improvement of an existing 50,000 square foot building within the City of Cleveland, Bradley County, Tennessee, the acquisition and installation of certain machinery, equipment and other personal property for use as a fulfillment center and related facilities in the City of Cleveland and Bradley County, Tennessee with a total capital investment of (but not limited to) $40,000,000.00 (the "Project") in real property leasehold improvements and personal property/equipment and

WHEREAS, the Project is anticipated to result in the creation of 140 full-time positions with an average annual starting wage of $56,835.71 for positions in the plant.

WHEREAS, the Company has requested the real property leasehold improvements and personal property acquired in connection with the Project (collectively, the "Property") qualify for an arrangement (the "PILOT Arrangement") whereby the Property shall be exempt from all ad valorem property taxes otherwise due thereon (collectively, "property taxes"), and in lieu of the property taxes, the Company shall be required to make annual payments in lieu of taxes equal to sixty-two and one-half percent (62.5%) of the real property leasehold improvements and personal property taxes otherwise due on the property during the six-year period commencing on January 1, 2024 and ending on December 31, 2029:

WHEREAS, the Board has determined that, notwithstanding the PILOT Arrangement, the Project will result in the payment of in lieu of tax payments to the City of Cleveland, Tennessee in an estimated amount of $657,631.41 over the same six-year period;

WHEREAS, the City of Cleveland, Tennessee (the "City") has determined that the proposed PILOT Arrangement is fair, reasonable, and necessary for the continued economic development of Cleveland and Bradley County and that the payments in lieu of taxes derived from the PILOT Arrangement would be in furtherance of the Board's purposes and

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

Section 1. The City hereby agrees to the PILOT Arrangement and hereby delegates the power and authority to the Board to negotiate a PILOT agreement with the Company to reflect the parties' respective rights and obligations in accordance with the PILOT Arrangement.

Section 2. The City hereby authorizes the Mayor to execute any and all documents necessary for the successful completion of the Project, including but not limited to, all documents related to the PILOT Arrangement.

Section 3. This Resolution shall become effective upon its adoption.

Adopted this 10th day of July, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

i. **Resolution 2023-69**– Amending the FY2024 Authorized Position List.

RESOLUTION 2023-69

A RESOLUTION TO AMEND THE AUTHORIZED POSITIONS LIST FOR THE FY2024 BUDGET

WHEREAS, the City Council of the City of Cleveland has previously established and adopted the FY2024 City Budget; and

WHEREAS, the City Budget contains the "Authorized Employees By Fund, Department, and Position Classification"; and

WHEREAS, the DES Director, the Public Works Director, and the City Manager are recommending that the City Council approve a change in the authorized positions for adding one new Redevelopment Coordinator in the DES Department and eliminating one Public Service Worker in the Public Works Department as set forth in the City Manager's memorandum to the Mayor and City Council dated July 10, 2023 which is attached hereto; and

WHEREAS, the DES Director and the City Manager want to change the title of the Director of Buildings, Facilities and Capital Projects to the Director of Building and Project Development.

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 86 through 89 of the FY2024 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 10th day of July, 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **July 10, 2023**
RE: **Authorized Position Update**

SUMMARY:
This item is an amendment to the Authorized Position List. The amendment keeps the same number of employees for the City, but shifts positions to allow for a new Redevelopment Coordinator position to be created. This position will assist with our expanding redevelopment efforts, land banking coordination, grant writing, project management, and long-range planning.

COMMITTEE FINDINGS:
No Committee or Board action.
FISCAL ANALYSIS:
N/A
RECOMMENDATION:
City staff recommends approval of this update to Authorized Position List.

j. **Motion** – Authorizing the Mayor to sign a Memorandum of Understanding between the Cleveland Police Department and the Cleveland City Schools for School Resource Officers.
k. **Motion** – Approving a Nightclub Permit for Pokey's Restaurant.
l. Appointment – *Library Board* – Vanessa Hammond for a 3-year term to expire July 2026.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Webb had no report at this time.

Vice Mayor Johnson stated the Legislative Session held last Friday was a good event. It was nice to meet and discuss issue in our community.

Councilwoman McKenzie reported the ribbon cutting at Mosby Park was a nice event and thanked everyone for making it happen.

Councilman Estes echoed comments regarding Mosby Park re-grand opening. He then reminded everyone of the upcoming City Fields BBQ and a Back to School Bash, where donations will be accepted to help purchase supplies.

Councilman Cassada had no report at this time.

Councilman May stated at the last meeting we discussed the electric and water services for the Cherokee Hotel, and also a water leak. He asked that while the street cuts are there, it would be nice to get everything fixed. Mr. Jobe stated yes, Cleveland Utilities is working to get what they need done before paving. They are also working on a price for underground electric from 1st Street NE to 1st Street SE.

Councilman Hughes stated Mosby Park is a plus for the Inman Street area. It is a beautiful park. He thanked staff for the marvelous job. Michell Goldston planted the trees in Mosby Park over twenty years ago. He then echoed Vice Mayor Johnson's comments about the Legislative meeting, which was very informative.

NEW BUSINESS AND ORDINANCES

a. **Zoning Ordinance 2023-27** – Zoning about 2.52 acres, more or less, located at 373 Kile Lane SW, from IL Light Industrial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057 Parcel 015.05 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-27

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, rezoned from IL Light Industrial Zoning District to R-2 Low Density Single and Multi-Family Zoning District.

> Approximately 2.52 acres, more or less, located at 373 Kile Lane as shown on the attached map.
>
> For reference, the same property is being shown on Tax Map 057 Parcel 015.05, 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.

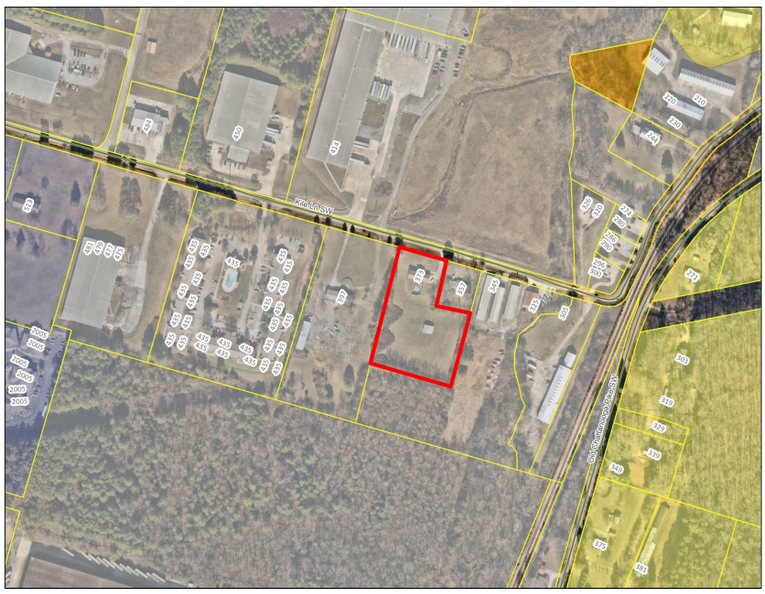
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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 2023-27 be approved on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

b. **Zoning Ordinance 2023-28** – Zoning about .22 acres, more or less, located at 1350 Wildwood Ave SE, from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057L Group H Parcel 014.00 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-28

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, rezoned from CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Zoning District.

Approximately 0.22 acres, more or less, located at 1350 Wildwood Ave. as shown on the attached map.

For reference, same property is being shown on Tax Map 057L Group H Parcel 014.00, 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 2023-28 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

c. **Zoning Ordinance 2023-24** – An ordinance to zone about 8.00 acres more or less, from R-3 High Density Single and Multi-Family Zoning to PUD45 Planned Unit of Development Zoning and includes Tax Map 041E Group C Parcels 006.00, 007.00, 013.00, 014.00, 015.00, and 016.00 (Planning Commission: Denied 7-0; 2 absent).

ZONING ORDINANCE 2023-24

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISH A PLANNED UNIT OF DEVELOPMENT (PUD) TO BE KNOWN AS PEERLESS ROAD CHURCH OF GOD "PUD 45" ON PROPERTY DESCRIBED AS TAX MAP 041E GROUP C PARCELS 006.00, 007.00, 013.00, 014.00, 015.00, AND 016.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 45; 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 an development standards for the property described herein through the adoption of the 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 45" subject to the provisions described in each section of this ordinance. The

permitted uses in the PUD 45 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 45 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 a 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 45, Peerless Road Church of God (name may be revised during the platting process with approval of the Cleveland Municipal Planning Commission) includes property generally identified as Tax Map 041E Group C Parcels 006.00, 007.00, 013.00, 014.00, 015.00, and 016.00. Exhibit A illustrates the overall Peerless Road Church of God 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 Peerless Road Church of God Development. The project consists of a church facility and associated structures that support the function of the church. The developer shall include any permanent retention or detention pond areas or landscaped common areas.

Section 5. PERMITTED USES AND PROHIBITED USES.
The PUD 45 development allows for the existing Church facility and associated uses. Such uses include professional office, child day care, residential uses consistent with current standards associated with the activities of the Church. Other amenities such as a clubhouse, park shelters, benches, or tables, are allowed on the property and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Church membership from making further refinements to the development plan of PUD 45 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 be minimal and serve as a function of the Church related activities.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.
A conceptual plan (exhibit A) for PUD 45, Peerless Road Church of God Development, was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on June 20th, 2023. The conceptual plan consists of a survey of the existing lots and the abandonment of each lot line to create one seamless lot. However additional drawings, documents, and permits routinely required for development are expected for review and approval prior to construction. All development within PUD 45 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.

Other variations may include the width or alignment of driveways, 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.).

6.B. PLATS.
One or more plats will be prepared for the PUD 45 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plat(s) will describe and dedicate public streets and 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 determine are necessary to carry out the development of PUD 45 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 45 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 45 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the PI Professional Institutional District, from the City of Cleveland's zoning regulations.

A monument style ground sign may be installed at the primary entrance to the site. The ground sign may contain a LED Electronic reader board not to exceed 60 square feet. Landscaping, where acceptable, must be installed to screen the LED sign from off-site residential structures. If a LED Electronic Reader board is utilized, it will be turned off between the hours of 10:00pm and 7:00am as to not impact residential areas surrounding the property. All landscaping areas will be approved by the Director of Planning and Community Development.

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.

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 45 Peerless Road Church of God 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. Building 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 play 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 45, an amendment to this ordinance is not required to implement such detailed block plan, site plan, 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 al development and use of property in the PUD 45 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 "Trustees of the Church of God Property" 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 join 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 ordinance with respect to the development of this property the terms of this ordinance shall prevail unless state 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 Estes stated there were several items related to this ordinance that were not presented to the Planning Commission and feels it should be sent back for a full discussion of the facts. Councilman Cassada confirmed the current zone is R-3. Mr. Varnell stated yes, they have multiple uses on the property, that is why we are presenting to change the zoning to a PUD category which would allow us to specifically identify what they are doing. It can be changed at any time with City Council approval. Councilman Hughes stated he didn't want to delay this again. Councilman Estes stated there are other places with similar signs and we haven't heard anything on it. There are enough variables, and we should let city staff get it right for everyone going forward. This is not about Peerless Road, but the process is important. Councilman May moved that Zoning Ordinance 2023-24 be approved on first reading. The motion was seconded by Councilman Hughes. Upon roll call, Councilman May, Councilman Hughes, Councilman Webb, Vice Mayor Johnson, Councilwoman McKenzie, and Councilman Cassada voted aye. Councilman Estes voted no. He added the reason for his no vote is not the outcome of the zoning but the process by which the City took place. The motion carries 6-1.

ANNOUNCEMENTS

Vice Mayor Johnson announced the following:

a. The July 24 City Council Meeting will be cancelled.
b. The next City Council meeting will be held on Monday, August 14, 2023.

ADJOURNMENT

There being no further business, Vice Mayor Johnson adjourned the meeting at 3:29 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
JULY 24, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MET IN A REGULAR SESSION THIS MONDAY, JULY 24, 2023 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

_____ _____

Mayor City Clerk

REGULAR SESSION
AUGUST 14, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, AUGUST 14, 2023 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; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Assistant Police Chief Stacy Smith; Interim Fire Chief Rock Eulo; Bryan Turner, Assistant Development Director; Kris Miller, IT Director; Gideon Ratcliff with Mix104.1; Cathy Andrews, CDBG Coordinator; Zachory Colescott, Jetport Manager; Ben Berry with Berry Engineering; Kyle Page with Bradley County Schools; Doug Berry with the Chamber of Commerce; James Morgan; Allen Ledford; Towo Oni; Warbrit Lowery; Kim Brooks with Lee University; John Thomason; Edna Swafford; Dustin Tommey 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 Johnon 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 10, 2023 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

Allen Ledford with Cleveland State Community College updated the City Council on the Adult Education Program offered at Cleveland State. They will now be the provider for Bradley County for adult education degrees in general education degrees for high school diploma and job preparedness with local industries.

John Thomason updated the City Council on the Veteran's Home, which now has three residents. Additionally, he has been asked about the maintenance of Fort Hill Cemetery. On July 29 the Civil Air Patrol, led by Lt. Ella Kidd cleaned over 100 headstones and found 7 Veterans' headstones. The Cleveland Fire Department help provide water. They are planning on August 26 for a few hours to clean additional headstones. Lastly, this will be the 5th year participating in Wreaths for Veterans. Anyone who would like to participate, please donate at wreathsacrossamerica.com to honor our Veteran's and their families.

Mayor Brooks asked if anyone else would like to address the Council. No one spoke.

HEARING PETITIONS AND COMMUNICATIONS

a. **Public Hearing –** To hear public comments concerning a request by Ava Castillo for consideration of an ordinance to zone about 2.10 acres, more or less, located at 4020 N. Ocoee Street, from PI Professional Institutional to CN Commercial Neighborhood Zoning District and includes Tax Map 042G Group C Parcel 036.00 (Planning Commission: Approved 7-0; 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by Ava Castillo for consideration of an ordinance to zone about 2.10 acres, more or less, located at 4020 N. Ocoee Street, from PI Professional Institutional to CN Commercial Neighborhood Zoning District and includes Tax Map 042G Group C Parcel 036.00.

Robert Varnell stated this request is an existing business to allow overnight lodging as a component to their spa. The benefit of this zoning is it has built in regulations, like hours and landscaping. Planning Commission approved this item 7-0 with 2 members 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 declared the public hearing to be closed.

b. **Public Hearing –** To hear public comments concerning a request by Pleasant Grove Properties for consideration of an ordinance to amend PUD19 zoning ordinance development standards which is located at Sunset Dr. and includes Tax Map 042P Group J Parcel 005.00 (Planning Commission: Approved 6-0; 1 recused, 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by Pleasant Grove Properties for consideration of an ordinance to amend PUD19 zoning ordinance development standards which is located at Sunset Dr. and includes Tax Map 042P Group J Parcel 005.00. Robert Varnell stated the number of units, or density, has dropped. They will be using the existing infrastructure, with improvements and an additional area for the daycare building as opposed to residential areas. Planning Commission approved 6-0; 1 recused and 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the amendment. Ben Berry with Berry Engineers stated this is an older PUD, which did not have a determined use for the existing building. Since then, the building will be occupied with a daycare center. We are looking at the PUD on how to use the rest of the property in a complementary way to the daycare. Improvements will be made to McNabb Road and overall, we see this as a big win for the neighborhood. 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.

c. **Public Hearing –** To hear public comments concerning a request by B&J Properties for consideration of an ordinance to amend PUD41 to include 16 townhouses as an allowable use which is located at 443 Minnis Rd. and includes Tax Map 058 Parcels 025.02, 024.00, and 024.05 (Planning Commission: Approved 6-0; 1 recused, 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by B&J Properties for consideration of an ordinance to amend PUD41 to include 16 townhouses as an allowable use which is located at 443 Minnis Rd. and includes Tax Map 058 Parcels 025.02, 024.00, and 024.05. Robert Varnell stated a couple of changes have occurred over the last several months on this PUD. There was an existing home on the property that was deemed not up to code as they originally anticipated. They will remove the structure and are asking for one additional quad townhome, to bring it to 16 townhomes. It will have an internal drive system as well. Planning Commission approved 6-0; 1 recused and 2 members being absent. Mayor Brooks asked if anyone would like to speak in favor of the amendment. Ben Berry with Berry Engineers stated they hoped to take the existing house and renovate but it was unsalvageable. The decision was made to remove and add one additional quad townhome to the previously approved 12 townhomes. Danny Britt, who lives on Chestnut Grove Subdivision represents the Homeowner Association there. They are not in favor or opposed to the development. He is asking if the City will be moving forward with road improvements to Benton Pike and Michigan Avenue Road. Mayor Brooks stated yes, and asked Mr. Fivas to elaborate. Mr. Fivas stated yes, we have teamed with the County and MPO to conduct a study that outlines all the things that need to happen on Michigan Avenue Road. We were to have an update today at the Work Session but ran out of time. We have another project at Michigan Avenue and 20th Street to Minnis Road, which is currently being designed. The entire intersection will be redone. Mr. Britt thanked the Council for their time. 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.

d. **Public Hearing** – To hear public comments concerning a request by Stuart Family Properties, LLC for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 13 acres, more or less, of property located on Urbane Road, from the unincorporated county to PUD46 Planned Unit Development Zoning District and includes a portion of Tax Map 042 Parcel 058.00 (Planning Commission: Approved 6-0; 1 recused, 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request by Stuart Family Properties, LLC for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 13 acres, more or less, of property located on Urbane Road, from the unincorporated county to PUD46 Planned Unit Development Zoning District and includes a portion of Tax Map 042 Parcel 058.00. Robert Varnell stated this public hearing is for the plan of service, annexation, and zoning. This annexation request will include up to 140 units but when we go through the development process, we will see what the number falls into. Three different components, with some townhomes, and cottage style homes. The Planning Commission approved 6-0, with 1 recused and 2 members absent for each item. There were some cavoites, items the City wanted, like right-of-way width and was agreed at 45 and an addition of an open space for the cottage homes and long-term ownership of cottage homes. Councilman Cassada asked how the common space was calculated. Mr. Varnell stated it is typically based on a percentage of acreage. Mayor Brooks asked if anyone would like to speak in favor of the request. Ben Berry with Berry Engineers stated this is a very unique development that adds density but incorporates things that will make it a good community to live in. As a townhome component, they will be owner occupied and also this has a single-family component that will be for rent. You will have density on a road that can handle it and existing amenities, like the YMCA, County Park and Pickleball Courts across the street. There were three questions at the Planning Commission, First, the right-of-way widths. The Planning Commission approved language 40 feet for roads or 45 feet if it has on-street parking. 40 feet for a road is the standard width for subdivision right-of-way. In the 40 feet you are able to incorporate road width, sidewalks, utilities, and utility easement and 45 feet if you have on-street parking. It is a design issue, and we want the PUD to reflect the minimum standard that is needed and if more is needed, we will do that during the design phase. Second question was amenities and if there should be a pavilion or grilling area. The main amenity provided is open space, in the middle of the development, to use how they wish. It is valuable land. We want to leave land for however the residents would like to use it. Homes have their own backyards for grilling. Last question was ownership specific to single family homes. The north side has a townhome component and in the middle is the single family for rent concept, the cottage homes. They are not designed in a way that would meet subdivision requirements, so they cannot be platted individually, so that is a type of detached apartment development. Councilman Estes stated the ordinance in the packet reads differently. Mr. Varnell stated the document should state 40' and 45'. It appears the wrong document was sent for the packet. 45' with on-street parking, 40' where no on-street parking. Councilman Estes asked if long term ownership make sense. Mr. Varnell stated there are different components and that is referring to the cottage homes in the middle, which is a way to do apartments. Mayor Brooks asked if anyone would like to speak in opposition of the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

e. **Public Hearing –** To hear public comments concerning a request John and Joan Gilliland for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 29.66 acres, more or less, for property located on Waterlevel Highway from the unincorporated county to CH Highway Commercial Zoning District and includes a portion of Tax Map 058K Group F Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

Mayor Brooks stated today's meeting is being held as a public hearing to hear public comments concerning a request John and Joan Gilliland for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 29.66 acres, more or less, for property located on Waterlevel Highway from the unincorporated county to CH Highway Commercial Zoning District and includes a portion of Tax Map 058K Group F Parcel 001.00. Robert Varnell stated this public hearing is for the plan of service, annexation, and zoning. This is a portion of the property that is included in the urban growth boundary. They are asking for the 29.66 acres to be annexed and CH

zoning. We have had several meetings and discussions. Planning Commission approved the 7-0 with 2 members being absent for each item. Councilman Webb asked if the developer was paying for the cost of sewer project. Mr. Varnell stated certainly the existing property owner and developer are involved in the process but doesn't believe they have all agreed on how that works yet, but yes, that is the intent. Mayor Brooks asked if anyone would like to speak in favor of the request. No one spoke. Mayor Brooks asked if anyone would like to speak in opposition of the request. No one spoke. Mayor Brooks then stated the Council received the following letter from Sarah Kane in opposition to the request.

SARAH TITTSWORTH KANE
3603 E. Kesterwood Dr., Knoxville, TN 37918
Tel: 865-687-3853; e-mail: s_kane@bellsouth.net

August 9, 2023

City Council Members
City of Cleveland, Tennessee
190 Church St. NE
Cleveland, TN 37311

Dear Cleveland City Council Members,

Subject: Request by Joan and John Gilliland for Annexation, Plan of Service and Initial Zoning of Property Located at Waterlevel Highway (portions of Tax Map 058K Group F Parcel 001.00)

My name is Sarah Tittsworth Kane and I grew up in Bradley County, where my mother still lives. The purpose of this letter is to respectively request that the Cleveland City Council deny the request for the annexation, plan of service and initial zoning to CH Highway Commercial Zoning District for the property located at Waterlevel Highway, which include portions of Tax Map 058K Group F Parcel 001.00.

My Uncle John Gilliland passed away in 2021. He spent his life devoted to growing peaches. When he couldn't grow them any longer, he hired another farmer to grow peaches for him to his exacting specifications. Perhaps these peaches are not unique in their quality, but I have never had any that meet his standards. If you have ever had one, you know what I mean. Most people who think they have had a peach, have really not had one unless it was a Gilliland peach.

If this section of Waterlevel Highway that includes the Gilliland Peach Stand, which is now run by his eldest daughter, is annexed and zoned commercial, it will be the end of something very rare and special to Bradley County and the surrounding areas, in all likelihood. And it will be the end of a legacy. No strip mall, fast food restaurant or bank can make up for this unique business in Bradley County.

Most sincerely,

Sarah Kane

Sarah Kane

Mayor Brooks declared the public hearing to be closed.

f. **Public Hearing –** To hear public comments concerning a request by the City of Cleveland for consideration of an ordinance to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, by adding Chapter 13 to Title 14 Zoning and Land Use Control, to provide regulations for short term rentals.

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 for consideration of an ordinance to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, by adding Chapter 13 to Title 14 Zoning and Land Use Control, to provide regulations for short term rentals. Robert Varnell stated there has been some discussion about where this should be incorporated in the City Code. Our intent is not to regulate where you can put short-term rentals, but to regulate if there are issues with life, safety, and each structure is approved by Code. We are asking the Council to send the Ordinance to the Planning Commission for review. 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

Mayor Brooks stated the Consent Agenda was presented during the Work Session. 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.

a. **Final Passage - Zoning Ordinance 2023-24** – heretofore passed on first reading July 10, 2023 and found in Minutes Book 31, Page 232; Zoning about 8.00 acres more or less, from R-3 High Density Single and Multi-Family Zoning to PUD45 Planned Unit of Development Zoning and includes Tax Map 041E Group C Parcels 006.00, 007.00, 013.00, 014.00, 015.00, and 016.00 (Planning Commission: Denied 7-0; 2 absent).

b. **Final Passage - Zoning Ordinance 2023-27** – heretofore passed on first reading July 10, 2023 and found in Minute Book 31, Page 230; Zoning about 2.52 acres, more or less, located at 373 Kile Lane SW, from IL Light Industrial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057 Parcel 015.05 (Planning Commission: Approved 7-0; 2 absent).

c. **Final Passage - Zoning Ordinance 2023-28** – heretofore passed on first reading July 10, 2023 and found in Minute Book 31, Page 231; Zoning about .22 acres, more or less, located at 1350 Wildwood Ave SE, from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057L Group H Parcel 014.00 (Planning Commission: Approved 7-0; 2 absent).

d. **Bid Report** – Fire Station #1 Bay Door Replacement.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **August 14, 2023**
RE: **Bid Summary – Fire Station #1 Bay Door Replacement**

SUMMARY:
The City advertised to accept sealed bids on July 18, 2023, to replace the bay doors at fire station #1. Bids are listed below:

- AMJ General Contractors **$94,242.00**
- JM Specialties **$106,304.00**

$95,536.00 (Alt. Bid)

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff recommends award to low bidder, AMJ General Contractors.

e. **Resolution 2023-70** – Approving a contract with Southeast Tennessee Development District for NEPA Services for Central Avenue Sidewalk Project.

RESOLUTION 2023-70

WHEREAS, City staff is recommending that the City enter into an agreement with the Southeast Tennessee Development District (hereafter "SETD") whereby SETD will provide professional administrative services in connection with Environmental Review compliance as required by funding agencies for Central Avenue Sidewalk Project.

WHEREAS, the services to be provided to the City are described in the attached agreement; and

WHEREAS, under the terms of the agreement, the City total fee is an amount not to exceed $3,000; and

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. [On file in the City Clerk's Office.]

This 14th day of August 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

f. **Resolution 2023-71** – Authorizing the Mayor to sign contract amendment #4 with TDOT for a contract extension date for the Gaut Street Sidewalk construction project PIN 123116.01.

RESOLUTION 2023-71

WHEREAS, the City has received the attached contract amendment number 4 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 4 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 4 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. [On file in the City Clerk's Office.]

This 14th day of August, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

g. **Resolution 2023-72** – Approving a contract with Alfred Benesch & Company for Consulting Services for the 25th Street/Peerless Road project.

RESOLUTION 2023-72

WHEREAS, City staff advertised to accept statements of qualifications from engineering firms to provide consulting professional engineering services related to construction for the 25th Street & Peerless Road project; and

WHEREAS, qualifications have been received and evaluated by the City's staff, and City staff are recommending that the City Council approve of a consulting services agreement with the top-ranking firm, Alfred Benesch & Company, for these professional services.

WHEREAS, the City Council now desires to approve of the attached consulting services agreement with Alfred Benesch & Company for these services, 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 consulting services agreement with Alfred Benesch & Company for the 254th Street and Peerless Road project, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [On file in the City Clerk's Office.]

This 14th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

h. **Resolution 2023-73** – Authorizing the Mayor to sign a contract with the Bradley County Board of Education to assist with the purchase and installation of a Rectangular Rapid Flash Beacon System installed on Parker Street for the PIE Center.

RESOLUTION 2023-73

WHEREAS, the Bradley County Board of Education (hereafter "BCBOE") is the owner of the PIE Center property located on Parker Street in Cleveland, Bradley County, Tennessee; and

WHEREAS, Parker Street is a City street maintained and controlled by the City; and

WHEREAS, BCBOE has been awarded a grant from the United States Department of Agriculture (hereafter USDA) to fund and pay for the equipment and installation costs associated with the installation of a Rectangular Rapid Flash Beacon system (hereafter "RRFB system") at the existing Parker Street crosswalk which is located near the PIE Center; and

WHEREAS, the City has agreed to assist BCBOE with the purchase and installation of the RRFB system on Parker Street because the system will be installed adjacent to and across a city street, and also because the city has two other RRFB systems located on Ocoee Street near Lee University and also on Raider Drive near Cleveland High School; and

WHEREAS, under this agreement, BCBOE will reimburse the City for all equipment and installation costs, as well as any other costs incurred by the City as further described herein, and then the BCBOE will maintain ownership of the equipment and assume responsibility for the electrical costs and future operation and maintenance costs associated with the RRFB system; and

WHEREAS, the City Council now desires to approve of the attached agreement with the Bradley County Board of Education for this project, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with the Bradley County Board of Education for this project, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [On file in the City Clerk's Office.]

This the 14th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

i. **Resolution 2023-74** – Authorizing participation in the Public Entities Partners Safety Partners matching grant program.

RESOLUTION 2023-74

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 14th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

j. **Resolution 2023-75** – Authorizing the application for the 2023 Downtown Improvement Grant with the Tennessee Department of Economic and Community Development.

RESOLUTION 2023-75

A RESOLUTION OF THE COUNCIL OF THE CITY OF CLEVELAND AUTHORIZING THE APPLICATION FOR A DOWNTOWN IMPROVEMENT GRANT

WHEREAS, Tennessee Main Street communities that have an active Design Committee are eligible for a grant from the Tennessee Department of Economic and Community Development (TNECD) for downtown improvements.; and

WHEREAS, grants of up to $300,000 will be awarded to organizations that can illustrate the need for improvements and the ability to execute an effective design plan for building facades, wayfinding signage, courtyard improvements, gateways, streetscapes, lighting and sound, and electric vehicle charging; and

WHEREAS, the City of Cleveland is designated as an accredited Main Street community, with an active Design Committee, eligible to apply for this grant opportunity; 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, the City of Cleveland has one million dollars ($1,000,000) in downtown beautification funds to leverage grant funds.

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

SECTION 1: The City of Cleveland is hereby authorized to submit an application and conduct administration for the 2023 Downtown Improvement Grant.

SECTION 2: The Mayor is authorized to sign documents necessary and appropriate to the letter of support, application, and administration of the grant.

SECTION 3: The City of Cleveland is further authorized to provide a sum to serve as a match for any funds provided by this grant.

SECTION 4: This Resolution shall take effect from and after its passage, the welfare of the City requiring it.

Adopted this 14th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

k. **Resolution 2023-76** - Approval of purchase agreement with Axon Enterprise, Inc for purchase of Tasers.

RESOLUTION 2023-76

WHEREAS, the Cleveland Police Department has received the attached quote and Master Services and Purchasing Agreement with Axon Enterprise Inc. for Tasers for the police department, and the Chief of Police is recommending that the City Council approve of the quote and agreement with Axon Enterprise Inc. for this purchase; and

WHEREAS, the City Council has reviewed the proposed quote and agreement, and now desires to accept the proposed agreement with Axon Enterprise Inc. and to further authorize the Mayor to execute the same on behalf of the City of Cleveland, along with any other documents which may be necessary to complete the purchase of these items for the Cleveland Police Department.

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 Axon Enterprise Inc. for the purchase described herein, and it further authorizes the Mayor to execute the quote and agreement on behalf of the City of Cleveland along with any other documents which may be necessary to complete the purchase of these items for the Cleveland Police Department. [On file in the City Clerk's Office.]

This 14th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

l. **Resolution 2023-77** - Approval of purchase agreement with Motorola Solutions, Inc for purchase of Aware Software to be used with the License Plate Reader and Avigilon Park Camera Systems.

RESOLUTION 2023-77

WHEREAS, City staff are recommending to the City Council that the City enter into the attached agreement with Motorola Solutions, Inc. for applications software and system components for license plate readers and park cameras which are being purchased with grant funds off a state contract, which separate state contract is also with Motorola Solutions, Inc.; and

WHEREAS, the City Council desires to approve of this agreement with Motorola Solutions, Inc. and to authorize the Mayor to execute the agreement on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with Motorola Solutions, Inc.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute this agreement on behalf of the City of Cleveland. [On file in the City Clerk's Office.]

This 14th day of August 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

m. **Resolution 2023-78** - Approval of a purchase agreement with Grayshift, LLC for data extraction software.

RESOLUTION 2023-78

WHEREAS, the Cleveland Police Department has received the attached quote from Grayshift LLC for software which will used to extract cell phone information as an investigatory tool; and

WHEREAS, the Chief of Police is recommending that the City Council approve of the quote and agreement with Grayshift LLC for this purchase; and

WHEREAS, the City Council has reviewed the proposed quote and agreement, and now desires to accept the proposed quote and agreement with Grayshift LLC and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement and quote with Grayshift LLC for the purchase described herein, and it further authorizes the Mayor to execute the quote and agreement on behalf of the City of Cleveland. [On file in the City Clerk's Office.]

This 14th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

n. **Resolution 2023-79** – Authorizing the Mayor to sign agreements with property owners and with the contractor for work to be provided related to the Downtown Improvement Grant.

RESOLUTION 2023-79

A RESOLUTION OF THE COUNCIL OF THE CITY OF CLEVELAND AUTHORIZING THE MAYOR TO SIGN AGREEMENTS FOR A DOWNTOWN IMPROVEMENT GRANT

WHEREAS, the City of Cleveland is the recipient of a 2022 downtown improvement grant from the State of Tennessee's Department of Economic and Community Development; and

WHEREAS, a single grant of twenty thousand dollars ($20,000) was awarded to the City on behalf of MainStreet Cleveland, with a twenty-five percent (25%) cash match to be paid by the property owner receiving the benefit of the grant; and

WHEREAS, the City of Cleveland wishes to formalize an agreement between the City, MainStreet Cleveland, and the property owner and an agreement with a contractor for the work to be performed.

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

SECTION 1: The Mayor is authorized to sign documents necessary and appropriate to in relation to the administration of the grant.

SECTION 2: This Resolution shall take effect from and after its passage, the welfare of the City requiring it.

Adopted this 14th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

o. **Resolution 2023-80** – Authorizing the Mayor to sign a purchase and sale agreement for hangar N-12 from Meridian 776KC, LLC as recommended by the Airport Authority.

RESOLUTION 2023-80

WHEREAS, at its meeting on August 2, 2023, the Cleveland Municipal Airport Authority (hereafter "Authority") voted to request the City Council approve of and provide funding for the purchase of a hangar at the Cleveland Regional Jetport from the current hangar owner, Meridian776KC LLC; and

WHEREAS, a copy of the draft minutes of the August 2, 2023, Authority meeting are attached to this Resolution for the City Council's consideration; and

WHEREAS, **Tennessee Code Annotated** 42-43-117 authorizes municipalities provide funding to a municipal airport authority for this type of purchase; and

WHEREAS, the proposed Purchase and Sale Agreement for the hangar is also attached hereto and incorporated herein by reference; and

WHEREAS, the City Council desires to accept the recommendation of the Cleveland Municipal Airport Authority and to purchase the hangar from Meridian776KC LLC, and to also approve of the attached agreement for the purchase of the hangar, and to further authorize the Mayor and the Chairman of the Authority to execute the agreement and any other documents which may be necessary or appropriate to complete the purchase of the hangar.

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 purchase of the hangar from Meridian776KC LLC.

BE IT FURTHER RESOLVED that the Mayor and the Chairman of the Authority are hereby authorized to execute the attached purchase and sale agreement for the hangar, and to also execute any other documents which may be necessary or appropriate to complete the purchase of the hangar. [On file in the City Clerk's Office.]

This 14th day of August 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

p. **Resolution 2023-85** – Authorizing the City Manager to take all necessary or appropriate steps to transfer all of the City's rights, title and interest in and all of the assets of Cleveland Utilities and the assumption of liabilities of Cleveland Utilities to the Cleveland Utilities Authority.

RESOLUTION 2023-85

A RESOLUTION AUTHORIZING THE CITY MANAGER TO TAKE SUCH FURTHER ACTIONS AS ARE NECESSARY TO THE CAUSE THE TRANSFER OF ASSETS OF CLEVELAND UTILITIES TO AND THE ASSUMPTION OF LIABILITIES OF THE CLEVELAND UTILITIES BY THE CLEVELAND UTILITIES AUTHORITY

WHEREAS, on April 10, 2023, the City Council of the City of Cleveland, Tennessee (the "City") authorized the formation of the Cleveland Utilities Authority (the "Authority") pursuant to the provisions the Tennessee Municipal Energy Authority Act, Tennessee Code Annotated Section 7-36-101, et seq. (the "Act"); and

WHEREAS, pursuant to the Act, the City Council is authorized to transfer all of the City's right, title and interest in and all of the assets of the City's electric, water, and wastewater operations, which does business as Cleveland Utilities or "CU," to the Authority; and

WHEREAS, as a condition of the transfer of the City's rights, title and interest in and all of the assets of CU to the Authority, the Authority must either retire all of the City's bonds associated with CU, defease all such bonds, or assume and agree to pay in full the principal of and interest on such bonds.

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

1. That the City Manager is hereby authorized to take all necessary or appropriate steps to transfer all of the City's rights, title and interest in and all of the assets of CU to the Authority, provided that as a condition to such transfer, the Authority must assume all liabilities of CU and must either retire all of the City's bonds associated with CU or must defease all such bonds, with all such assumptions, retirements and defeasances to become effective with the transfer of assets from the City to the Authority;

2. That the City Manager is hereby authorized to take such actions from time to time as are appropriate or necessary to transfer of assets of CU to and to cause the assumption of liabilities of CU by the Authority;

3. That the City Manager is hereby authorized to take such further actions and to execute such agreements, documents, or other agreements from time to time as may be necessary or appropriate to carry out the intent of this resolution; and

4. That, upon transfer of the assets of CU to the Authority and the Authority's assumption or satisfaction of all obligations of CU, the jurisdiction and control over such system shall be transferred to the Authority, and the Board of Directors of CU shall cease to exist.

ADOPTED this 14th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

q. **Resolution 2023-86** – Authorizing the Mayor to sign a grant contract with Tennessee Agriculture Enhancement Program (TAEP) Grant for community tree planting project.

RESOLUTION 2023-86

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. [On file in the City Clerk's Office.]

This 14th day of August, 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

r. **Reappointmen**t – *Utility Board* - Debbie Melton for an additional 4-year term to expire 06/2027.
s. **Reappointmen**t –*Utility Authority* - Debbie Melton for an additional 4-year term to expire 06/2027.
t. **Appointment** - *Airport Authority* – Mark Fidler for a 5-year term to expire September 2028.
u. **Motion** – Initiation of Inman Street Streetscape Project.

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **August 14, 2023**
RE: **Initiation of Inman Street Streetscape Project**

SUMMARY:
City staff is prepared to begin the construction of the streetscape and sidewalk widening on Inman Street from Broad Street to the Norfolk Southern bridge. This will include street trees, 10-foot sidewalks, street furniture, decorative crosswalks, etc

TDOT has approved the streetscape plan to narrow the street from 4 lanes to 3 lanes and will participate in in the project to pave the roadway when it is completed in Spring 2024. There have been multiple traffic engineers study this plan and they believe the traffic will function. However, the City's stated goal is to slow down the downtown traffic and make it a safer and pedestrian friendly walkway with 10-foot sidewalks. We believe it will cause some traffic light congestion in morning and evening commute times, but this can be mitigated with the new traffic light system currently being installed.

The City will eventually see a reduction of the through traffic that will be converted to 3rd Street with the construction of a bridge over the downtown railway. The City received a $33 million grant to construct a bridge over the railway.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends approval from the City Council of the City staff implementing the construction of streetscape and sidewalk widening on Inman Street from Broad Street to the Norfolk Southern Bridge. The Project will be completed before March 2024.

v. **Motion** – Approving the Emergency Repair process, if deemed necessary for repair of the concrete bridge rail at 20th Street/Keith Street.

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **August 14, 2023**
RE: **20th Street & Keith Street Emergency Bridge Repair**

SUMMARY:
On Wednesday, a motorist struck and severely damaged the 20th Street/Keith Street Bridge. We are still evaluating the damage where the side of the bridge was taken off by a car accident. This may be a situation to invoke our Emergency Repair process and bypass some of our bidding requirements that are allowed by our policy and state law.

We should know early this week on our options to repair.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City Manager recommends City Council approval of this item to allow the City Manager authority to invoke our Emergency Repair process if it deemed necessary for safety reasons.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Cassada stated Vice Mayor Johnson has been our Vice Mayor for 29 years. During the 29-years he has had several accomplishments, but it was brought to his attention recently that the 100 Black Men Golf Tournament is named after Avery Johnson, Sr. Vice Mayor Johnson stated yes, and he shot 16 under par.

Councilman Hughes thanked Kris Miller for his work on the Greenway Camera System. He understands the next component would start at Raider Drive and going north. He encouraged the City to do it. Also, the LPR's we are getting ready to launch and asked if they would be in the ingress of our City. Assistant Chief Smith stated they will be in different areas. We have 19 units and per the grant guidelines they have to be on State Routes. They are very specific on locations.

NEW BUSINESS AND ORDINANCES

a. **Ordinance 2023-26** – Abandoning a section of unopened right-of-way located between Pugh St. NE and Lang St NE (Planning Commission: Approved 7-0; 2 absent).

ORDINANCE 2023-26

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

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

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

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

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

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

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

Jacobsen

Beginning at an iron pin located at the southeast corner of the lands of Jacobsen, as recorded in BCROD deed book 2881 page 230, said point being the corner of an alley to be abandoned; thence south 23 degrees 17 minutes 16 seconds west, 7 feet to an iron pin located at the center of the alley; thence following the center of the alley north 65 degrees 37 minutes 4 seconds west, 118.35 feet to an iron pin; thence north 22 degrees 24minutes 56 seconds east, 7 feet to an iron pin; thence south 65 degrees 37 minutes 4 seconds east, 118.35 feet to the point of beginning.

Housing Authority

Beginning at an iron pin located at the southwest corner of the lands of Cleveland Housing Authority as record in BCROD deed book 1979 page 140, said point also being the northeast corner of Lang St and an alley; thence south 65 degrees 37 minutes 4 seconds east, 116.54 feet to an iron pin; thence south 22 degrees 24 minutes 56 seconds west, 7 feet to an iron pin; thence north 65 degrees 37 minutes 4 seconds west, 116.54 feet to an iron pin; thence north 24 minutes 56 seconds east, 7 feet to the point of beginning.

Forbes

Beginning at an iron pin located at the northwest corner of the lands of Zandra Forbes as recorded in BCROD deed book 2306 page 407, said point also being located at the southwest corner of the intersection of Lang St and an alley; thence north 22 degrees 24 minutes 56 seconds east, 7 feet to an iron pin; thence south 65 degrees 37 minutes 4 seconds east, 234.89 feet to an iron pin; south thence south 22 degrees 24 minutes 56 seconds west, 7 feet to an iron pin; thence north 65 degrees 37 minutes 4 seconds west, 234.89 feet to the point of beginning.

2. RETENTION OF EASMENTS: The City shall retain an easement to maintain access to public electric facilities as long as they remain in place.

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

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

5. EFFECTIVE DATE: This ordinance shall take effect from and after its passage on final reading and after the time that any parcel which does not currently have road frontage is re-platted to obtain the necessary frontage, 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 2023-26 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

b. **Zoning Ordinance 2023-29** – Concerning a request by Ava Castillo for consideration of an ordinance to rezone about 2.10 acres, more or less, located at 4020 N. Ocoee Street, from PI Professional Institutional to CN Commercial Neighborhood Zoning District and includes Tax Map 042G Group C Parcel 036.00 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-29

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, rezoned from PI Professional Institutional Zoning District to CN Neighborhood Commercial Zoning District.

Approximately 2.10 acres, more or less, located on Ocoee St. N as shown on the attached map.

For reference, the same property is being shown on a portion of Tax Map 042G Group C Parcel 036.00, 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 2023-29 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

c. **Zoning Ordinance 2023-30** – Concerning a request by Pleasant Grove Properties for consideration of an ordinance to amend PUD19 development standards which is located on Sunset Dr. and includes Tax Map 042P Group J Parcel 005.00 (Planning Commission: Approved 6-0; 1 recused, 2 absent).

ZONING ORDINANCE 2023-30

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 SUNSET DRIVE PROPERTY "PUD 19" ON PROPERTY DESCRIBED AS TAX MAP 42P GROUP J PARCELS 5.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 19; 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 19" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 19 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD19 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 19, Sunset Dr Property (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map42P Group J Parcel 5.00. Exhibit A illustrates the overall delineation of development areas for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of the Sunset Dr Property. It is proposed that Area A as shown in Exhibit A contains an existing building which has served as an educational facility since the early 1940's. It is the intent that this building and the area surrounding it may continue to be utilized for limited professional uses. The remaining area generally described as Area B in Exhibit A may be developed in future uses consistent with the existing R2 uses as described in Section 5 of this ordinance. The general development shall be consistent with the conceptual plan in Exhibit B in terms of layout, but the exact location and number of units will be approved through the site review or platting process.

Section 5. PERMITTED USES AND PROHIBITED USES.

5.A. PERMITTED USES

Area A

Uses allowed includes the following uses:

A. Professional offices;

B. Government offices;

D. Educational Institutions including pre-school, daycare, primary and secondary schools, colleges, and other higher education institutions;

E. Commercial or trade schools, such as dance studios, martial arts

studios, etc.

J. Uses permitted within the R2 Low Density Single and Multi-family Residential Zone

Area B

A. Uses permitted within the R2 Low Density Single and Multi-family Residential Zone

5.B. CONDITIONAL USES

There are no conditional uses within PUD19.

5.C. PROHIBITED USES

Any use not expressly permitted within this ordinance is permitted to operate within the boundaries of the PUD19 Ordinance.

Section 6. DEVELOPMENT AREAS AND RELATED REQUIREMENTS.

6.A. DEVELOPMENT AREAS.

Exhibit A identifies the areas within PUD19 Sunset Drive Property, which was reviewed by the Cleveland Municipal Planning Commission for consideration at their regular meeting May 15, 2018, which may allow commercial activity outlined in section 5. In no case shall any area larger than 1.35 acres of PUD19 be utilized for any commercial activity. All development within PUD19 must be consistent with Exhibit A with regards to the delineation of proposed uses and consistent with the conceptual plan shown Exhibit B in terms of general design and development layout. Additional plans, plats, and other development-related documents and permits will be necessary to carry out the construction of this project.

6.B. PLATS.

One or more plats may need to be prepared for the PUD19 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plats will describe and dedicate public streets any other public properties; identify lots; and identify easements that are necessary for various purposes within the development such as utilities, access, maintenance, and conservation, etc.

6.C. PRIVATE DEVELOPMENT DOCUMENTS.

The Developer shall prepare and implement such master covenants, restrictions, condominium association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 19 as permitted 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 19 to function as described herein. The City of Cleveland assumes no responsibility to review these documents, or to determine their adequacy to these purposes, or to enforce any of their provisions, or to otherwise be a party to them.

6.D. DETAILED SITE PLANS.

The Developer shall prepare and submit to the City of Cleveland, TN for approval by the Cleveland Municipal Planning Commission a master site plan for phase all future phases of development. These site plans shall indicate lot configurations, setbacks, structure types, streets, lanes, sidewalks, common areas, utility locations, etc. The information in the detailed site plan will be congruous with the plat developed for the lots and adjacent public street infrastructure and with the conceptual layout shown in Exhibit B. The content and level of detail of the site plan will be sufficient for City staff to determine compliance of the proposed development with this ordinance and any other applicable City ordinances.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD19 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 PI Professional Institutional Zoning District for any commercial uses and the R2 Low Density Single and Multi-family Residential Zoning District for residential areas as described in the City of Cleveland's zoning regulations.

Requirements of the City's adopted building codes, fire codes, stormwater regulations and other ordinances affecting the development, use, and maintenance of property shall apply.

7.A. BUILDING SETBACKS

Unless alternate setbacks are expressly approved by the Planning Commission no residential structure shall be located less than 15 feet from the front property line along Woodlawn Avenue when rear parking is included. If the garage is not included the front setback along Woodlawn Avenue shall be a minimum of 25 feet from the front property line. The side setback for structures facing Woodlawn Avenue off of McNabb Drive shall be a minimum of 15 feet.

Along McNabb Drive the front setback shall be a minimum of 25 feet from the front property line. No residential structures may be built to access Sunset Drive. Townhome style units are permitted with a zero-foot setback between units; however, end units shall maintain a 5-foot side separation between buildings within the PUD boundary. All other setbacks shall be a minimum of 10 feet.

Non-residential uses shall have a minimum setback of 30 feet along front property lines and 15 for the side and rear. Accessory structures may be within 5 feet from the side or rear setbacks for both area A and area B.

7.B. STORMWATER REQUIREMENTS.

All improvements must comply with any applicable state or federal law or regulation concerning stormwater or floodplain requirements. .

7D. SIGNAGE

No part of any sign shall be within 5'of any right-of-way. For non-residential uses, wall signs may be allowed for a size up to 25% of the size of any building elevation it is located on. No more than one (1) ground sign may be permitted in the non-residential area, and it shall be limited to monument style signage with no LED messaging permitted. No sign shall be located in such a way as to obstruct the view of traffic or create any safety hazard and is subject to approval of the City's Transportation Engineer. All other standards within the City's sign ordinance shall apply unless in direct conflict with this ordinance in which case this ordinance shall prevail.

7.D NOISE AND VIBRATION MITIGATION

Noise and vibrations are to be managed during the construction and operation phases of PUD19. During construction, construction-related noise, vibrations, and traffic in the PUD19zoning district shall be managed so as to not unduly interfere with the nearby residential uses. Developer, developer's heirs, or successors or assigns, and all contractors and subcontractors will promptly comply with any directive from City to manage construction-related noise, vibrations, and or traffic. Developer and all businesses in the PUD19 zoning district shall mitigate potential noise or vibration problems from the site by prompt compliance with any City request to adjust volume, frequency, time, or duration of any noise or vibration that the City determines would be bothersome to a reasonable person off-site. Developer and businesses in the PUD19 zoning district shall affirmatively manage all activities on the site so as to mitigate any noise or vibration that the City determines to likely be bothersome to reasonable person off-site. If after previous requests to Developer and/or any business located in the PUD19 zoning district concerning noise or vibrations, City determines that there is a continued persistent pattern of noise or vibration emanating from the PUD19 district, Developer and/or any business in the PUD19 zoning district must undertake specific appropriate management actions requested by City to mitigate the problem including, but not limited to, the following actions if applicable: reducing or eliminating outdoor music, private security to eliminate cruising or loitering on-site, etc.

7.E. HOURS OF OPERATION

Operation of any commercial activity shall be limited to no later than 9pm nor earlier than 6am.

7.F LIGHTING

The developer shall ensure that the exterior lighting of buildings, parking lots, signs, etc., demonstrates the buffering of adjacent residential areas, and the mitigation of glare or distraction for adjacent roadways. Outdoor lighting for parking and sidewalk areas are to minimize light intrusion into nearby residential areas; and other exterior lighting and lighted surfaces are to be designed so as to minimize shining or reflecting into the aforementioned residential areas. Exterior lighting will also be designed in a way that mitigates any glare that would be encountered by motorist on adjacent roadways. Where it is necessary to maintain lighting for security, this lighting will be designed such that escape of lighting onto adjoining residential property is minimized. Any new light poles located on site shall be no higher than 15' above grade.

7.G. ACCESS

In no circumstance shall any new accesses including driveways, public or private streets be constructed to provide access from Sunset Drive NW. This would not prohibit the closing, improvement or relocation of any existing driveway located in Area A. A two-foot grass strip shall be provided between the parking areas of each unit as shown in Exhibit B. Sidewalks shall be provided from the front doors of units along Woodlawn Avenue and McNabb Drive connecting to the public right-of-way.

7.H BUFFERING AND OPEN SPACE

A landscaped area not less than .25 (one quarter) acres in size, not including any detention area, shall be provided as a usable community space. A Type "B" buffer shall be planted on the eastern property line if the current row of tree's is removed or damaged. Community space may include parks, benches, picnic tables, playground equipment or similar amenities.

7.I. MISCELLANEOUS STANDARDS

Impervious areas shall comprise no more than 75% of the total site, regardless of any division of land, within the boundaries of PUD19 and a minimum of 25% of greenspace shall be provided. Parking for commercial uses shall be provided on each individual lot at a rate as prescribed in the Cleveland Zoning Ordinance unless deemed not necessary by the City's Transportation Engineer. Parking for any residential development shall be provided on each individual lot at a rate not less than 2 parking space per residential unit.

All residential structures shall have a minimum of 25% brick or stone on the front façade facing any public right-of-way. All driveways must be separated by a minimum 2' landscape strip. If units are to access directly on to McNabb Drive the developer shall improve the impacted section of road to current city standards.

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 19 The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion by the City's Building Official). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

Section 9. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a detailed 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 PUD19, an amendment to this ordinance is not required to implement such site plan, plat, or refinement to plans necessitated by permitting or review requirements, or agreement pertaining to public facilities, infrastructure, or services.

Section 10. BINDING UPON OTHERS.

This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD19 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass the current owner of record, any heirs, assigns, or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development.

Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

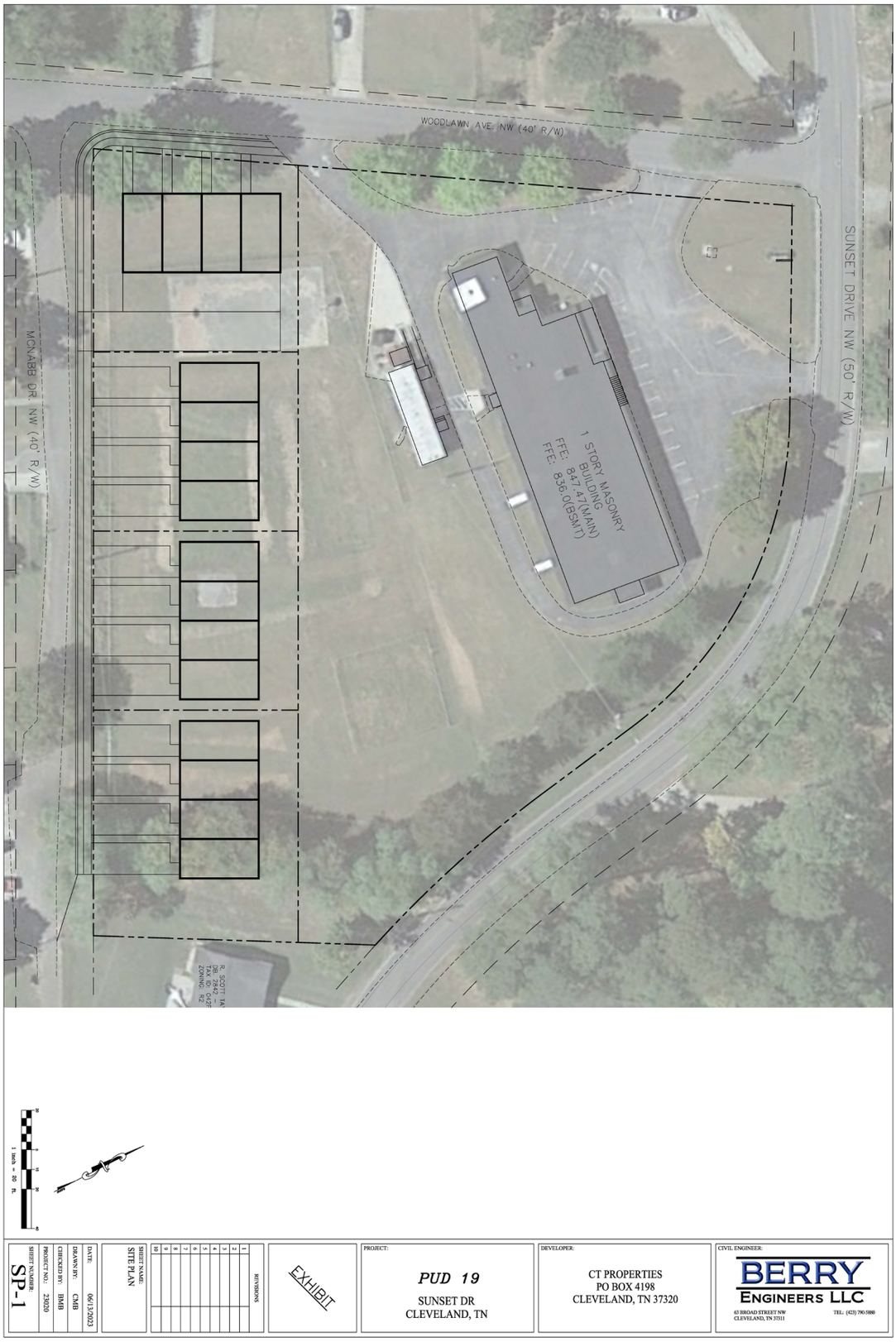
Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated

otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk



Councilman May moved that Zoning Ordinance 2023-30 be approved on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

d. **Zoning Ordinance 2023-31** – Concerning a request a request by B&J Properties for consideration of an ordinance to amend PUD41 to include 16 townhouses as an allowable use which is located at 443 Minnis Rd. and includes Tax Map 058 Parcels 025.02, 024.00, and 024.05 (Planning Commission: Approved 6-0; 1 recused, 2 absent).

ZONING ORDINANCE 2023-31

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 117 dwelling units in detached single-family houses and up to 16 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.
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.

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.

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 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 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 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 May moved that Zoning Ordinance 2023-31 be approved on first reading. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed. Councilman Estes stated his appreciation for attempting to save the home in the original PUD.

e. **Resolution 2023-81** – Concerning a request by Stuart Family Properties LLC for consideration of a Plan of Service for about 13 acres, more or less, for property located on Urbane Rd., and includes a portion of Tax Map 042 Parcel 058.00 (Planning Commission: Approved 6-0; 1 recused, 2 absent).

RESOLUTION 2023-81

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

URBANE RD. (Portion of 042 058.00)

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 14, 2023, 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 southeast corner of the lands of Kenneth and Cynthia Cisco, as recorded in BCROD deed book 2718 page 54, said point also being located in the western right of way of Urbane Road; thence north 66 degrees 4 minutes 41 seconds west, 627.75 feet to an iron pin; thence south 23 degrees 55 minutes 22 seconds west, 1047.86 to a point; thence crossing Hardwick Way south 23 degrees 55 minutes 22 seconds, 70 feet more or less, to the point where the line intersects the southern right of way of Hardwick Way; thence with the southern right of way of Hardwick Way in a northeasterly direction, 640 feet, more or less, to a point, said point being the southwest corner of the intersection of Hardwick Way and Urbane Road; thence crossing Hardwick Way with the western right of way of Urban Road 95 feet, more or less, to the northwest corner of the intersection of Hardwick Way and Urbane Road; thence north 24 degrees 23 minutes 49 seconds east, 439.98 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

JULY 18, 2023
URBANE RD. (Portion of 042 058.00)
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 13 acres located on Urbane Rd. as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2023.

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.

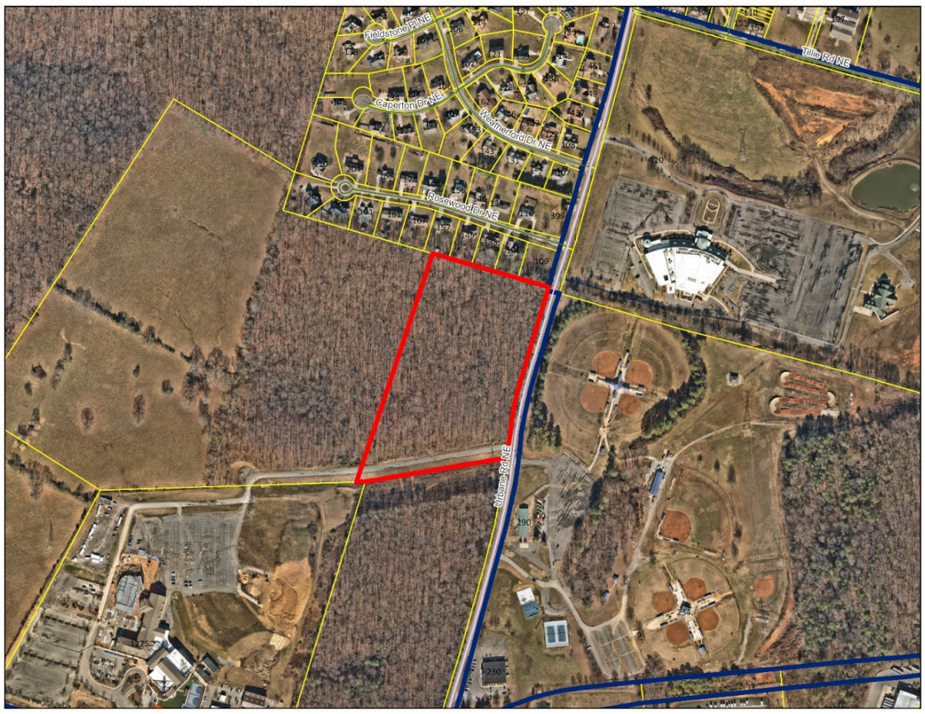
Introduction

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

The annexation consists of a portion of one parcel. The annexation would zone the property as a Planned Unit of Development (PUD). The property is described as Tax Map 042 Parcel 058.00.

Urbane Rd. Map



Legal Description

Beginning at an iron pin located at the southeast corner of the lands of Kenneth and Cynthia Cisco, as recorded in BCROD deed book 2718 page 54, said point also being located in the western right of way of Urbane Road; thence north 66 degrees 4 minutes 41 seconds west, 627.75 feet to an iron pin; thence south 23 degrees 55 minutes 22 seconds west, 1047.86 to a point; thence crossing Hardwick Way south 23 degrees 55 minutes 22 seconds, 70 feet more or less, to the point where the line intersects the southern right of way of Hardwick Way; thence with the southern right of way of Hardwick Way in a northeasterly direction, 640 feet, more or less, to a point, said point being the southwest corner of the intersection of Hardwick Way and Urbane Road; thence crossing Hardwick Way with the western right of way of Urban Road 95 feet, more or less, to the northwest corner of the intersection of Hardwick Way and Urbane Road; thence north 24 degrees 23 minutes 49 seconds east, 439.98 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 could service this area immediately with our existing Stations without any noticeable impact to the budget.

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

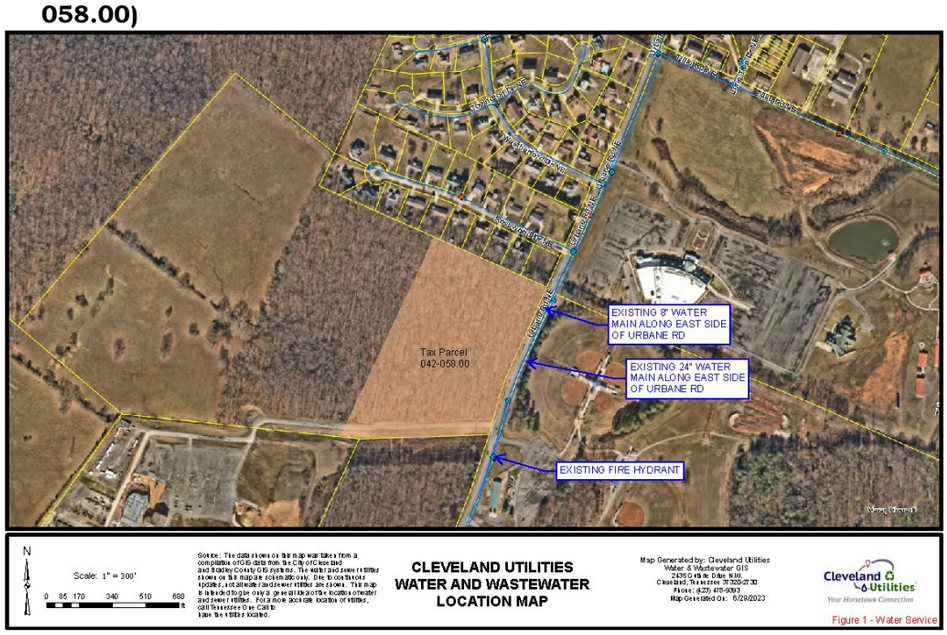
A. Domestic Water---Domestic water service is presently available to this parcel via an 8” water main along the east side of Urbane Road. See Figure 1 – Water Service.

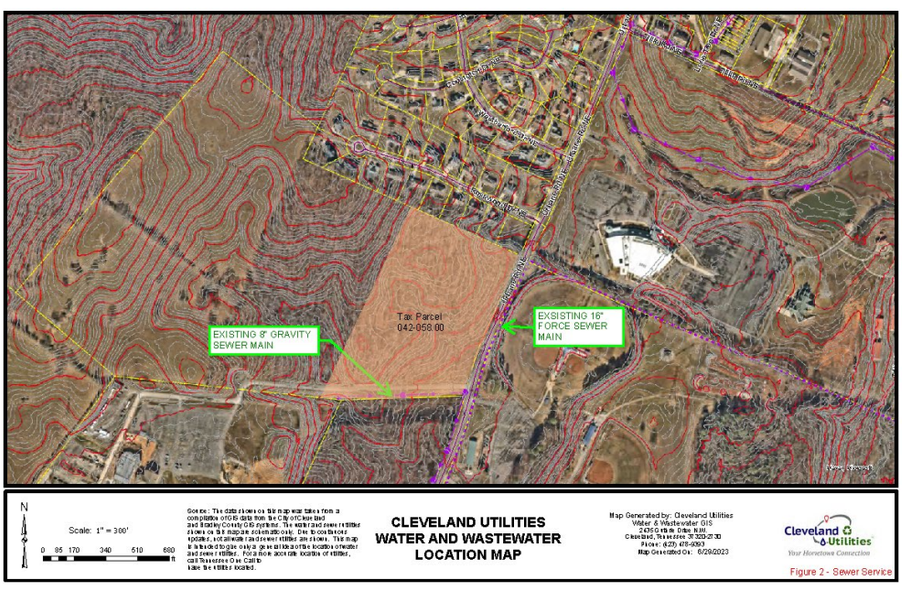
B. Sanitary Sewer—Sewer service is presently available to this parcel via an 8” gravity sewer main along the south side of the parcel. See Figure 2—Sewer Service.

C. Fire Protection—There is an existing fire hydrant 120’ south of the parcel along Urbane Road. See Figure 1 – Water Service.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Urbane Rd. (Part of 042 058.00)	**$0**	**$0**	**$0**	**$0**





4. Electric Service

Cleveland Utilities Electric Division has existing facilities in place to serve the proposed annexation with no issues.

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 the 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

This will cost the city school system approximately $52,735 annually and add 54 school age children to the district. This annexation is in the Yates and E.L. Ross Elementary School Zone.

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 as PUD Planned Unit of Development 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 350 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 developments 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.

Revenue

The total income from annexation would result in approximately **$144,288.75** in property tax revenue.

Councilman Hughes moved that Resolution 2023-81 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

f. **Resolution 2023-82** – Concerning a request by Stuart Family Properties LLC for consideration of a resolution to annex about 13 acres, more or less, for property located on Urbane Rd., and includes a portion of Tax Map 042 Parcel 058.00 (Planning Commission: Approved 6-0; 1 recused, 2 absent).

RESOLUTION 2023-82

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

URBANE RD. 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 14, 2023.

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 southeast corner of the lands of Kenneth and Cynthia Cisco, as recorded in BCROD deed book 2718 page 54, said point also being located in the western right of way of Urbane Road; thence north 66 degrees 4 minutes 41 seconds west, 627.75 feet to an iron pin; thence south 23 degrees 55 minutes 22 seconds west, 1047.86 to a point; thence crossing Hardwick Way south 23 degrees 55 minutes 22 seconds, 70 feet more or less, to the point where the line intersects the southern right of way of Hardwick Way; thence with the southern right of way of Hardwick Way in a northeasterly direction, 640 feet, more or less, to a point, said point being the southwest corner of the intersection of Hardwick Way and Urbane Road; thence crossing Hardwick Way with the western right of way of Urban Road 95 feet, more or less, to the northwest corner of the intersection of Hardwick Way and Urbane Road; thence north 24 degrees 23 minutes 49 seconds east, 439.98 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. [Exhibit with Resolution 2023-81 in Minutes]

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 Webb moved that Resolution 2023-82 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

g. **Zoning Ordinance 2023-32** – Concerning a request by Stuart Family Properties LLC for consideration of an ordinance to zone about 13 acres more or less, located on Urbane Road from unincorporated county to PUD46 Planned Unit of Development Zoning District and includes a portion of Tax Map 042 Parcel 058.00 (Planning Commission: Approved 6-0; 1 recused, 2 absent).

ZONING ORDINANCE 2023-32

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-URBANE "PUD 46" ON PROPERTY DESCRIBED AS A PORTION OF TAX MAP 042 PARCEL 058.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 46; 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 46" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 46 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 46 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 46, Hardwick Farms-Urbane (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as a portion of Tax Map 042 Parcels 058.00. Exhibit A illustrates the overall Hardwick Farms-Urbane 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-Urbane. The project consists of townhomes homes, detached single family homes, and duplexes with central common areas. Exhibits B & C shows the general location of proposed infrastructure and common areas. In terms of total allowable density, the project shall not exceed 140 total units. The common open space designed within the development may include any permanent retention or detention pond areas or landscaped common area.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 46 Subdivision allows for the construction of up to 140 residential units without amending this ordinance. 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 46 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 Hardwick Farms-Urbane development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit B & C 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 46 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 (Exhibits B) for PUD46, Hardwick Farms-Urbane was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on July 18, 2023. 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 PUD46 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 Hardwick Farms-Urbane may ultimately reflect some alteration in the conceptual plan such as the exact location of each specific feature within the development. 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 PUD46 shall be constructed with adequate ROW to accommodate the installation of sidewalks where shown on the conceptual plan, which shall be installed at the expense of the developer and/or home builder. In general, a 40' - 45' right of way is acceptable for all public roads within the PUD except where parking is on the street. Where on-street parking is included, the right of way shall be 50'. Private drives may be contained in narrower easements or private right of way and must include a cul-de-sac or turnaround acceptable to the city Traffic engineer.

6.B. PLATS.

One or more plats will be prepared for the PUD46 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. Townhomes may be platted with frontage onto a private drive in lieu of a public street. The private drive shall contain an access easement allowing for shared use by the townhomes that it abuts.

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 46 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 46 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 PUD46 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 and townhouse regulations from the subdivision ordinance. 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 Lot Size & Setbacks

The minimum lot width for detached single family homes is 50' except that a maximum of 20 lots may be reduced to 46'. The minimum setback requirements for all structures are 30' from Urbane Road, front setback is 25 feet, side setback is 5 feet, and rear setback is 15 feet. The front setback may be reduced to 20' for the side yard of corner lots and for units with side or rear yard parking/driveways. No setback is required for shared walls of townhouse units. Storage sheds and similar accessory structures, if allowed by the Development restrictions, 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 development restrictions, are to maintain the required setbacks for the primary structure. Open patios and decks may extend to within 10 feet of a rear property line. The guidelines for approval of a minor encroachment as established within the Cleveland Zoning Ordinance may be utilized to establish variations in setbacks subsequent to any Planning Commission approvals.

Section 7.B Sidewalks, Common Area, & Amenities

1. Sidewalks shall be provided on one side of all new streets within the subdivision, where shown on the conceptual plan. Sidewalks shall be provided along the property frontage of Urbane Rd and Hardwick Way.
2. All utilities shall be placed outside of the street except for required crossings, any crossing shall be approved by the City.
3. The minimum open space provided shall be a minimum of 1.0 acres. A portion of the open space shall be easily accessible and usable by the residents.
4. A centralized cluster mailbox unit shall be provided, if required by the United States Postal service, and shall include a minimum of two off-street parking spaces.
5. Central dumpsters shall be utilized in lieu of individual trash cans and shall be placed in areas accessible to all units.
6. Additional parking shall be provided as on street parking for the townhouses and additional spots in coordination with the mail kiosk.
7. A monument style ground sign shall be installed at each entrance to the site.

7.C Miscellaneous Standards

1. The exterior façades of all structures shall be comprised of brick, stone, or fiber cement board materials (no vinyl siding except for accents such as soffits & fascia). All foundations shall be brick or stone.
2. Residential buildings must 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. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.
3. Townhomes with front driveways shall have a garage.
4. A minimum of two parking spaces per dwelling units is required.
5. A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed at the property lines between freestanding buildings. Front driveways/parking areas shall be separated by a minimum of one 3' planted landscape strip (not grass or stone).
6. Attempts shall be made to preserve existing trees along the perimeter of the development however, the city tree preservation requirements are not otherwise applicable. A Type B buffer is required along the single-family homes to the north or a 6' wooden screen fence may be used to reduce the required buffer plantings by 50%.
7. A landscape berm no smaller than 2.5' in height shall be installed along Urbane Road to provide privacy and to maintain a high-quality appearance. This berm shall include various trees and shrubs.

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 PUD46 Hardwick Farms-Urbane. 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 PUD46, 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.

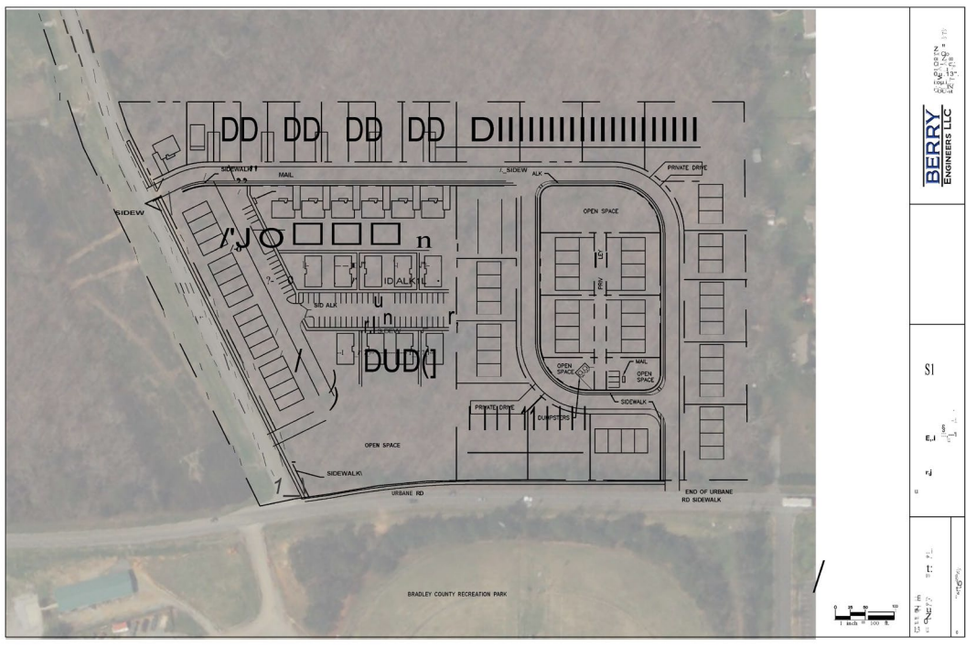
Section 10. BINDING UPON OTHERS. This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD46 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass the current owner 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 Hughes moved that Zoning Ordinance 2023-32 be approved on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

h. **Resolution 2023-83** – Concerning a request John and Joan Gilliland for consideration of a plan of service for about 29.66 acres, more or less, for property located at Waterlevel Highway and includes a portion of Tax Map 058K Group F Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-83

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

WATERLEVEL HIGHWAY (Portion of 058K F 001.00)

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 14, 2023, 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 Travis Nicholas, as recorded in BCROD deed book 2648 page 110, said point also being located in the western right of way of Durkee Road; thence in a northerly direction with the western right of way of Durkee Road 990 feet, more or less, to the southwest corner of the intersection of Durkee Road and Waterlevel Highway; thence crossing Waterlevel Highway in a northwesterly direction 266 feet, more or less, to the southwest corner of the lands of VR & L Rentals (map 58F group E parcel 014.00), as recorded in BCROD deed book 2755 page 882, said point also being a corner of the existing City Limits; thence in an easterly direction with the existing City Limits 747 feet, more or less, to the southeast corner of the lands of Ocoee Marine Specialty Inc, as recorded in BCROD deed book 303 page 923, said point also being a corner of the existing limits; thence leaving the existing City Limits and crossing the right of way of Waterlevel Highway in a southwesterly direction with the same bearing as the eastern line of the lands of Ocoee Marine Specialty 250 feet, more or less, to a point where the line intersects the southern right of way of Waterlevel Highway; thence with the southern right of way of Waterlevel Highway in a southeasterly direction 866 feet, more or less to the northeast corner of the lands of John M & Joan Gilliand, as recorded in BCROD deed book 2330 page 873; thence with the eastern line of the lands of Gilliand in a southwesterly direction 244 feet, more or less, to the southwest corner of the lands of Mary Fason, as recorded in BCROD deed book 1865 page 249; thence continuing with the eastern line of the lands of Gilliand in a northwesterly direction 35 feet, more or less, to the northwest corner of the lands of Larry and Joann Cavett, as recorded in BCORD deed book 1016 page 207; thence with the eastern line of the lands of Gilliand in a southwesterly direction 307 feet, more or less, to the southwest corner of the lands of Thomas Clarke Taylor, as recorded in BCROD deed book 2557 page 538; thence in a southeasterly direction with the southern line of the lands of Taylor 26 feet, more or less, to the northeast corner of the lands of Edwina Dasher, as recorded in BCROD deed book 1230 page 52; thence with the western line of the lands of Dasher in a southwesterly direction 140 feet, more or less, to a point were the western line of the lands of Dasher intersects the Urban Growth Boundary; thence in s northwesterly direction with the Urban Growth Boundary 1470 feet, more or less, to a corner in the Urban Growth Boundary; thence continuing with the Urban Growth Boundary in southwesterly direction 149 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

JULY 18, 2023
WATERLEVEL HIGHWAY (Portion of 058K F 001.00)
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 29.66 acres located on Waterlevel Highway 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 2023.

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

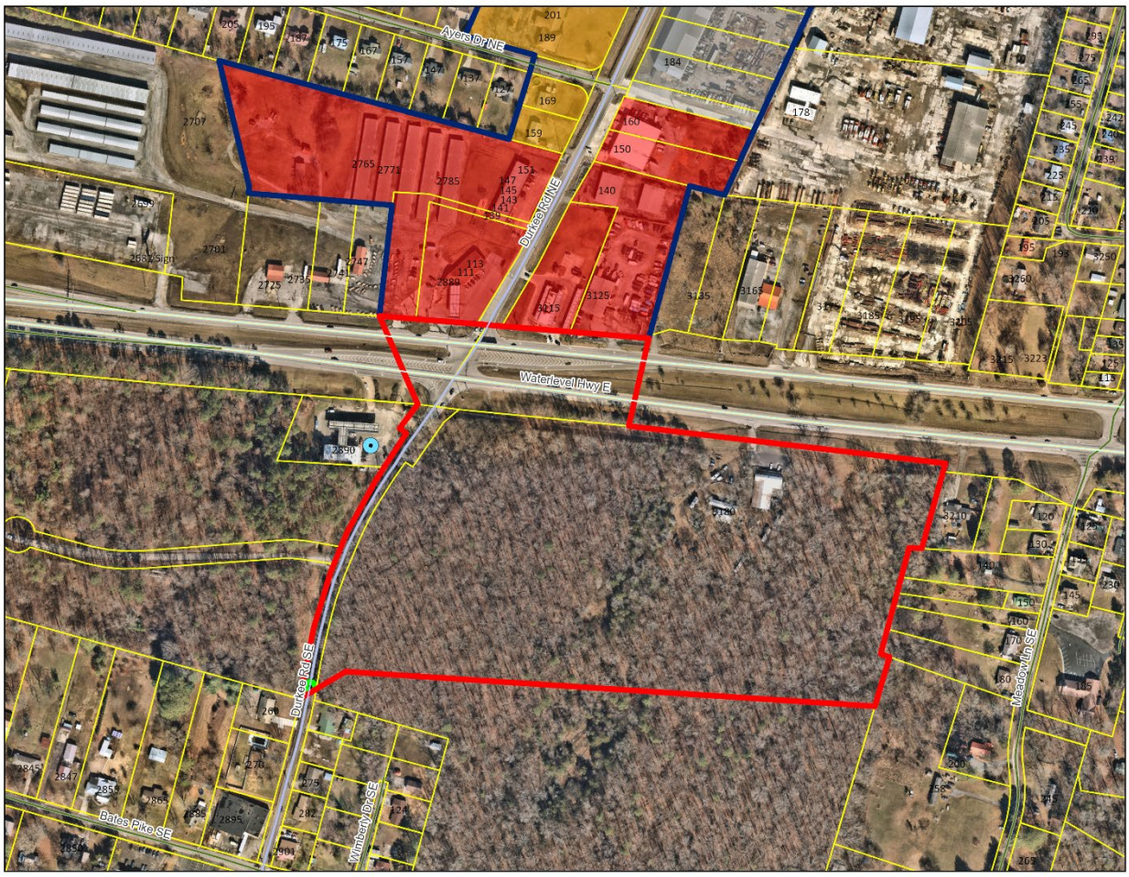
Public Chapter 1101 (PC 1101), adopted as Tennessee law in 1998, required cities to work cooperatively with other local governments to determine an urban growth boundary (UGB) in which annexations could occur. Cleveland has a twenty-nine square mile UGB that was based on a study of urbanization and service 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 includes “Plan of Services” (POS) prior to annexation and these services must include: police and fire protection: water, electrical and

sanitary sewer services; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning services. Public Chapter 225 adopted by the Tennessee General Assembly and signed by Governor Bredesen on June 2, 2003, amended TCA 6-51-102 to include impact on school attendance zones.

The annexation consists of a portion of one parcel. The annexation would zone the property as CH Highway Commercial. The property is described as a portion of Tax Map 058K Group F Parcel 001.00.

Forrest Ave. Map



Legal Description

Beginning at the northeast corner of the lands of Travis Nicholas, as recorded in BCROD deed book 2648 page 110, said point also being located in the western right of way of Durkee Road; thence in a northerly direction with the western right of way of Durkee Road 990 feet, more or less, to the southwest corner of the intersection of Durkee Road and Waterlevel Highway; thence crossing Waterlevel Highway in a northwesterly direction 266 feet, more or less, to the southwest corner of the lands of VR & L Rentals (map 58F group E parcel 014.00), as recorded in BCROD deed book 2755 page 882, said point also being a corner of the existing City Limits; thence in an easterly direction with the existing City Limits 747 feet, more or less, to the southeast corner of the lands of Ocoee Marine Specialty Inc, as recorded in BCROD deed book 303 page 923, said point also being a corner of the existing limits; thence leaving the existing City Limits and crossing the right of way of Waterlevel Highway in a southwesterly direction with the same bearing as the eastern line of the lands of Ocoee Marine Specialty 250 feet, more or less, to a point where the line intersects the southern right of way of Waterlevel Highway; thence with the southern right of way of Waterlevel Highway in a southeasterly direction 866 feet, more or less to the northeast

corner of the lands of John M & Joan Gilliand, as recorded in BCROD deed book 2330 page 873; thence with the eastern line of the lands of Gilliand in a southwesterly direction 244 feet, more or less, to the southwest corner of the lands of Mary Fason, as recorded in BCROD deed book 1865 page 249; thence continuing with the eastern line of the lands of Gilliand in a northwesterly direction 35 feet, more or less, to the northwest corner of the lands of Larry and Joann Cavett, as recorded in BCORD deed book 1016 page 207; thence with the eastern line of the lands of Gilliand in a southwesterly direction 307 feet, more or less, to the southwest corner of the lands of Thomas Clarke Taylor, as recorded in BCROD deed book 2557 page 538; thence in a southeasterly direction with the southern line of the lands of Taylor 26 feet, more or less, to the northeast corner of the lands of Edwina Dasher, as recorded in BCROD deed book 1230 page 52; thence with the western line of the lands of Dasher in a southwesterly direction 140 feet, more or less, to a point were the western line of the lands of Dasher intersects the Urban Growth Boundary; thence in s northwesterly direction with the Urban Growth Boundary 1470 feet, more or less, to a corner in the Urban Growth Boundary; thence continuing with the Urban Growth Boundary in southwesterly direction 149 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 Stations without any noticeable impact to the budget.

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

A. Domestic Water---Domestic water service is presently available to this parcel, via a 6" water main along the west side of Durkee Road. See Figure 1 – Water Service.

B. Sanitary Sewer—Sewer service is presently not available to this parcel. To provide sewer to this parcel, approximately 700 LF of 2" – 4" force sewer main should be installed, size determined by consultant. The proposed force main will connect into a future 8" gravity sewer main that is currently under construction. The maximum capacity of the new force main will be approximately **200** gpm. This maximum flow is the maximum flow from all parcels south of Waterlevel Highway flowing into the existing gravity sewer main along Durkee Road. To provide sewer service to the parcel, the Opinion of Probable Cost is $129,200. The sewer force main can be completed within 8 years. See Figure 2 – Sewer Service.

C. Fire Protection—There is an existing fire hydrant 60' west and an existing fire hydrant 480' southwest of the parcel along Durkee Road. See Figure 1 – Water Service.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
3180 Waterlevel Hwy (058K F 001.00)	**$0**	**$129,200**	**$0**	**$129,200**

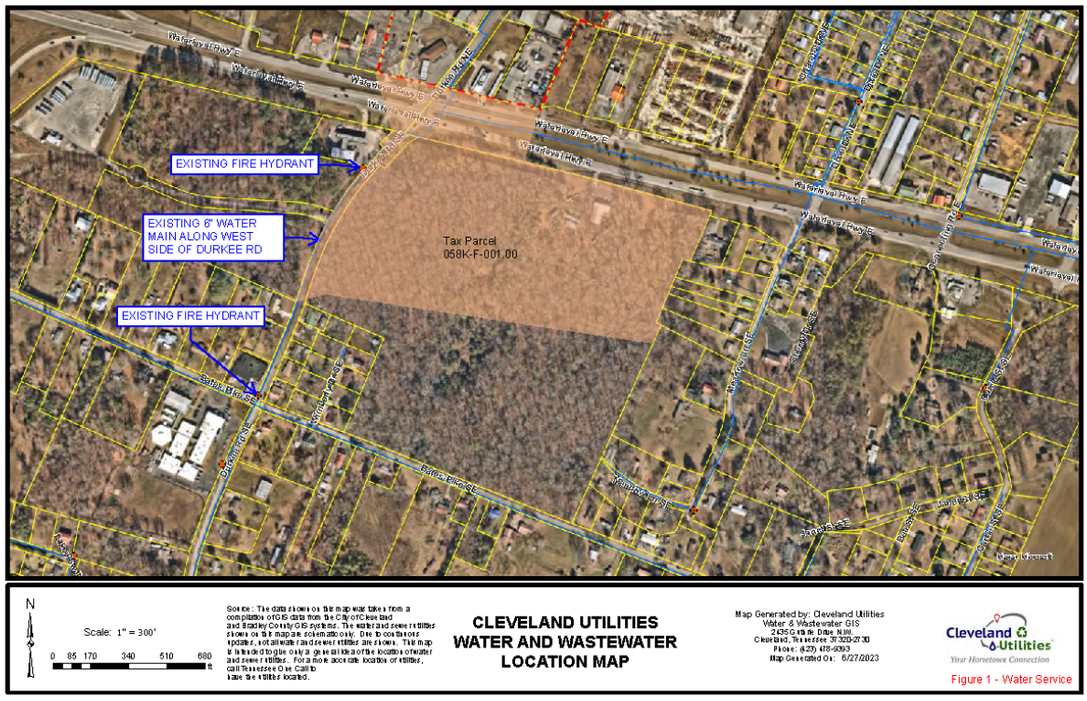


Figure 1 - Water Service

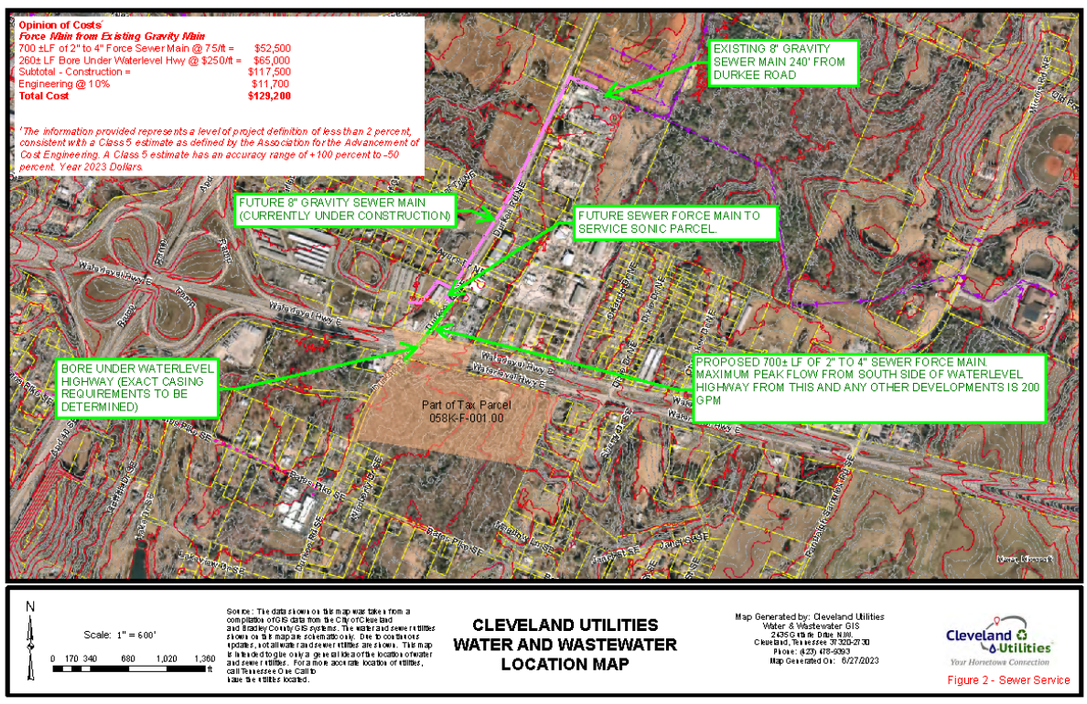


Figure 2 - Sewer Service

4. **Electric Service**
   Cleveland Utilities electric division has existing facilities in place to serve the proposed annexation with no issues.

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 the 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**

This will cause no impact to the City School System.

7. **Planning and Zoning**

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

B. This property is currently zoned FAR Forestry/Agricultural/Residential Zoning in the unincorporated County. The property is proposed as CH Highway Commercial 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 0 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.

Revenue

The total income from annexation would result in approximately **$44, 125.00** in property tax revenue.

Vice Mayor Johnson moved that Resolution 2023-83 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

Councilman Estes asked to revisit Zoning Ordinance 2023-32, as what was in the packet was different than what was approved by Planning Commission. Mr. Kimball stated the Ordinance in the packet is what you voted on. Mr. Fivas stated the intent would be to follow the recommendation of the Planning Commission. Let's give staff time to obtain the minutes to compare and we can address it at the end of the meeting.

i. **Resolution 2023-84** – Concerning a request by John and Joan Gilliland for consideration of a resolution to annex about 29.66 acres, more or less, of property located at Waterlevel Hwy and includes a portion of Tax Map 058K Group F Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-84

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

WATERLEVEL HIGHWAY 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 14, 2023.

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 Travis Nicholas, as recorded in BCROD deed book 2648 page 110, said point also being located in the western right of way of Durkee Road; thence in a northerly direction with the western right of way of Durkee Road 990 feet, more or less, to the southwest corner of the intersection of Durkee Road and Waterlevel Highway; thence crossing Waterlevel Highway in a northwesterly direction 266 feet, more or less, to the southwest corner of the lands of VR & L Rentals (map 58F group E parcel 014.00), as recorded in BCROD deed book 2755 page 882, said point also being a corner of the existing City Limits; thence in an easterly direction with the existing City Limits 747 feet, more or less, to the southeast corner of the lands of Ocoee Marine Specialty Inc, as recorded in BCROD deed book 303 page 923, said point also being a corner of the existing limits; thence leaving the existing City Limits and crossing the right of way of Waterlevel Highway in a southwesterly direction with the same bearing as the eastern line of the lands of Ocoee Marine Specialty 250 feet, more or less, to a point where the line intersects the southern right of way of Waterlevel Highway; thence with the southern right of way of Waterlevel Highway in a southeasterly direction 866 feet, more or less to the northeast corner of the lands of John M & Joan Gilliand, as recorded in BCROD deed book 2330 page 873; thence with the eastern line of the lands of Gilliand in a southwesterly direction 244 feet, more or less, to the southwest corner of the lands of Mary Fason, as recorded in BCROD deed book 1865 page 249; thence continuing with the eastern line of the lands of Gilliand in a northwesterly direction 35 feet, more or less, to the northwest corner of the lands of Larry and Joann Cavett, as recorded in BCORD deed book 1016 page 207; thence with the eastern line of the lands of Gilliand in a southwesterly direction 307 feet, more or less, to the southwest corner of the lands of Thomas Clarke Taylor, as recorded in BCROD deed book 2557 page 538; thence in a southeasterly direction with the southern line of the lands of Taylor 26 feet, more or less, to the northeast corner of the lands of Edwina Dasher, as recorded in BCROD deed book 1230 page 52; thence with the western line of the lands of Dasher in a southwesterly direction 140 feet, more or less, to a point were the western line of the lands of Dasher intersects the Urban Growth Boundary; thence in s northwesterly direction with the Urban Growth Boundary 1470 feet, more or less, to a corner in the Urban Growth Boundary; thence continuing with the Urban Growth Boundary in southwesterly direction 149 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. [Exhibit with Resolution 2023-83 in Minutes]

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 2023-84 be accepted as presented. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

j. **Zoning Ordinance 2023-33** – Concerning a request by John and Joan Gilliland for consideration of an ordinance to zone about 29.66 acres, more or less, for property located on Waterlevel Highway from unincorporated county to CH Highway Commercial Zoning District and includes a portion of Tax Map 058K Group F Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-33

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, rezoned from FAR Zoning District CH Highway Commercial Zoning District.

Approximately 29.66 acres, more or less, located on Waterlevel Highway as shown on the attached map.

For reference, same property is being shown on a portion of Tax Map 058K Group F 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.

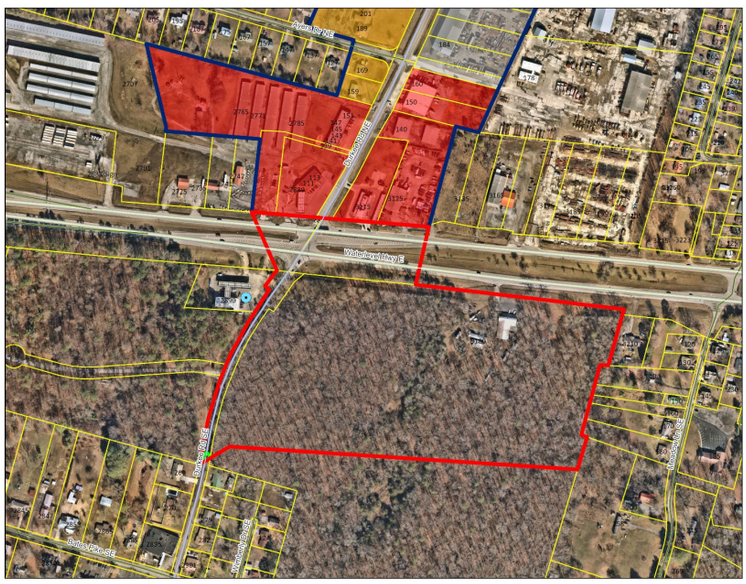
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Zoning Ordinance 2023-33 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

k. **Discussion of Ordinance 2023-34** – Concerning a request by the City of Cleveland for consideration of an ordinance to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, by adding Chapter 13 to Title 14 Zoning and Land Use Control, to provide regulations for short term rentals.

Mr. Varnell stated this ordinance will require a permit fee, business license, paying the hotel/motel tax, and requires inspection at time of the permitting for life safety related items. There are certain conditions, like the space they will be renting. This will also address nuisance issues, provides detailed processes for staff and revocation by public hearing and vote by the Council. It gives the city a resource to identify and protect surrounding residential properties. Councilman May asked about other municipalities. Mr. Varnell stated Chattanooga has amended their ordinance several times, locations, specific zoning. This particular ordinance was originally drafted by the City of Collegedale. He is not aware of smaller cities doing this due to lack of volume we are experiencing. Typically, it is tied to a specific zone, trying to regulate where you can do it as opposed to any zone works but here are the caveats you have to meet. Councilman May stated in the historical zoning you can't have a Bed and Breakfast, but you can have a short-term rental. Mr. Varnell stated there should be caveats that done allow these in the historic zone, but we just don't know, and this ordinance will help us identify them. Councilman Estes stated there are several in the historic district. In reading the ordinance it mentions violation of a generally applicable local law three times, but why not just one or two. Mr. Kimball responded it is in the State law as three times, and you can't be more restrictive than State law. Councilman Estes stated it helps to explain we are mirroring State law. Councilman May stated since this is in Zoning, it needs to go before the Planning Commission. Mr. Kimball stated yes. Councilman Estes stated he would like to send this to Planning Commission to start the process. Councilman Webb asked if the online vendors are cooperative. Mr. Varnell stated yes, some more than others but we will push for a partnership. We are currently building a database of locations as well. Mr. Kimball added short-term rental marketplaces are required to submit the occupancy tax directly to the Department of Revenue. We have tried to obtain a list, but it is reported in a lump sum. Councilman Estes asked if staff felt VRBO and Airbnb were on their way out. Mr. Varnell stated no, they are adapting to the regulations. Mayor Brooks stated this item will be referred to the Planning Commission.

l. **Ordinance 2023-35** – Amending the Cleveland Municipal Code Title 5, Chapter 7, Hotel/Motel Tax, Section 5-703, to amend the rate from 4% to 3.5%.

ORDINANCE 2023-35

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, AMENDING TITLE 5, CHAPTER 7, SECTION 5-703 OF THE CLEVELAND MUNICIPAL CODE RELATING TO THE RATE OF THE CITY'S HOTEL/MOTEL TAX

WHEREAS, the City Council desires to amend Section 5-703 of the Cleveland Municipal Code.

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

Section 1. That Title 5, Chapter 7, Section 5-703 of the Cleveland Municipal Code be amended to read as follows:

5-703 Levy of Tax Authorized. The City Council of the City of Cleveland does hereby levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of three-point five percent (3.5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter.

Then, on July 1, 2025, the City Council of the City of Cleveland does hereby automatically increase the levy a privilege tax upon the privilege of occupancy by 0.5% which would bring the total in any hotel of each transient in the amount of four percent (4%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter.

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 2023-35 be approved on first reading. The motion was seconded by Councilman Cassada. Councilman Estes asked for the breakdown of the tax. Mr. Fivas stated the corridors on I-75, the city rates, not combined, Johnson City is 7%, Kingsport is 7%, Chattanooga is 4%, Athens is 4%, Bristol is 5%, Lenior City is 5%, Dalton is 7%, those are the municipalities rates. County rates, Bradley, which is the second highest in the State at 7% and Cumberland is 7.5%. Combined City/County rates, Greenville is 11%, and seventeen cities at 10% like Lenior City, Collierville, Hixson, Fayetteville, etc. Councilman Estes stated aren't the Hoteliers asking the wrong people for a break. Councilman Estes offered a substitute motion that our rates drop a half percent based upon the County dropping their rate a half percent or more. The motion fails for lack of a second. He then stated we are the lowest city rate. Councilman Cassada stated he has been approached by builders that we are the highest in the State. Mr. Fivas stated we are tied for the highest and with the passage of this ordinance we would not be anymore. Mayor Brooks stated the motion on the floor is to approve Ordinance 2023-35 on first reading. Upon roll call, Councilman May, Councilman Cassada, Vice Mayor Johnson, Councilman Hughes, and Councilwoman McKenzie voted aye. Councilman Estes and Councilman Webb voted no. The motion carries 5-2.

m. **Motion** – Approving staff to proceed with publishing a special notice concerning annexation by referendum and to set a public hearing for September 25 to begin the approval process.

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **August 14, 2023**
RE: **Annexation by Referendum Process & Set a Public Hearing**

SUMMARY:
The City will begin a new process that will be used annually for the annexation of properties that lie outside of our growth boundary. This is an annual process that is used in many Tennessee cities.

The Council needs to take two actions to begin this process:

1) Give staff approval to publish a special notice requesting interest in property owners that would like to annex their property into the City or for property owners to annex and receive sewer and broadband service from Cleveland Utilities Authority.

2) Set a Public Hearing for September 25th to begin the approval process.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends to the City Council to give staff approval to publish a special notice requesting interest in property owners that would like to annex their property into the City or for property owners to annex into the City and receive sewer and broadband service from Cleveland Utilities Authority and set a Public Hearing for September 25th to begin the approval process.

Mr. Fivas stated he would like to clarify where we are in the process. He then reviewed the step-by-step best practice process from MTAS on annexation by referendum. We are currently at Step 1. Identify properties to be annexed. This is to put it out there we are looking for who would want to be considered for annexation. Step 2. Prepare an annexation report or plan of service, doing so would give a better understanding of the impact of services and funding. This is where Cleveland Utilities will say, if you do this it will cost this much, along with other City departments. We will supply all this data for people who may want to come into the City Council to review. This is pre-exploratory. Step 3. You would then adopt an exploratory annexation by referendum resolution to further investigate the annexation prospect and direct the Planning Commission to review and make recommendations on the proposed plan of service. Between now and September we are doing 1-3 steps. We have not committed to anyone or hopefully we haven't given anyone any sense of security. We will bring back, if there is anybody, and go forward with additional steps. Councilman Estes stated we can also do annexation by owner consent. We don't have to by voting. We already have people coming to us, without ever going to ballot. Mr. Kimball stated provided it is within the Urban Growth Boundary. Mr. Varnell stated yes, it has to be within the Urban Growth Boundary to do owner's consent. There are two different laws. Councilman Estes stated they are in the same bucket here and don't make a distinction. Mr. Kimball stated correct, it does read that way, but it is two different laws. Councilman May moved to approve the process outlined in the memo. The motion was seconded by Councilman Webb. Councilman Estes asked if non-resident owners allowed to vote in the referendum. Mr. Kimball replied yes, if you are an owner in the annexation area, you have a right to vote. The effective people/owners have a right to vote. We can look into it further. Upon roll call, the motion unanimously passed.

Mayor Brooks stated Councilman Estes asked to rediscuss Zoning Ordinance 2023-32. Mr. Varnell stated the Planning Commission minutes have been reviewed and the recommendation included striking 7b regarding grilling and pavilion area. Secondly, 6a that the 50' right-of-way be moved to 40' and 45' for on street parking. The language in the ordinance has a small error. Councilman Estes asked about long-term ownership. Mr. Varnell stated yes, it will be a different developer for townhomes and the small cottage homes that can't be subdivided, but if it could be could they sell it off. It will impact the others. Councilman Estes asked Mr. Berry if he was kosher with what the Planning Commission approved. Mr. Berry stated yes. There was a part of the PUD, regardless of ownership, required the homeowner association to have commonly maintained. Mr. Kimball stated the ordinance will be correct for final reading by Mr. Varnell to clarify 40' and 45' for on street parking.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. The next City Council meeting will be held on Monday, August 28, 2023.

ADJOURNMENT

There being no further business, Mayor Brooks adjourned the meeting at 4:38 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
AUGUST 28, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, AUGUST 28, 2023 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; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Assistant Police Chief Stacy Smith; Interim Fire Chief Rock Eulo; Bryan Turner, Assistant Development Director; Kris Miller, IT Director; Gideon Ratcliff with Mix104.1; Cathy Andrews, CDBG Coordinator; Doug Berry with the Chamber of Commerce; Milan Blake; Christine and Aiden Williams; David Goodwill; Mackenzie Colston; Luke Sizemore; Tom ames Morgan; Allen Ledford; Towo Oni; Warbrit Lowery; Kim Brooks with Lee University; John Thomason; Edna Swafford; Dustin Tommey 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

Councilman Estes moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on August 14, 2023 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 welcomed Ms. Shari Tayloe, District Attorney General of the Tenth Judicial District to today's meeting. Ms. Tayloe thanked the City Council and stated she wanted to introduce herself to everyone. She grew up in Bradley County and the community is very important to her. Governor Bill Lee appointed her on July 17, 2023, which she appreciates his confidence in her. Ms. Tayloe and her staff are looking forward to continuing the great working relationship with the Cleveland Police Department.

Mayor Brooks asked if anyone else would like to address the Council. No one spoke.

HEARING PETITIONS AND COMMUNICATIONS

There were no hearing petitions and communications.

CONSENT AGENDA

Mayor Brooks stated the Consent Agenda was presented during the Work Session. City Manager Joe Fivas removed Resolution 2023-92, regarding the travel policy for additional review. 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.

a. **Final Passage - Ordinance 2023-26** – heretofore passed on first reading August 14, 2023 and found in Minute Book 31, Page 252; Abandoning a section of unopened right-of-way located between Pugh St. NE and Lang St NE (Planning Commission: Approved 7-0; 2 absent).

b. **Final Passage - Zoning Ordinance 2023-29** – heretofore passed on first reading August 14, 2023 and found in Minute Book 31, Page 254; Concerning a request by Ava Castillo for consideration of an ordinance to rezone about 2.10 acres, more or less, located at 4020 N. Ocoee Street, from PI Professional Institutional to CN Commercial Neighborhood Zoning District and includes Tax Map 042G Group C Parcel 036.00 (Planning Commission: Approved 7-0; 2 absent).
c. **Final Passage - Zoning Ordinance 2023-30** – heretofore passed on first reading August 14, 2023 and found in Minute Book 31, Page 255; Concerning a request by Pleasant Grove Properties for consideration of an ordinance to amend PUD19 development standards which is located on Sunset Dr. and includes Tax Map 042P Group J Parcel 005.00 (Planning Commission: Approved 6-0; 1 recused, 2 absent).
d. **Final Passage - Zoning Ordinance 2023-31** – heretofore passed on first reading August 14, 2023 and found in Minute Book 31, Page 263; Concerning a request a request by B&J Properties for consideration of an ordinance to amend PUD41 to include 16 townhouses as an allowable use which is located at 443 Minnis Rd. and includes Tax Map 058 Parcels 025.02, 024.00, and 024.05 (Planning Commission: Approved 6-0; 1 recused, 2 absent).
e. **Resolution 2023-87** – Authorizing the future purchase of cameras for the Greenway Camera Project through the Master Intergovernmental Cooperative Agreement #230202.

RESOLUTION 2023-87

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE SECURITY SYSTEM PRODUCTS AND SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT #230202, 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 #230202, 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 #230202, 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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

f. **Resolution 2023-88** – Authorizing the Mayor to sign a grant contract with the Tennessee Department of Intellectual and Developmental Disabilities for an adult changing table for the restroom at the Civitan Inclusive Park.

RESOLUTION 2023-88

WHEREAS, the City has received the attached grant contract from the Tennessee Department of Intellectual and Developmental Disabilities for an adult changing table for the restroom at the Civitan Inclusive Park located near George R. Stuart Elementary School; and

WHEREAS, City staff anticipate that the City will have the opportunity to receive additional grant contracts from the Tennessee Department of Intellectual and Developmental Disabilities for additional adult changing tables to be used at other City facilities; and

WHEREAS, the City Council desires to enter into the attached grant contract with the Tennessee Department of Intellectual and Developmental Disabilities for an adult changing table for the restroom at the Civitan Inclusive Park located near George R. Stuart Elementary School, and to further authorize the Mayor to execute this contract on behalf of the City of Cleveland; and

WHEREAS, the City Council also desires to authorize City staff to pursue additional grant contracts with the Tennessee Department of Intellectual and Developmental Disabilities for additional adult changing tables to be used at other City facilities, up to a maximum of five (5) additional grant contracts, and to further authorize the Mayor to execute these additional grant contracts on behalf of the City of Cleveland once received by City staff.

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 the Tennessee Department of Intellectual and Developmental disabilities for an adult changing table for the restroom at the Civitan Inclusive Park located near George R. Stuart Elementary School, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

BE IT FURTHER RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby also approve of and authorize City staff to pursue additional grant contracts with the Tennessee Department of Intellectual and Developmental Disabilities for additional adult changing tables to be used at other City facilities, up to a maximum of five (5) additional grant contracts, and to further authorize the Mayor to execute these additional grant contracts on behalf of the City of Cleveland once received by City staff. [on file in the City Clerk's Office.]

This 28th day of August 2023.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

g. **Resolution 2023-89** - Accepting Pearson Lane (approximately 1,230 LF in length) in the Quail Ridge Development as a city street.

RESOLUTION 2023-89

WHEREAS, Quail Ridge subdivision is a development located in the City of Cleveland; and

WHEREAS, Quail Ridge subdivision is shown on a final plat recorded in the Bradley County Register of Deeds office at Plat Book 36 Page 88; and

WHEREAS, Pearson Lane is a street located within this subdivision and is depicted on this Plat; and

WHEREAS, the developer has requested that the City accept Pearson Lane as a City street; and

WHEREAS, the City's engineering staff is recommending that Pearson Lane be accepted 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 Pearson Lane (approximately 1230 linear feet in length) as a City street.

This 28th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

h. **Resolution 2023-90** - Accepting Brookebridge Court (approximately 320 LF in length) in the Brooke Bridge Development as a city street.

RESOLUTION 2023-90

WHEREAS, Brooke Bridge subdivision is a cluster home development located in the City of Cleveland; and

WHEREAS, Brooke Bridge subdivision is shown on a final plat recorded in the Bradley County Register of Deeds office at Plat Book 33 Page 38; and

WHEREAS, Brookebridge Court is a street located within this subdivision and is depicted on this Plat; and

WHEREAS, the developer has requested that the City accept Brookebridge Court as a City street; and

WHEREAS, the City's engineering staff is recommending that Brookebridge Court be accepted 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 Brookebridge Court as a City street.

This 28th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

i. **Resolution 2023-91** – Authorizing the Mayor to sign an agreement with Thompson Engineering related to Culvert Replacement Projects.

RESOLUTION 2023-91

WHEREAS, the City has received the attached contract from the Thompson Engineering for culvert replacements and improvements at Inman Street and 12th Street; and

WHEREAS, the City Council desires to enter into the attached contract with Thompson Engineering for these project(s) 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 with Thompson Engineering for these project(s) and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [on file in the City Clerk's Office.]

This 28th day of August 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

j. **Reappointment** – *Airport Authority* - Ben Chandler for an additional 5-year term to expire 9/2028.
k. **Motion** – Declaring a 2005 F450 truck as surplus property for the Public Works Department and to be sold on GovDeals.
l. **Resolution 2023-93** – Amending the Authorized Positions List for FY2024 Budget.

RESOLUTION 2023-93

A RESOLUTION TO AMEND THE AUTHORIZED POSITIONS LIST FOR THE FY2024 BUDGET

WHEREAS, the City Council of the City of Cleveland has previously established and adopted the FY2024 City Budget; and

WHEREAS, the City Budget contains the "Authorized Employees By Fund, Department, and Position Classification"; and

WHEREAS, the City Manager is recommending that the City Council approve a change in the authorized positions as set forth in the City Manager's memorandum to the Mayor and City Council dated August 25, 2023 which is attached hereto; and

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 86 through 89 of the FY2024 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 28th day of August, 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

TO: **Mayor and City Council**

FROM: **Joe Fivas, City Manager**

DATE: **August 28, 2023**

RE: **Modification of Authorized Positions**

SUMMARY:

Recently, the Cleveland Police Department applied for and received two competitive grants for grant resources for approximately $2 million. Using these grants and moving to 12-hour shifts, Chief Gibson, in coordination with myself, have been reorganizing the Police Department to further meet our needs in fighting crime, to address our homeless issues, and to utilize more technology in our service delivery.

One of these grants is the 'Violent Crime Initiative Grant' which pays for three additional positions at the Police Department. The changes to the 'Authorized Positions List' is the further implementation of this grant. For the next two years, grant funding will pay for the majority of these positions. The new position details are as follows:

1) **CIT Officer (Crisis Intervention): (301)** This officer will be assigned to a specialty unit with a mental health co-responder. This team will fucus specifically on the homeless population and begin a database with information on the population. In addition, the CIT officer will work toward building rapport with the unhoused individuals and conducting assessments to employe resources based on metal health needs ahead of time as a proactive measure to prevent violent crimes.

2) **Crime Analyst: (114)** Will be assigned to support investigators and officers on existing cases, interpreting data into actionable information to help law enforcement intervene on crime patterns, trends, series, hot spots, and long-term problems.

3) **Community Relations Officer: (301)** Will be assigned to focus on prevention based educational programs based on crime data types and geographic area. The officer will also address problems arising from problems arising between the City, the Department, and all segments of our community. They will also establish groups and educate the public on violent crime prevention.

I am proposing changes to the Parks & Recreations Department 'Authorized Position List' to assist in significantly improving our Recreation Programming. Our recreational goals are to move from our approximately 2,000 registrations for recreation programs to over 5,000 registrations within the next year. In order to achieve this goal, I am recommending changes that do not add any additional recreation positions to our current total in the City.

Furthermore, these changes will also allow us to create a ten-person Facilities Maintenance Team which will oversee all facilities within the City. This will include parks maintenance, greenway maintenance, downtown maintenance, and City building maintenance.

COMMITTEE FINDINGS:

No Committee or Board action.

FISCAL ANALYSIS:

N/A

RECOMMENDATION:

These changes result in three additional positions for CPD and changes for the Parks & Recreation and Facilities Maintenance does not create any additional funded positions.

City staff recommends the following changes which would take effect on September 8, 2023:

Create CIT Officer (Crisis Intervention) position (301): This officer will be assigned to a specialty unit with a mental health co-responder. This team will fucus specifically on the homeless population and begin a database with information on the population. In addition, the CIT officer will work toward building rapport with the unhoused individuals and conducting assessments to employe resources based on metal health needs ahead of time as a proactive measure to prevent violent crimes.

Create position of Crime Analyst (113): Will be assigned to support investigators and officers on existing cases, interpreting data into actionable information to help law enforcement intervene on crime patterns, trends, series, hot spots, and long-term problems.

Create position of Community Relations Officer (301): Will be assigned to focus on prevention based educational programs based on crime data types and geographic area. The officer will also address problems arising from problems arising between the City, the Department, and all segments of our community. They will also establish groups and educate the public on violent crime prevention.

Recreation Coordinator (College Hill & South Cleveland CC) moves from Level 105 to Level 109: When we increased the compensation and raised all of our employees to at least $15 an hour, we recreated a compaction issue in the Parks & Recreation Department where Recreation Coordinator's are at the same salary level as Recreation Assistant's. With the modification of the 'Authorized Position List', the Recreation Coordinator's will move from level 105 to level 109.

Facility Services Coordinator moves from a Level 111 to 114: In order to develop our new Facility Maintenance Team. The supervision of this position increases from two employees to nine employees.

Create title of Facilities Maintenance I at Level 105: Two Public Service positions in the DES department will change titles, and three Public Service employee transfers from the Parks & Recreation Department will have this title.

Create title of Facilities Maintenance II at Level 107: Four MEO I (Level 107) positions currently in the Parks & Recreation Department will change title to Facilities Maintenance II position, and will report to the Facilities Maintenance Team.

Eliminate position of Parks Facilities Maintenance Coordinator at Level 111: This position will be given employment opportunity within the City.

Eliminate position of Recreation Program Manager at Level 113: This position will be given employment opportunity within the City.

Eliminate two positions of Public Service Worker in Parks & Recreation at Level 105:

Eliminate one position of Public Service Worker/Maintenance at Level 105:

Change title of Recreation Aquatic Coordinator to Aquatics & Recreation Coordinator at Level 111. This position reports to Director of Parks & Recreation.

Change title of Parks Operations Manager (Level 117) to Turf & Fields Manager (Level 114). No pay change associated with this level change.

Change title of Grounds Specialist (Level 107) to Turf & Fields Specialist at Level 107: No pay change associated with this title change.

Create two Athletic Coordinator position at Level 109. This position reports to Director of Parks & Recreation.

Create one Sports Tourism & Event Coordinator position at Level 109. This position reports to Director of Parks & Recreation.

Create one Recreation Marketing Coordinator position at Level 109. This position reports to Director of Parks & Recreation.

Modify Director of Parks & Recreation to Level 122. No pay change associated with this level change.

Modify Assistant Director of Parks & Recreation to Level 120. No pay change associated with this level change. (unfunded)

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilwoman McKenzie had no report at this time.

Councilman Estes had no report at this time.

Councilman Cassada asked for an update on projects behind the Freddy's on Paul Huff Parkway (Callen Lane NW). Mr. Jobe stated currently there are plans for a dentist office and a hotel. Councilman Cassada inquired about a hotel behind Chick Fil-A. Mr. Jobe stated yes, that has plans for a Hilton hotel. Councilman Cassada then stated he received a call concerning Campbell Cove and asked for it to be placed on the upcoming paving list. Lastly, he announced September 14 at 5:30 p.m. at Candy's Creek Elementary School will be the 3rd District Community meeting.

Councilman May had no report at this time.

Councilman Hughes had no report at this time.

Councilman Webb had no report at this time.

Vice Mayor Johnson inquired about the updated street lighting on Inman Street and how far east would it go. Mr. Fivas replied at least to Gaut Street, with sidewalks and streetscaping.

NEW BUSINESS AND ORDINANCES

a. **Ordinance 2023-34** – Amending Title 13 of the Cleveland Municipal Code to create a new Chapter 5 titled Cleveland Land Bank Authority, which will create a Land Bank Corporation in accordance with TCS 13-30-101.

ORDINANCE NO. 2023-34

AN ORDINANCE TO AMEND TITLE 13 OF THE CLEVELAND MUNICIPAL CODE TO CREATE A NEW CHAPTER, 5 TITLED "CLEVELAND LAND BANK AUTHORITY" WHICH WILL CREATE A LAND BANK CORPORATION IN ACCORDANCE WITH TENNESSEE CODE ANNOTATED § 13-30-101 ET SEQ.

WHEREAS, Tennessee Code Annotated § 13-30-101 et seq. establishes the Tennessee Local Land Bank Program which authorizes municipalities and counties meeting certain requirements to establish a program creating a corporation with authority to operate a land bank for real property; and

WHEREAS, the City of Cleveland, Tennessee, meets the requirements set forth by Tennessee Code Annotated § 13-30-104 to establish a land bank program; and

WHEREAS, the City of Cleveland desires to establish a program by creating a land bank corporation to provide a tool to support economic revitalization through returning vacant, abandoned and tax-delinquent properties to productive use; and

WHEREAS, the City Council of the City of Cleveland hereby indicates its willingness to appropriate sufficient funds to provide for the initial administration of the corporation in accordance with Tennessee Code Annotated § 13-30-104(b)(2).

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

Section 1. Title 13, Property Maintenance Regulations of the Code of Ordinances of the City of Cleveland, Tennessee, is hereby amended by creating a new Chapter 5, to be titled "Cleveland Land Bank Authority", which new chapter shall read as follows:

CHAPTER 5

CLEVELAND LAND BANK AUTHORITY

Section 13-501 Legislative Authority
Section 13-502 Findings
Section 13-503 Creation
Section 13-504 Board of Directors
Section 13-505 Meetings, Quorum, Majority Vote, Officers, Rules and Regulations, Removal, Compensation, Organization, Minutes, Report, Audit.
Section 13-506 Powers
Section 13-507 Taxation
Section 13-508 Real Property, Inventory List
Section 13-509 Conveyance of Property
Section 13-510 Priorities for the Use of Real Property in the Land Bank
Section 13-511 Appeal Procedure
Section 13-512 Dissolution

Section 13-501. Legislative Authority.

The City of Cleveland meets all requirements of, and is therefore authorized by, Tennessee Code Annotated § 13-30-104(a)(1) to establish a program by creating a land bank corporation in accordance with the provisions of the Tennessee Local Land Bank Program

(Tennessee Code Annotated § 13-30-101 et seq.).

Section 13-502. Findings.

The Cleveland City Council finds and declares as follows:

(1) There is a need to strengthen and revitalize the economy by solving the problems of vacant, abandoned, and tax-delinquent real property and to foster the development of such property and promote economic growth.

(2) Disinvestment in real property results in a significant amount of vacant and abandoned real property which represents lost revenue to the city and high costs associated with demolition, as well as spreading neighborhood deterioration.

(3) A land bank can be an effective tool to facilitate the return of vacant, abandoned and tax-delinquent real properties to productive use, thereby supporting economic revitalization.

(4) There is a need for a land bank to function within the jurisdictional boundaries of the City of Cleveland.

Section 13-503. Creation.

The Cleveland Land Bank Authority is hereby created pursuant to the authority of the Tennessee Local Land Bank Program set forth in Tennessee Code Annotated § 13-30-101 et seq. By such statue, the Cleveland Land Bank Authority has authority to create a land bank for real property located within the boundaries of Cleveland.

For purposes of this chapter, “land bank” means real property, however obtained, or acquired and held by the Cleveland Land Bank Authority, with the intent of acquiring and holding onto the real property so acquired until such time as the corporation is able to find a willing and able buyer to acquire the real property from the corporation.

(Tennessee Code Annotated § 13-30-101 et seq., Tennessee Code Annotated § 13-30-107)

Section 13-504. Board of Directors.

(1) Number and Qualifications of Directors. The Cleveland Land Bank Authority’s Board of Directors shall consist of five (5) directors, one of which shall be a member of the Cleveland City Council. All directors shall be electors and taxpayers in the City of Cleveland. Preference may be given to people in the following fields: banking, real estate, and legal.

(Tennessee Code Annotated § 13-30-105)

(2) Appointment of Directors. Directors shall be appointed by the City Council.

(3) Terms of Directors. The City Council member shall serve until expiration of his or her current term of office on City Council. Of the remaining directors first appointed, two (2) directors shall serve through December 31, 2025, and two (2) shall serve through December 31, 2026, and thereafter the term of office shall be three (3) years commencing on January 1. In case of resignation, death, or removal from office, another appointment will be made to finish out the unexpired term of office. Directors shall continue to serve beyond the end of the director’s term until the director’s successor has been appointed.

(Tennessee Code Annotated § 13-30-105)

Section 13-505. Meetings, Quorum, Majority Vote, Officers, Rules and Regulations, Removal, Compensation, Organization, Minutes, Report, Audit.

(1) Meetings. The board shall meet in regular session according to a schedule adopted by the board, and shall also meet in special session as convened by the chairman or upon written notice signed by a majority of the members.

(Tennessee Code Annotated § 13-30-106)

(2) Quorum. The presence of a majority of the total board membership constitutes a quorum for the transaction of any business.

(Tennessee Code Annotated § 13-30-106)

(3) Majority Vote. Unless a greater number or percentage is required by state law, the affirmative vote of a simple majority of the directors present and voting at any meeting at which a quorum is present shall be the action of the corporation.

However, no action of the board shall be authorized on the following matters unless approved by a majority of the total board membership:

(i) Adoption of bylaws and other rules and regulations for conduct of the business of the corporation;

(ii) Hiring or firing of any employee or contractor of the corporation; however, this function may be delegated by majority vote of the total board membership to a specified officer or committee of the corporation under such terms and conditions and to the extent specified by the board;

(iii) The incurring of debt;

(iv) Adoption or amendment of the annual budget; and

(v) Sale, lease, encumbrance, or alienation of real property, improvements, or personal property with a value of more than Fifty thousand dollars ($50,000.00)

(vi) Vote by proxy is not permitted. Any member may request a recorded vote on any resolution or action of the board.

(Tennessee Code Annotated § 13-30-106)

(4) Officers, Duties. At the first meeting each year, the board of directors shall select from among themselves a chairman, a vice chairman, a treasurer, and such other officers as the board may determine, and shall establish their duties as may be regulated by rules adopted by the board.

(Tennessee Code Annotated § 13-30-106)

(5) Rules and Regulations, Removal of Member by Board. The board of directors shall establish rules and regulations relative to the attendance and participation of members in its meetings, regular or special. No rules or bylaws may contravene state law. Such rules and regulations may prescribe a procedure whereby, should any member fail to comply with such rules and regulations, such member may be disqualified and removed automatically from office by no less than a majority vote of the remaining members of the board, and that member’s position shall be vacant as of the first day of the next calendar month. Any person removed under the provisions of this subsection shall be ineligible for reappointment to the board unless such reappointment is confirmed unanimously by the board.

(Tennessee Code Annotated § 13-30-106, Tennessee Code Annotated § 13-30-107)

(6) Removal of Member by City Council. Any citizen or group of citizens upon collection of a petition having a clearly worded purpose, of at least twenty (20) verified signatures of qualified, registered City of Cleveland voters may present to City Council a resolution calling for the removal of any board member. The City Council shall have the power, upon timely and due consideration of the citizen petition and a response from the board, to remove or retain the cited board member by simply majority vote. Removal from the board of directors of any public official shall not, in and of itself, impair the public official in his or her other duties.

(Tennessee Code Annotated § 13-30-106)

(7) Compensation. Board members serve without compensation.

(Tennessee Code Annotated § 13-30-106)

(8) Organization. Board members have the power to organize and reorganize the executive, administrative, clerical, and other departments of the corporation and to fix the duties, powers, and compensation of all employees, agents, and consultants of the corporation. The board may reimburse any member for expenses actually incurred in the performance of duties on behalf of the corporation.

(Tennessee Code Annotated § 13-30-106).

(9) Minutes. The board of directors shall cause minutes and a record to be kept of all its proceedings and such records shall be available for timely public inspection.

(Tennessee Code Annotated § 13-30-112, Tennessee Code Annotated § 13-30-107)

(10) Open Meetings. All meetings shall be open to the public with appropriate notice published in accordance with Tennessee Code Annotated § 13-30-107(d).

(Tennessee Code Annotated § 13-30-112)

(11) Annual Report. An annual report shall be filed with City Council, containing a detailed financial accounting of the corporation’s debt obligations, income (sources and amounts), properties, dispositions, expenditures, acquisitions, contracts (executed and pending within the next ninety (90) days), significant activities, and other data as required by the organizational bylaws and governance documents. This annual report shall be maintained on file for audit purposes and immediately available to the Department of Audit in the Office of the Comptroller of the Treasury upon request. Additionally, all such reports shall be available for public inspection.

(Tennessee Code Annotated § 13-30-112)

(12) Annual Audit. An annual audit shall be made of the books and records of the corporation. A copy of the audit shall be filed annually with the City Council.

(Tennessee Code Annotated § 13-30-112(c) and (e))

Section 13-506 Powers.

The Cleveland Land Bank Authority has all powers as set forth in the Tennessee Local Land Bank Program except as limited by this chapter.

(Tennessee Code Annotated § 13-30-101 et seq.)

Section 13-507 Taxation.

By Tennessee Code Annotated § 13-30-104 the Cleveland Land Bank Authority is performing a public function on behalf of the City and is a public instrumentality of the City. Accordingly, the Cleveland Land Bank Authority and all properties of the corporation, including all properties held in the name of the corporation in the land bank, at any and all times owned by it, and the income and revenues from the properties are exempt from all taxation in the State of Tennessee.

Section 13-508 Real Property, Inventory List.

The Cleveland Land Bank Authority shall hold in its own name all real property acquired by the corporation for the land bank irrespective of the identity of the transferor of such property. The Cleveland Land Bank Authority shall comply with the provisions of Tennessee Code Annotated § 13-30-111 which includes, but is not limited to, maintenance of an inventory for all real property held by the corporation, and establishment of terms and conditions for consideration to be received by the corporation for property transfers.

Section 13-509 Conveyance of Property.

The Cleveland Land Bank Authority may convey, exchange, sell, transfer, lease as lessee, grant, release and demise, pledge and hypothecate any and all interests in, upon or to real property of the land bank. All land bank properties shall be sold or leased at fair market value.

(Tennessee Code Annotated § 13-30-111(d))

Section 13-510 Priorities for the Use of Real Property in the Land Bank.

The City Council is authorized by Tennessee Code Annotated § 13-30-111(e) to establish a hierarchical ranking of priorities for the use of real property conveyed to the Cleveland Land Bank Authority as part of the land bank. The City Council may establish such priorities by resolution.

Section 13-511 Appeal Procedure.

The City Council hereby establishes the following appeal procedure for any person aggrieved by the decision of the Cleveland Land Bank Authority with respect to real property proposed for acquisition or acquired by, held, and disposed of by the Cleveland Land Bank Authority.

The Building Board of Adjustment and Appeals shall act as the appeals committee required by Tennessee Code Annotated § 13-30-118 and all procedures set forth therein shall be followed for these appeals.

Section 13-512 Dissolution.

The Cleveland Land Bank Authority may be dissolved in accordance with general law for the dissolution of a public corporation absent any establishment by City Council for dissolution of the corporation.

(Tennessee Code Annotated § 13-30-113)

Section 2.

In accordance with Tennessee Code Annotated § 13-30-104(b)(1), the Mayor and/or the City Manager hereby are authorized to and shall certify to the Tennessee Secretary of State evidence of authorization for the City of Cleveland, Tennessee, to establish the land bank program and create the corporation.

Section 3.

In accordance with Tennessee Code Annotated § 13-30-104(b)(2), the City Council hereby indicates its willingness to appropriate sufficient funds to provide for the initial administration of the corporation.

Section 4.

This ordinance shall become effective upon 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 2023-34 be voted for passage on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

b. **Zoning Ordinance 2023-36** - Concerning a request by John and Joan Gilliland for consideration of an ordinance to zone about 19.62 acres, more or less, for property located on Durkee Road and Bates Pike from unincorporated county to R-1 Single Family Residential Zoning District and includes a portion of Tax Map 058K Group F Parcel 001.00 (Planning Commission: Approved 9-0). [At final passage it was discovered there was an error in the sequential numbering in the Ordinances. This Zoning Ordinance has been renumbered to Zoning Ordinance 2023-36.]

Zoning Ordinance 2023-36

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, rezoned from FAR Zoning District to R-1 Single Family Residential Zoning District.

Approximately 19.62 acres, more or less, located on the corner of Durkee Rd. and Bates Pike as shown on the attached map.

For reference, same property is being shown on a portion of Tax Map 058K Group F 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 2023-36 be voted for passage on first reading. The motion was seconded by Councilman May. Councilman Cassada inquired about the requestor, as both John and Joan Gilliland have passed away. Mr. Kimball stated the request was from their Trust. Upon roll call, the motion was unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. The next City Council meeting will be held on Monday, September 11, 2023.

ADJOURNMENT

There being no further business, Mayor Brooks adjourned the meeting at 3:16 p.m.

_____ Mayor

_____ City Clerk

REGULAR SESSION
SEPTEMBER 11, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, SEPTEMBER 11, 2023 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 David May, Tom Cassada, Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie. Mayor Kevin Brooks and Councilman Bill Estes were absent from the meeting.

Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Interim Fire Chief Rock Eulo; Chris Gaylor, Assistant IT Director; Gideon Ratcliff with Mix104.1; Cathy Andrews, CDBG Coordinator; Doug Berry with the Chamber of Commerce; David Goodwill; RaSharon King; Michell Goldston; Jodi Riggins; Ben Berry with Berry Engineering; Dr. Jerry Bancroft; Nathan Cates and Tim Hayslett with Miller & Martin; Seth Sumner; Dustin Tommey and Tim Siniard with the *Cleveland Daily Banner*.

Following the Pledge of Allegiance to the American Flag and prayer by Councilman Webb, who asked for a moment of silence in remembrance for the victims and families of the September 11, 2001, 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 August 28, 2023 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

Vice Mayor Johnson asked if anyone would like to address the Council. No one spoke.

HEARING PETITIONS AND COMMUNICATIONS

a. **Public Hearing –** To hear public comments concerning a request by Amaero Advanced Materials & Manufacturing Inc. for consideration of an ordinance to zone about 13.22 acres, more or less, of property located on Innovation Drive from IL Light Industrial Zoning District to IH Heavy Industrial Zoning District and includes Tax Map 055 Parcel 046.09 (Planning Commission: Approved 9-0).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Amaero Advanced Materials & Manufacturing Inc. for consideration of an ordinance to zone about 13.22 acres, more or less, of property located on Innovation Drive from IL Light Industrial Zoning District to IH Heavy Industrial Zoning District and includes Tax Map 055 Parcel 046.09. Robert Varnell stated the future occupiers of the building would like the property zoned IH and staff is in support of the request. The Planning Commission approved this item 9-0. Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the request. Doug Berry with the Chamber of Commerce stated the Industrial Development Board is in support of this request. Nathan Cates with Miller & Martin, PLLC stated they are in support of this request as well and excited about this project. Vice Mayor Johnson asked if anyone would like to speak in opposition of the request. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

b. **Public Hearing –** To hear public comments concerning a request by Dean Custom Homes LLC for consideration of an ordinance to zoning about .13 acres, more or less, of property located on Pugh Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcel 013.00 (Planning Commission: Approved 9-0).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Dean Custom Homes LLC for consideration of an ordinance to zoning about .13 acres, more or less, of property located on Pugh Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcel 013.00. Robert Varnell stated this area and neighborhood are residential uses and is the intended use of the property. The lot size can only be zoned R2 and a single-family structure. Staff is in support of the request and the Planning Commission approved this item 9-0. Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the request. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the request. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

c. **Public Hearing –** To hear public comments concerning a request by Don Jacobsen for consideration of an ordinance to zone about .25 acres, more or less, of property located on Pugh Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcels 019.00 and 020.00 (Planning Commission: Approved 8-1).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Don Jacobsen for consideration of an ordinance to zone about .25 acres, more or less, of property located on Pugh Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcels 019.00 and 020.00. Robert Varnell stated the intent of the owner is to build a single-family home on this property. Staff is in support of the request and the Planning Commission approved this item 9-0. Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the request. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the request. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

d. **Public Hearing –** To hear public comments concerning a request by Don Jacobsen for consideration of an ordinance to zone about .26 acres, more or less, of property located on High Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcel 007.00 (Planning Commission: Approved 8-1).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Don Jacobsen for consideration of an ordinance to zone about .26 acres, more or less, of property located on High Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcel 007.00. Robert Varnell stated the owner's intent is to build a single-family structure on this property as well. Staff is in support of the request and the Planning Commission approved this item 9-0. Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the request. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the request. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

e. **Public Hearing –** To hear public comments concerning a request by Larry and Nancy Eskew for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 10 acres, more or less, for property located on the NE corner of Georgetown Rd. and Eureka Rd. from the unincorporated county to CH Highway Commercial Zoning District and includes Tax Map 026 Parcel 029.01 (Planning Commission: Approved 9-0).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Larry and Nancy Eskew for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 10 acres, more or less, for property located on the NE corner of Georgetown Rd. and Eureka Rd. from the unincorporated county to CH Highway Commercial Zoning District and includes Tax Map 026 Parcel 029.01. Robert Varnell stated this hearing is for all components of the annexation and zoning. Final reading of the zoning ordinance will be after a interlocal agreement is presented to the Bradley County Commission concerning the roadway. Vice Mayor Johnon asked how long it will take to implement the plan of service. Mr. Varnell stated the applicant could decrease the timeframe in many ways if they chose but according to State Law, we have approximately seven years to provide some of the services, but most will begin immediately. Staff is in support of the request and the Planning Commission approved this item 9-0. Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the request. Dr. Jerry Bancroft stated he has property across Georgetown Road and would like to discuss annexation of his property. Mr. Fivas stated yes, if this passes and goes into effect, staff will work with you specifically on your property. Vice Mayor Johnson asked if anyone would like to speak in opposition of the request. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

f. **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 3.0 Site Design Requirements for parking lots for commercial uses (Planning Commission: Approved 9-0).

Vice Mayor Johnson 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 3.0 Site Design Requirements for parking lots for commercial uses. Robert Varnell stated this is clarifying our Code, to give options for solid parking lots. There are exceptions that allows the Planning Director to make in situations where an industrial site might need gravel for storage or excess parking. Staff is in support of the request and the Planning Commission approved this item 9-0. Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the request. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the request. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

g. **Public Hearing –** To hear public comments concerning a request by City of Cleveland to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, sections APP-C-82 (I), 3.4.1 Drives, driveways, and sidewalks, APP-C-125(f), 3.1.F, 6.2.1, and 6.2.2 to remove reference to Public works director and replace with Planning Director or designee. (Planning Commission: Approved 9-0).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by City of Cleveland to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, sections APP-C-82 (I), 3.4.1 Drives, driveways, and sidewalks, APP-C-125(f), 3.1.F, 6.2.1, and 6.2.2 to remove reference to Public Works Director and replace with Planning Director or designee. Robert Varnell stated this is updating language to the Planning Director. Staff is in support of the request and the Planning Commission approved this item 9-0. Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the request. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the request. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

h. **Public Hearing –** To hear public comments concerning the Consolidated Annual Performance Evaluation Report (CAPER) for the FY2022-2023 Community Development Block Grant Program (CDBG).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning the Consolidated Annual Performance Evaluation Report (CAPER) for the FY2022-2023 Community Development Block Grant Program (CDBG). Cathy Andrews,

Redevelopment Coordinator stated she oversees the CDBG program and reviewed the following information:

CDBG: City of Cleveland received Community Development Block Grant funding in the amount of $374,768 for the Program Year 2022-2023 Annual Allocation. The Consolidated Annual Performance Evaluation Report (CAPER) is for the period of July 1, 2022, through June 30, 2023, and is the 4th report for the City of Cleveland's Five-Year Consolidated Planning period of 2019-2023. The projects proposed in the 2022 Action Plan were adhered to during 2022-2023 and were directly related to the priorities set forth in the Consolidated Plan/Action Plan. Priority needs and objectives identified in the Action Plan were:

GOAL	ACTIVITY	BUDGET	EXPENDITURE	BALANCE
Code Enforcement	Code Enforcement	$ 72,000.00	$ 55,501.88	*$ 16,498.12*
Administration	Admin/Project Oversight	$ 74,000.00	$ 74,000.00	$ -
Public Facility	2022 Mosby Park	$ 181,240.00	$ 181,240.00	$ -
Affordable Housing.	2022 Down Payment Assistance	$ 48,000.00	$ 18,000.00	$ 30,000.00
Public Facility	2021 Mosby Park	$ 32,762.00	$ 32,762.00	$ -
Affordable Housing	2021 DPA	$ 6,000.00	$ 6,000.00	$ -
Program and Project implementation and grant admin	COVID Admin Allocation 2	$ 60,137.12	$ 12,560.28	$ 47,576.84
Program and Project Development	COVID Allocation	$ 4,537.66	$ 4,537.66	$ -
COVID	Cold Weather Shelter year 3	$ 10,000.00	$ 3,892.07	$ 6,107.93
Affordable Housing	2019 Down Payment Assistance	$ 24,000.00	$ 12,000.00	$ 12,000.00
Public Facilities	2018 Blythe Sidewalks	$ 76,592.68	$ 21,675.02	*$ 54,917.66*
Grand Total		**$ 589,269.46**	**$ 422,168.91**	**$ 167,100.55**

SUMMARY OF PROJECTS/ACTIVITIES

CODES ENFORCEMENT

- Code Enforcement Officer designated to CDBG target area to provide concentrated code enforcement of municipal codes.
- Proactive code enforcement sweeps are performed on a weekly basis of the CDBG target area.
- Officers help fight blight and housing deterioration in target area neighborhoods with entry level notices of violation for high grass, inoperable vehicles as well as trash and debris.
- The Codes Division has a grand total of 876 cases for during the fiscal year. These numbers are comprised of:
    - High Grass and Weeds – 407
    - Inoperable Vehicles – 52
    - Improper Trash/Debris/Unsanitary Property – 94
    - Structure Related – 6
    - Condemnation: No Repair Possible – 5
    - Stagnant Water – 2
    - Swimming Pool Fence/Barrier – 1
    - Abandoned/Unused Container – 69
    - Appliances Not Allowed on Exterior Premises – 28

  - No Indoor Furniture on Exterior Premises – 41
  - Sight Obstruction – 2
  - Premises to be Kept Clean – 157
  - Ready Removable – 5
  - Facilities, Containers, and Collection – 7
- Education for property owners and landlords regarding health and safety issues, property maintenance and violations
  - Code enforcement website and Facebook page
  - Work with local community groups; Booths at public events to distribute brochures.
- Public awareness of codes enforcement and lead based paint hazards by providing information to residents within the target area.
- Current codes are assessable on City's website as well as an avenue for citizen complaints.
  - Contacting the Codes office
- Code Enforcement partners with organizations such as Coalition for Community Improvement, Keep America Beautiful, The Refuge, City Fields, neighborhood associations, local church groups and service organizations to utilize every resource available to improve the livability within the target area.

City Fields provides support for elderly and handicap residents that need assistance with lawn mowing. Employees and volunteers of City Fields provided the service 11 times from April 1 through July 31. City Fields also mows two community gardens located in the Blythe Oldfield and College Hill communities.

The service area for Code Enforcement is the CDBG target area which encompasses Census Tracts: 103, Block Group 1, 2; Tract 104, Block Group 1, 2; Tract 105, Block Group 2; Tract 107, Block Group 1, 2, 3, 4; and Tract 108, Block Group 1, 2, 3.

PUBLIC FACILITY AND INFRASTRUCTURE IMPROVEMETS
Mosby Park
Mosby Park was completed in June 2023.

Sidewalks
Completion of Phase 3 of the Blythe-to-Blythe Sidewalk Project

AFFORDABLE HOUSING
Down Payment Assistance
Down Payment Assistance in the amount of $6,000 per household was provided to six families purchasing affordable homes. One home was constructed by Habitat for Humanity of Cleveland. This property is located on Foster Lane, which is Census Tract 7, Block Group 2. Five homes were constructed by City Fields. One in the Blythe Community, three on Wilson Avenue, and one on 13th Street.

PUBLIC SERVICES (CARES Act Funding)
Cold Weather Shelter Program
The City of Cleveland partnered with community organizations and provided $10,000. The program provided rooms for 34 nights to individuals experiencing homelessness during the months of November and December 2022 and January, February, and March 2023 when the temperature dropped below 32 degrees.

FAIR HOUSING EFFORTS
- Fair Housing Booklets are provided to all Habitat for Humanity clients.
- Fair Housing Booklets are provided to all City Field clients.
- The CDBG office displayed a Fair Housing Poster and handed out Fair Housing bracelets with Bradley County's Health Department at the Fall Festival.

- Twenty letters containing a Fair Housing Booklet were sent to the owners of Cleveland rental properties.
- A Fair Housing poster was on display in the Cleveland Municipal Building to promote Fair Housing Month in April.
- Fair Housing was mentioned at Annual Action Plan public meetings–1/24/23, and 2/21/23.
- Costs associated with any Fair Housing efforts were paid through Administration funds.
- Fair Housing information is available on the City of Cleveland website.

Vice Mayor Johnson asked if anyone would like to speak in favor of the approval of the report. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the report. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

i. **Public Hearing –** To hear public comments concerning the FY2024-2025 Annual Action Plan for the Community Development Block Grant Program.

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning the FY2024-2025 Annual Action Plan for the Community Development Block Grant Program. Cathy Andrews, Redevelopment Coordinator stated this is for the upcoming CDBG Action Plan. We will begin working on our new 5-year plan in July 2024 and holding additional public hearings to develop a plan. Vice Mayor Johnson asked if anyone would like to speak concerning the action plan. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

CONSENT AGENDA

Vice Mayor Johnson stated the Consent Agenda was presented during the Work Session. 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.

a. **Final Passage - Ordinance 2023-34** – heretofore passed on first reading August 28, 2023 and found in Minute Book 31, Page 303; Amending Title 13 of the Cleveland Municipal Code to create a new Chapter 5 titled Cleveland Land Bank Authority, which will create a Land Bank Corporation in accordance with TCA 13-30-101.
b. **Resolution 2023-94** – Authorizing the City to purchase of equipment for the Landscaping Department (Ventrac Tractor) through the Master Intergovernmental Cooperative Purchasing Agreement #031121-TTC.

RESOLUTION 2023-94

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE EQUIPMENT, PRODUCTS, OR SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING CONTRACT #031121-TTC, 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 The Toro 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-TTC, 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-TTC, 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

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Shawn McKay, City Clerk

c. **Resolution 2023-95** - Approval of the FY2022-23 Consolidated Annual Performance Evaluation Report.

RESOLUTION 2023-95

A RESOLUTION APPROVING THE 2022-2023 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 2022-2023 Annual Action Plan; and

WHEREAS, the 2022-2023 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 2022-2023 Consolidated Annual Performance Evaluation Report; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council approves the 2022-2023 Consolidated Performance Evaluation Report (CAPER) and authorizes the submission to the United States Department of Housing and Urban Development (HUD)

Approved 11th day of September 2023.

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

d. **Resolution 2023-96** - Approval of the addendum to the contract with Bradley Cleveland Community Services Agency pertaining to ARP Grant.

RESOLUTION 2023-96

WHEREAS, the City has an existing agreement with the Bradley Cleveland Community Services Agency regarding American Rescue Plan Act Funds; and

WHEREAS, the current agreement ends on September 30, 2023; and

WHEREAS, the City and Bradley Cleveland Community Services Agency desire to extend the agreement to September 30, 2024; and

WHEREAS, the City's Redevelopment Coordinator has prepared the attached addendum to the existing agreement to extend the term of the agreement to September 30, 2024; and

WHEREAS, the City Council desires to approve of the addendum extending the term until September 30, 2024, and to authorize the Mayor to sign the addendum 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 addendum to the existing agreement with the Bradley Cleveland Community Services Agency regarding American Rescue Plan Act Funds, and the Mayor is hereby authorized to execute the addendum on behalf of the City.

This 11th day of September 2023.

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

e. **Resolution 2023-97** - Approving the proposed Charter of the Cleveland Land Bank Authority, Inc., authorizing submission of the Charter to the Tennessee Secretary of State for Certificate of Incorporation by the City Manager and authorizing certain powers to the Cleveland Land Bank Authority, Inc.

RESOLUTION 2023-97

A RESOLUTION APPROVING THE PROPOSED CHARTER OF THE CLEVELAND LAND BANK AUTHORITY, INC.; AUTHORIZING THE SUBMISSION OF SAID CHARTER TO THE TENNESSEE SECRETARY OF STATE FOR CERTIFICATE OF INCORPORATION BY THE CITY MANAGER; AND DELEGATING AND AUTHORIZING CERTAIN POWERS TO THE CLEVELAND LAND BANK AUTHORITY, INC.

WHEREAS, the City of Cleveland, Tennessee meets the requirements set forth by Tennessee Code Annotated § 13-30-101 et seq. to establish a land bank program; and

WHEREAS, the City Council passed Ordinance Number 2023-24 on final reading on September 11, 2023, creating the land bank program; and

WHEREAS, the City Council desires to pass this Resolution approving of the proposed Charter of the Cleveland Land Bank Authority, Inc. and to authorize the City Manager to act as the initial incorporator for the land bank authority and to submit the same to the Tennessee Secretary of State for filing.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE that the proposed Charter of the Cleveland Land Bank Authority, Inc. which is attached hereto and incorporated herein by reference is hereby approved and the City Manager is hereby granted permission and authorized to make application to the Secretary of State of the State of Tennessee for a Certificate of Incorporation under the corporate name of "The Cleveland Land Bank Authority, Inc."

BE IT FURTHER RESOLVED that the Cleveland Land Bank Authority, Inc. is hereby created pursuant to the authority of the Tennessee Local Land Bank Program set forth in Tennessee Code Annotated § 13-30-101 et seq. By such statute, the Cleveland Land Bank Authority, Inc. has authority to create a land bank for real property located within the boundaries of the City of Cleveland. "Land Bank" means real property, however obtained, or acquired and held by the Cleveland Land Bank Authority, Inc. with the intent of acquiring and holding onto the real property so acquired until such time as the corporation is able to find a willing and able buyer to acquire the real property from the corporation, pursuant to Tennessee Code Annotated § 13-30-101 et seq. and § 13-30-107.

BE IT FURTHER RESOLVED that the City Council delegates and authorizes the Cleveland Land Bank Authority, Inc. to have all powers set forth in said Charter and Tennessee Code Annotated § 13-30-101 et seq.

BE IT FURTHER RESOLVED that by virtue of the authority set forth in Tennessee Code Annotated § 13-30-104, the Cleveland Land Bank Authority, Inc. is performing a public function on behalf of the City of Cleveland and is a public instrumentality of the City. Accordingly, the Cleveland Land Bank Authority, Inc., and all properties of the corporation, including all properties held in the name of the corporation in the land bank at any and all times owned by it, and the income and revenues from the properties, are exempt from all taxation in the State of Tennessee.

This 11th day of September 2023.

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

f. **RFP** - Drug and Alcohol Testing Services.

TO: Mayor and City Council
FROM: Kristi Powers, Budget/Purchasing Coordinator
DATE: September 11, 2023
RE: Drug and Alcohol Testing Services RFP

SUMMARY:
The City advertised to accept proposals for Drug and Alcohol Testing Services on August 22, 2023. Proposals were received from the following:

- Arc Point Labs
- DSI Medical Services
- Norton Medical Industries
- Physician Services
- Wolfe, Inc.

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funding is available.

RECOMMENDATION:
Staff has evaluated the proposals and recommends award to Physician Services.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Cassada had no report at this time.

Councilman May had no report at this time.

Councilman Hughes had no report at this time.

Councilman Webb had no report at this time.

Vice Mayor Johnson had no report at this time.

Councilwoman McKenzie stated she visited the Civitan Park to see the progress. It is going to be a great park for the special needs children in our community. Thank you to all who are making the inclusive park possible.

NEW BUSINESS AND ORDINANCES

a. **Zoning Ordinance 2023-37 –** Concerning a request by Amaero Advanced Materials & Manufacturing Inc. for consideration of an ordinance to zone about 13.22 acres, more or less, of property located on Innovation Drive from IL Light Industrial Zoning District to IH Heavy Industrial Zoning District and includes Tax Map 055 Parcel 046.09 (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2023-37

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, rezoned from IL Light Industrial Zoning District to IH Heavy Industrial Zoning District.

Approximately 13.2 acres, more or less, located on Innovation Drive as shown on the attached map.

For reference, the same property is being shown on a portion of Tax Map 055 Parcel 046.09, 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 Webb moved that Zoning Ordinance 2023-37 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

b. **Zoning Ordinance 2023-38 –** Concerning a request by Dean Custom Homes LLC for consideration of an ordinance to zoning about .13 acres, more or less, of property located on Pugh Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcel 013.00 (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2023-38

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, rezoned from CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Residential Zoning District.

Approximately 0.13 acres, more or less, located at 142 Pugh Street as shown on the attached map.

For reference, the same property is being shown on a portion of Tax Map 058A Group Q Parcel 013.00, 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.

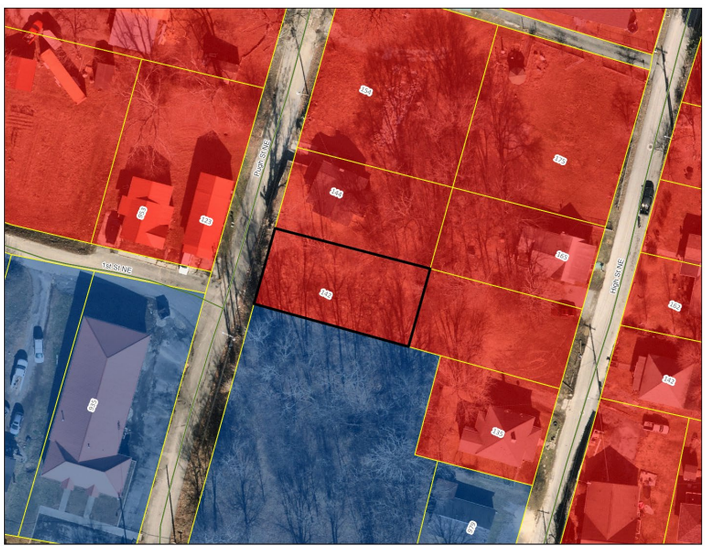
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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 2023-38 be voted for passage on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

c. **Zoning Ordinance 2023-39 –** Concerning a request by Don Jacobsen for consideration of an ordinance to zone about .25 acres, more or less, of property located on Pugh Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcels 019.00 and 020.00 (Planning Commission: Approved 8-1).

ZONING ORDINANCE 2023-39

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, rezoned from CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Residential Zoning District.

Approximately 0.25 acres, more or less, located at 223 Pugh Street as shown on the attached map.

For reference, the same property is being shown on a portion of Tax Map 058A Group Q Parcels 019.00 and 020.00, 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 2023-39 be voted for passage on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

d. **Zoning Ordinance 2023-40 –** Concerning a request by Don Jacobsen for consideration of an ordinance to zone about .26 acres, more or less, of property located on High Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcel 007.00 (Planning Commission: Approved 8-1).

ZONING ORDINANCE 2023-40

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, rezoned from CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Residential Zoning District.

Approximately 0.26 acres, more or less, located at 175 High Street as shown on the attached map.

For reference, same property is being shown on a portion of Tax Map 058A Group Q Parcel 007.00, 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.

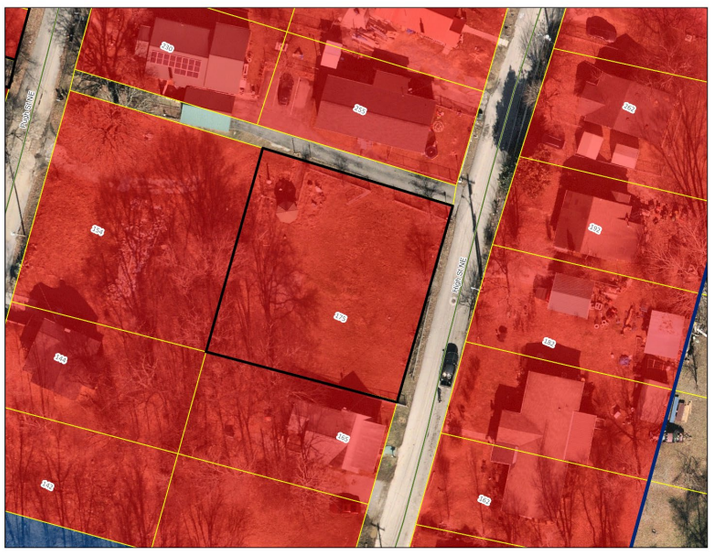
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

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Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Zoning Ordinance 2023-40 be voted for passage on first reading. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

e. **Resolution 2023-98 -** Concerning a request by Larry and Nancy Eskew for consideration of a plan of service for about 10 acres, more or less, for property located on the NE corner of Georgetown Rd. and Eureka Rd. and includes Tax Map 026 Parcel 029.01 (Planning Commission: Approved 9-0).

RESOLUTION 2023-98

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

GEORGETOWN-EUREKA RD. (029.01.00)

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 September 11, 2023, 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 Christopher and Elvie Cartee, as recorded in BCROD deed book 2477 page 200, said point being located in the western right of way of Georgetown Road; thence following the western right of way of Georgetown Road 3,600 feet, more or less, to the northwest corner of the intersection of Georgetown Road, Freewill Road, and Eureka Road; thence crossing Georgetown Road in a northeasterly direction 110 feet, more or less, to the northwest corner of the intersection of Georgetown Road, Freewill Road, and Eureka

Road; thence following the western right of way of Eureka Road 415 feet to a point; thence crossing Eureka Road in an easterly direction 57 feet, more or less, to a corner in the right of way of Eureka Road; thence following the right of way of Eureka Road in a southeasterly direction 175 feet more or less, to the northwest corner of the lands of Larry and Nancy Eskew, as recorded in BCROD deed book 2848 page 107; thence with the northern line of the lands of Eskew in a southeasterly direction 1508 feet, more or less, to the northeast corner of the lands of Eskew; thence with the lands of Eskew in a southeasterly direction 397 feet, more or less, to the southeast corner of the lands of Eskew, said point also being located in the eastern right of way of Georgetown Road; thence following the eastern right of way of Georgetown Road in a southerly direction 2295 feet, more or less, to the southeast corner of Georgetown Road and Gregory Lane, said point being located in the existing City Limits; thence following the existing City Limits in a northerly direction 254 feet, more or less, to a corner in the existing City Limits located within the Georgetown Road right of way; thence with the existing City Limits in a southwesterly direction 90 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

AUGUST 15, 2023
CORNER OF GEORGETOWN AND EUREKA RD. (026 029.01)
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 10 acres located on the corner of Georgetown Rd and Eureka Rd. as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2023.

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.

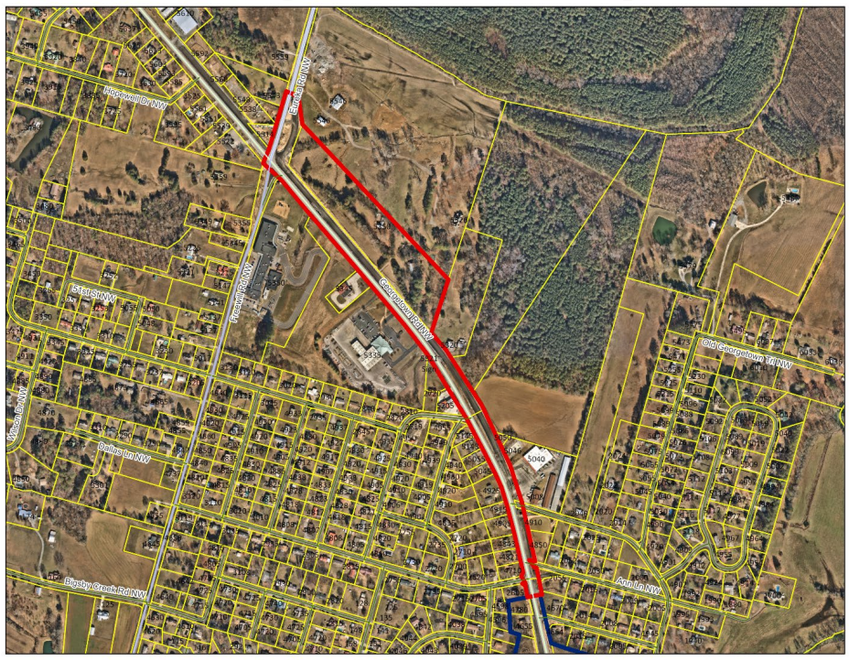
Introduction

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

The annexation consists of one parcel. The annexation would zone the property as CH Highway Commercial. The property is described as Tax Map 029 Parcel 001.00.

Georgetown-Eureka Rd. Map



Legal Description

Beginning at the southeast corner of the lands of Christopher and Elvie Cartee, as recorded in BCROD deed book 2477 page 200, said point being located in the western right of way of Georgetown Road; thence following the western right of way of Georgetown Road 3,600 feet, more or less, to the northwest corner of the intersection of Georgetown Road, Freewill Road, and Eureka Road; thence crossing Georgetown Road in a northeasterly direction 110 feet, more or less, to the northwest corner of the intersection of Georgetown Road, Freewill Road, and Eureka Road; thence following the western right of way of Eureka Road 415 feet to a point; thence crossing Eureka Road in an easterly direction 57 feet, more or less, to a corner in the right of way of Eureka Road;

thence following the right of way of Eureka Road in a southeasterly direction 175 feet more or less, to the northwest corner of the lands of Larry and Nancy Eskew, as recorded in BCROD deed book 2848 page 107; thence with the northern line of the lands of Eskew in a southeasterly direction 1508 feet, more or less, to the northeast corner of the lands of Eskew; thence with the lands of Eskew in a southeasterly direction 397 feet, more or less, to the southeast corner of the lands of Eskew, said point also being located in the eastern right of way of Georgetown Road; thence following the eastern right of way of Georgetown Road in a southerly direction 2295 feet, more or less, to the southeast corner of Georgetown Road and Gregory Lane, said point being located in the existing City Limits; thence following the existing City Limits in a northerly direction 254 feet, more or less, to a corner in the existing City Limits located within the Georgetown Road right of way; thence with the existing City Limits in a southwesterly direction 90 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 Stations without any noticeable impact to the budget.

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

A. Domestic Water---Domestic water service is presently available to this parcel via a 12" water main along the north side of Georgetown Road. See Figure 1 – Water Service.

B. Sanitary Sewer—Sewer service is presently not available to this parcel.

   To provide sewer to this parcel, approximately 2,500 LF of 2" or 3" force sewer main needs to be installed (exact size to be determined) along the northeast side of Georgetown Road. Due to the existing utilities in the existing right-of-way, the proposed force main will likely need to be installed in acquired easements. Easement acquisition could be challenging due to the county residents/customers not being allowed to connect to the sewer infrastructure. The proposed force main will connect into an existing 8-inch gravity sewer main just north of the existing Dollar General store. The parcel has one existing single-family residence (potential sewer customer). To provide sewer service to the parcel, the Opinion of Probable Cost is $295,000. The sewer main can be completed within 8 years. See Figure 2 00 Sewer Service.

C. Fire Protection—There are two existing fire hydrants along the parcel boundary with Georgetown Road. See Figure 1 – Water Service.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Georgetown-Eureka Rd. (029 10.00)	$0	$295,000	$0	$295,000

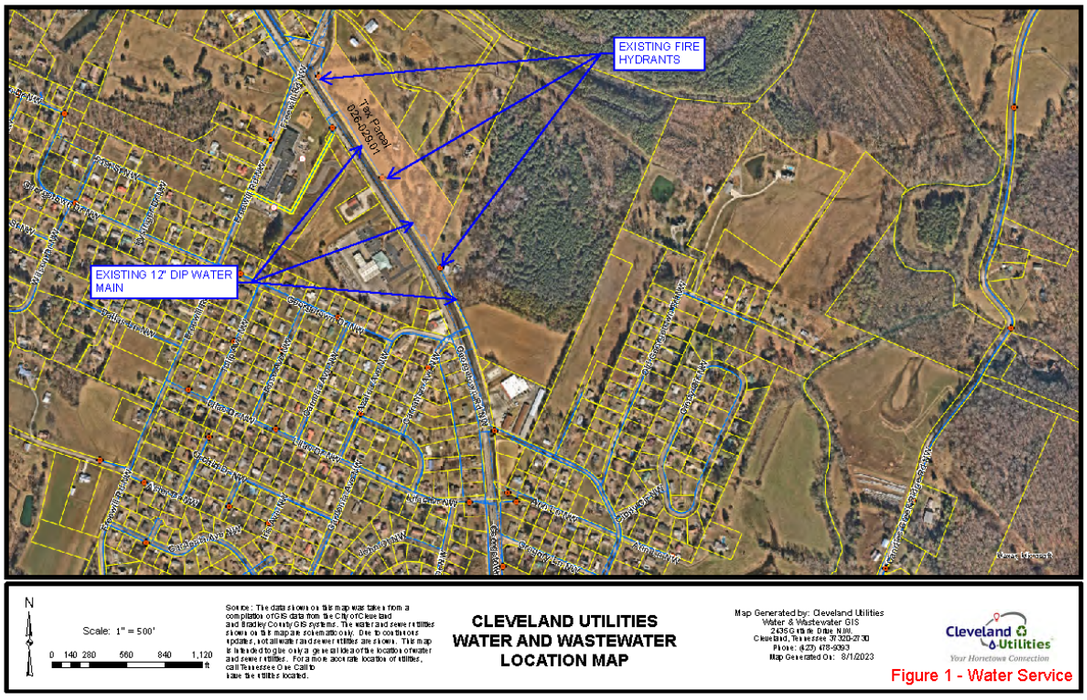


Figure 1 - Water Service

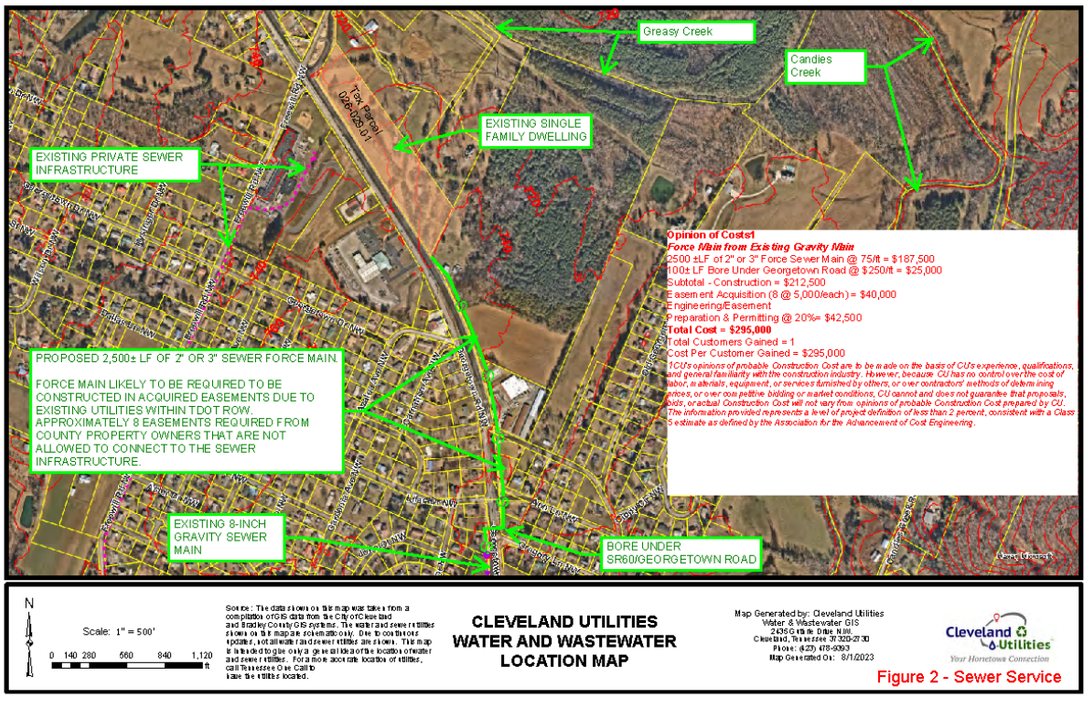


Figure 2 - Sewer Service

4. Electric Service

Our Engineering staff has looked at the annexation request for the property located on Eureka Rd. illustrated in the attached map. Cleveland Utilities Electric does not presently serve this area. Our service lines stop at the end of the existing City limits to the south as represented by the blue boundary shown in the attached map. Volunteer Energy presently serves this piece of property. For us to serve this property, Cleveland Utilities would have to build a 3-phase primary utility line from our existing dead-end pole across from the Dollar General Store going north 4,100 linear feet along the eastern side of the new highway. This line would require 17 – 50ft. steel poles with 3-primary conductors and guying as required to navigate the curvature of the roadway. This will put a pole line on both sides of the new highway with Volunteer Energy on the west side and Cleveland Utilities on the east side. The cost estimate to build this line would be approximately $184,000. Easements will also have to be purchased from the property owners along the route, which would add additional cost as well as having to cross existing Volunteer Energy lines which will require them to modify some of their facilities. We are assuming that the City will be requiring street lighting along the roadway which will add approximately $36,000 to the street lighting account resulting in $270.00 monthly facilities and $84.88 monthly energy charge to the City. The total cost of this project could easily approach $250,000. Depending on the present road construction conflicts, TDOT approval process, supply chain issues and possible difficulties in acquiring easements, serving this property might not be able to be completed till late 2024 or early 2025. If we placed an order for steel poles or transformers today, we are seeing 52-to-60-week delivery times being quoted.

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 the 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

This will have no impact on the school system.

7. Planning and Zoning

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

B. This property is currently zoned C-2 zoning in the unincorporated County. The property is proposed as CH Highway Commercial 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 residents to the 0 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 developments 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.

Revenue

The total income from annexation would result in approximately **$37,506.25** in property tax revenue.

Councilman Cassada moved that Resolution 2023-98 be accepted as presented. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

f. **Resolution 2023-99 –** Concerning a request by Larry and Nancy Eskew for consideration of a resolution to annex about 10 acres, more or less, of property located on the NE corner of Georgetown Rd. and Eureka Rd. and includes Tax Map 026 Parcel 029.01 (Planning Commission: Approved 9-0).

RESOLUTION 2023-99

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

GEORGETOWN-EUREKA RD. ANNEXATION AREA

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

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

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

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

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

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

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on September 11, 2023.

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 Christopher and Elvie Cartee, as recorded in BCROD deed book 2477 page 200, said point being located in the western right of way of Georgetown Road; thence following the western right of way of Georgetown Road 3,600 feet, more or less, to the northwest corner of the intersection of Georgetown Road, Freewill Road, and Eureka Road; thence crossing Georgetown Road in a northeasterly direction 110 feet, more or less, to the northwest corner of the intersection of Georgetown Road, Freewill Road, and Eureka Road; thence following the western right of way of Eureka Road 415 feet to a point; thence crossing Eureka Road in an easterly direction 57 feet, more or less, to a corner in the right of way of Eureka Road; thence following the right of way of Eureka Road in a southeasterly direction 175 feet more or less, to the northwest corner of the lands of Larry and Nancy Eskew, as recorded in BCROD deed book 2848 page 107; thence with the northern line of the lands of Eskew in a southeasterly direction 1508 feet, more or less, to the northeast corner of the lands of Eskew; thence with the lands of Eskew in a southeasterly direction 397 feet, more or less, to the southeast corner of the lands of Eskew, said point also being located in the eastern right of way of Georgetown Road; thence following the eastern right of way of Georgetown Road in a southerly direction 2295 feet, more or less, to the southeast corner of Georgetown Road and Gregory Lane, said point being located in the existing City Limits; thence following the existing City Limits in a northerly direction 254 feet, more or less, to a corner in the existing City Limits located within the Georgetown Road right of way; thence with the existing City Limits in a southwesterly direction 90 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. [with Resolution 2023-98]

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 Cassada moved that Resolution 2023-99 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

g. **Zoning Ordinance 2023-41 -** Concerning a request by Larry and Nancy Eskew for consideration of an ordinance to zone about 10 acres more or less, of property located on the NE corner of Georgetown Rd. and Eureka Rd. from unincorporated county to CH Highway Commercial Zoning District and includes Tax Map 026 Parcel 029.01 (Planning Commission: Approved 9-0).

ZONING ORDINANCE 2023-41

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, rezoned from C-2 Zoning District in the unincorporated county to C-H Highway Commercial Zoning District.

Approximately 10 acres, more or less, located on the corner of Georgetown Rd. and Eureka Rd. as shown on the attached map.

For reference, the same property is being shown on a portion of Tax Map 026 Parcel 029.01, 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.

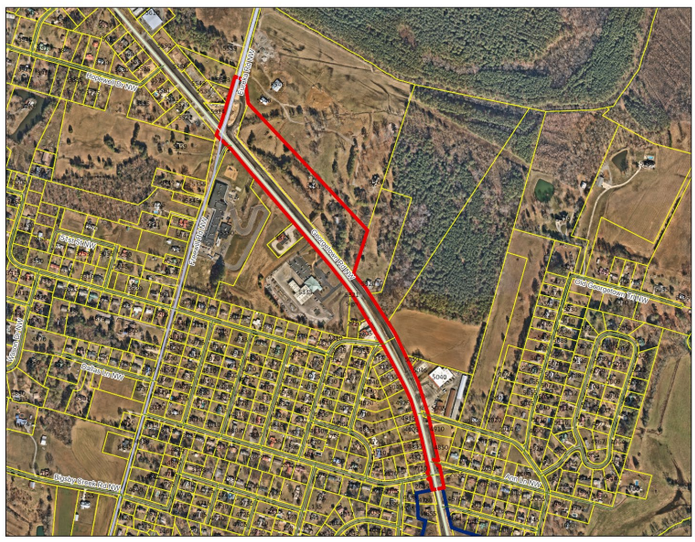
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman Cassada moved that Zoning Ordinance 2023-41 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

h. **Ordinance 2023-42 –** Amending the Cleveland Municipal Code, Title 14, Zoning Ordinance, Chapter 2 Zoning Regulations, Section 3.4.4.E.18 to regulate surfacing of commercial parking lots (Planning Commission: Approved 9-0).

ORDINANCE 2023-42

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 3.4.4.E TO REGULATE SURFACING OF COMMERCIAL PARKING LOTS; 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 surfacing of commercial parking lots; and

WHEREAS, the current ordinance does not provide surfacing requirements; and

WHEREAS the City Council has determined that the existing ordinance should be revised to regulate surfacing of commercial parking lots; and

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

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 3.4.4.E.18 to be added as follows:

(18). The surface material for parking and loading areas that are located within CN, CH, CG, MU, PI, IL, IH and CBD zoning districts shall be asphalt, concrete, brick, stone, pavers, or an equivalent material and follow design standards outline in section 3.0. The following alternative may be approved by the Planning Director:

a. Gravel parking areas in the IL or IH district for storage. Gravel parking shall not be permitted for any parking lot that is designated for public or employee parking.

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

Section 3. This ordinance shall take effect immediately upon passage on 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 Hughes moved that Ordinance 2023-42 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

i. **Ordinance 2023-43 –** Amending the Cleveland Municipal Code, Title 14, Zoning Ordinance, Chapter 2, Zoning Regulations, Sections APP-C-82 (I), 3.4.1 Drives, driveways, and sidewalks, APP-C-125(f), 3.1.F, 6.2.1, and 6.2.2 to remove reference to Public works director and replace with Planning Director or designee. (Planning Commission: Approved 9-0).

ORDINANCE 2023-43

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 APP-C-82 (I), 3.4.1 DRIVES, DRIVEWAYS, AND SIDEWALKS, APP-C-125(F), 3.1.F, 6.2.1, AND 6.2.2 TO REMOVE REFERENCE TO PUBLIC WORKS DIRECTOR AND REPLACE WITH PLANNING DIRECTOR OR DESIGNEE; 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 responsibility of the Planning Director versus the Public Works Director; and

WHEREAS, the current reference to Public Works Director in certain sections is no longer in effect; and

WHEREAS the City Council has determined that the existing ordinance should be revised to clarify the Planning Director or designee shall hold responsibility for enforcing certain requirements; and

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

Section 1. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising section 3.2.I paragraph 3 to be read as follows:

For development on an RA, R1, R2, or R3 lot under one acre that is not part of a special development (a cluster subdivision, townhome subdivision, PUD, infill development or other alternative design plan approved by the Planning Commission) the Community Development Director, ~~in consultation with the Public Works Director~~, may approve a setback, greenspace, or impervious area limit deviation of up to one-half of the amount otherwise required if it is necessary to improve the design of the development to account for contingencies such as an oddly shaped lot, slopes, improved building orientation on the site, privacy and buffering, tree preservation, parking needs, better handicapped accessibility, consideration of cost constraints for low- and moderate-income affordable housing, protection of views, access protection, protection of streams, wetlands, etc. It is intended that a reasonable justification for the deviation is to be documented and that the deviation would be the minimum necessary to overcome the particular conditions described. It is further intended that the proposed design demonstrate some accommodation

to the site conditions to reach a reasonable solution that balances design constraints with the amount of deviation allowed. Where the lot falls within one of the aforementioned special development categories, the same process may be followed except that the deviation is limited to one-third of the amount of setback, greenspace, or impervious area limit otherwise required. In evaluating the extent of deviation(s) to be approved, proposed conditions may also be approved that would include innovations such as the use of porous paving materials, other innovative drainage and stormwater treatment features, additional landscaping and/or buffering, and the like. (as amended by Ord. #17, Oct. 2001, Ord. #2005-04, March 2005, Ord. #2005-15, May 2005, Ord. #2005-41, Nov. 2005, Ord. #2008-01, Jan. 2008, and Ord. #2009-49, June 2009)

Section 2. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 3.4.1.A be amended by removing Public Works Director and replacing with Planning Director or designee as follows:

3.4.1 Drives and Driveways (as amended by Ord. #2022-43, Nov. 2022)

A. No 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 **Planning Director or designee.**

Section 3. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 3.8.C.3.f be amended by removing Public Works Director and replacing with Planning Director or designee as follows:

f) A wood, simulated wood, or masonry privacy fence not exceeding 8 feet in height is allowed on residentially zoned or residentially used property but any installation within 15 feet of a public street requires approval by the **Planning Director or designee** who will consider the impact on traffic safety, utilities, and utility easements when evaluating the proposed fence. Any such privacy fence must be located behind the front of the principal structure (see illustration). Where an historic preservation zoning district is in effect, no privacy fence shall be allowed except in compliance with the requirements of that historic preservation zoning district.

Section 4. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 6.2.1 be amended by removing Public Works Director as follows:

6.2.1 Administrative Procedures. Site plans reviewed pursuant to this Subsection 6.2 shall be reviewed by a Site Plan Review Committee comprised of the Director of Community Development, the Building Official, the Traffic Engineer, the City Engineer, the Stormwater Engineer, the Urban Forester, and representatives of emergency services (Fire and Police) and the ~~Public Works Director or his designee~~. The Site Plan Review Committee may seek input from other City departments and utility providers and governmental agencies, as it deems necessary. The Plan Review Committee shall review each month the site plans submitted by the last working day of the previous month. Six sets of the (one each for the city engineer, stormwater engineer, traffic engineer, building department/community development, fire department, urban forester) site plan is to be submitted for review to the Department of Community Development with a letter requesting site plan review. The Site Plan Review Committee will have thirty (30) days from the date of submittal to review each site plan submitted and provide comments. The Site Plan Review Committee will communicate the results of its review to the applicant in writing. The Director of Community Development shall be responsible for the day-to-day administration of the Site Plan Review Committees work. The site plan review will check for completeness according to the required site plan content in 6.2.3 below, for conformity with MS4 Phase I1 Stormwater requirements in conjunction with Title 18, Chapter 3, Sections 18-301 through 18-312, and for applicable planning, engineering, and safety standards, and for whether the site plan has fulfilled the purpose and intent of the site plan review process. Any site plan revisions required as a result of the site plan review must be addressed to the satisfaction of the Site Plan Review Committee prior to the issuance of a building permit. All revisions have a one (1) week (7- calendar days) review period from date of revision submission. In situations requiring site plan approval, developers are encouraged to submit preliminary site plans for comments by the Site Plan Review Committee. The Site Plan Review Committee will review the preliminary site plan within two weeks (14-calendar days) from the date of submittal and provide comments to the applicant.

Section 5. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 6.2.2 be amended by removing Public Works Director as follows:

Exemptions. Site plans for small additions to existing buildings may be exempted from review by the Site Plan Review Committee, by the Director of Community Development ~~and the Public Works Director (or their designees)~~ , when they determine that the purpose and intent of these regulations would not be adversely affected. Considerations for making such a determination would include, but not necessarily be limited to the following: whether the total square footage increase would be less than ten percent (10%) of the existing floor area, whether any driveway redesign is contemplated, whether a significant increase in traffic generation is expected, whether any utilities easements are impacted, the use of the proposed expansion area, and whether the proposed site improvements would otherwise generally conform to the zoning ordinance and other applicable city ordinances.

Section 6. The Cleveland Municipal Code Title 14, Chapter 2, Zoning Regulations, be amended by revising Section 3.2.F be amended by removing Public Works Director and replacing with Planning Director or designee as follows:

F. Limitation on Location of Accessory Structures
Accessory structures shall in no way be located on any property so as to obstruct any utility or drainage easement, or so as to impair site distances for traffic ingress or egress on the same property or adjoining property as determined by the City's traffic engineer or **Planning Director or designee**.

Section 7. 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 8. 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 2023-43 be voted for passage on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

Mr. Fivas announced Chattanooga Gas would be conducting work at Paul Huff Parkway/Mouse Creek Road this week on Tuesday and Wednesday evenings, one lane will be shut down from 8 p.m. to 7 a.m.

Mr. Fivas then announced the District 3 meeting will be this Thursday at Candy's Creek Cherokee Elementary School at 5:30 p.m.

Councilman Cassada moved to excuse Mayor Kevin Brooks and Councilman Bill Estes from today's meeting. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Vice Mayor Johnson announced the following:

a. The next City Council meeting will be held on Monday, September 25, 2023.

ADJOURNMENT

There being no further business, Vice Mayor Johnosn adjourned the meeting at 3:40 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
SEPTEMBER 25, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, SEPTEMBER 25, 2023 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; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Interim Fire Chief Rock Eulo; Kris Miller, IT Director; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Public Works Director; Kim Miller, Human Resource Director; Patti Petitt, Parks and Recreation Director; Robert Varnell, Planning and Community Development Director; Gideon Ratcliff with Mix104.1; Cathy Andrews, CDBG Coordinator; Doug Berry with the Chamber of Commerce; Lawrence Armstrong, NAACP; Marie Tucker; Terry Goldston; Michell Goldston; Paulette Pugh; Jeremiah Million; Hal Taylor; Julie Fivas; Joan David; Gwillen Lowe; William Rogers; RaSharon King; Sharon Marr with Mainstreet Cleveland; Marle Scully; Brian Easterner; Joshua Goode; Micah Smith; Christy Goza; Nathan Cates; Seth Sumner; Dustin Tommey 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 11, 2023 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 we heard from Lawrence Armstrong, President of the Bradley County NAACP during today's Work Session and they have asked to be on today's Regular Session agenda as well. Vice Mayor Johnson stated he still had a lot of questions and would like to come together to discuss and bring a recommendation to the Council. If he still doesn't have the information, we can work that out. We can have a better understanding of what specific items, everything that is on the list. As far as leaving the City Manager out of the process, he doesn't think that we need to do that. We need a clear understanding of what the issues are. Vice Mayor Johnson moved that we get a committee together to meet with Mr. Armstrong and whoever else Mr. Armstrong would like to meet with us. That is his recommendation. Mayor Brooks stated the motion fails for lack of a second. Mayor Brooks then stated he understands Mr. Fivas has accepted a meeting with Mr. Armstrong, which would not require a vote of the Council. Is that acceptable Vice Mayor? Vice Mayor Johnson stated yes. Mr. Armstrong stated yes, with the City Attorney as well. Mr. Kimball stated he was okay to attend but it would be good if a Councilmember attended, as his job is to give the Council legal advice. I cannot answer private citizens' questions. Mayor Brooks added if two Councilmembers are present, it will become a public meeting. Mr. Kimball stated yes. Mayor Brooks asked Mr. Armstrong if Mr. Fivas, Mr. Kimball and Vice Mayor Johnson be present for the meeting. Mr. Armstrong agreed. He continued just to put clarity with the situation, the purpose of the recusal that we have asked for is that the NAACP received several personnel complaints. These complaints were made towards Mr. Joe Fivas. In order to find a resolution to these complaints, we need Mr. Fivas to be out of the process so we can get the information. Now, mind you as I am standing here as the NAACP, there is only one African American complaint. There are many others that are not African American. I am saying to you this issue is bigger than what I am standing here before you. I may not be addressing the issue properly, as Councilman Estes mentioned earlier, maybe

not the proper platform to go to but the documents we need or requested may have to go through another open records request. Just to give you a snapshot there are accusations of city leadership being bias and unfair treatment, policy of hiring new employees not followed by the City Manager, City Manager not being trustworthy and making false statements, being very passive aggressive, realigning city employees without HR input causing hostile work environments. These were the issues brought before the NAACP. I did not want to disclose information about what I call "in-house dirty laundry". I am standing before you trying to resolve these things without getting into the details. Without the recusal of the City Manager as a part of this process it's not going to be any better for the City of Cleveland. I am open to whatever the recommendation is by the City Council, but I am making you aware of allegations and things that are taking place. Again, these are not from the minority community, there are several complaints, and we are trying to address the concerns, that is why we are before you. Councilman Estes thanked Mr. Armstrong and the NAACP and is encouraged if these allegations are against someone, that person be in the room. If it is about Mr. Fivas, I am encouraged that he will be in the room. Councilman Cassada stated he did speak to Mr. Armstrong and when the discussion got to personnel issues, I told him I couldn't talk about those, it would have to be Mr. Fivas. Mr. Fivas stated I am glad we are getting together. I am 100% supportive and that is why I called Mr. Armstrong. I want to correct a couple of things. The meeting that was cancelled was because I had a domestic abuse issue with my sister and that's why we didn't meet before. But I think most importantly, if there is ever any concerns from any employee, we deal with that on a daily basis, we are always happy and willing to try to resolve those issues. I look forward to working with Mr. Armstrong to get to the bottom of what some of the concerns are and I think we are making progress and appreciates bringing these issues to our attention. That was my attempt to try to meet with him before and obviously it didn't happen. Now it sounds like we are back on track and appreciate that.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated there are 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 Estes; and upon roll call, unanimously passed. Mayor Brooks stated the final passage of Zoning Ordinance 2023-41 has been delayed until the next meeting.

a. **Final Passage - Zoning Ordinance 2023-37 –** heretofore passed on first reading September 11, 2023 and found in Minute Book 31, Page 319; Concerning a request by Amaero Advanced Materials & Manufacturing Inc. for consideration of an ordinance to zone about 13.22 acres, more or less, of property located on Innovation Drive from IL Light Industrial Zoning District to IH Heavy Industrial Zoning District and includes Tax Map 055 Parcel 046.09 (Planning Commission: Approved 9-0).
b. **Final Passage - Zoning Ordinance 2023-38 –** heretofore passed on first reading September 11, 2023 and found in Minute Book 31, Page 320; Concerning a request by Dean Custom Homes LLC for consideration of an ordinance to zone about .13 acres, more or less, of property located on Pugh Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcel 013.00 (Planning Commission: Approved 9-0).
c. **Final Passage - Zoning Ordinance 2023-39 –** heretofore passed on first reading September 11, 2023 and found in Minute Book 31, Page 321; Concerning a request by Don Jacobsen for consideration of an ordinance to zone about .25 acres, more or less, of property located on Pugh Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcels 019.00 and 020.00 (Planning Commission: Approved 8-1).

d. **Final Passage - Zoning Ordinance 2023-40 –** heretofore passed on first reading September 11, 2023 and found in Minute Book 31, Page 322; Concerning a request by Don Jacobsen for consideration of an ordinance to zone about .26 acres, more or less, of property located on High Street from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058A Group Q Parcel 007.00 (Planning Commission: Approved 8-1).
e. **Final Passage - Ordinance 2023-42 –** heretofore passed on first reading September 11, 2023 and found in Minute Book 31, Page 333; Amending the Cleveland Municipal Code, Title 14, Zoning Ordinance, Chapter 2 Zoning Regulations, Section 3.4.4.E.18 to regulate surfacing of commercial parking lots (Planning Commission: Approved 9-0).
f. **Final Passage - Ordinance 2023-43 –** heretofore passed on first reading September 11, 2023 and found in Minute Book 31, Page 334; Amending the Cleveland Municipal Code, Title 14, Zoning Ordinance, Chapter 2, Zoning Regulations, Sections APP-C-82 (I), 3.4.1 Drives, driveways, and sidewalks, APP-C-125(f), 3.1.F, 6.2.1, and 6.2.2 to remove reference to Public works director and replace with Planning Director or designee (Planning Commission: Approved 9-0).
g. **Surplus Property** – Declaring certain vehicles as surplus and to be used by the Police and Fire Departments for training exercises and to declare an electric bike as surplus and to be sold on GovDeals.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **September 25, 2023**
RE: **Surplus Property**

SUMMARY:
Fleet Management has requested the assets listed below to be declared surplus property.

To be used by the Police and/or Fire Departments for training:

- 2006 Ford Crown Victoria VIN 2FAHP71WX6X110287
- 2006 Ford Crown Victoria VIN 2FAHP71W16X110288
- 2000 Ford Crown Victoria VIN 2FAFP71W2YX214590
- 2008 Ford Crown Victoria VIN 2FAFP71V38X146324
- 2004 Ford Crown Victoria VIN 2FAHP71WX4X166050

To be sold on GovDeals:

- 700C Hyper E-Ride City Electric Bike (Abandoned Property)
  S/N: KK21A08652

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
City staff recommends approval of this item.

h. **Resolution 2023-100** – Authorizing the Mayor to sign the FY2024-2025 MPO grant contract.

RESOLUTION 2023-100

WHEREAS, the City has received the attached MPO grant contract from the Tennessee Department of Transportation, (hereafter "TDOT"); and

WHEREAS, the grant contract is identified as:

Beginning date: October 1, 2023
End Date: September 30, 2025
Agency Tracking Number: 40100-51090
Grantee Edison Vendor ID #: 4062
Total Grant Contract Amount: $755,012.00

WHEREAS, the City Council desires to enter into the attached grant contract with TDOT, and to further authorize the Mayor to execute this grant 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 TDOT, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland.

This 25th day of September 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

i. **Resolution 2023-101** - Authorizing the City to purchase of equipment for the IT Department (Scissor Lift to maintain greenway cameras and lighting) through the Master Intergovernmental Cooperative Purchasing Agreement #020923-TER between Terex USA, LLC and Sourcewell.

RESOLUTION 2023-101

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE EQUIPMENT, PRODUCTS, OR SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING CONTRACT #020923-TER, 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 Terex USA, LLC ("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 #020923-TER, 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 #020923-TER, as amended, held by Sourcewell as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through Sourcewell to be used by the City of Cleveland.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

j. **Resolution 2023-102** - Authorizing the City to purchase of equipment for the IT Department (Trailer to tow the Scissor Lift) through the Master Intergovernmental Cooperative Purchasing Agreement #09299-MNR between Townmaster, LLC and Sourcewell.

RESOLUTION 2023-102

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE EQUIPMENT, PRODUCTS, OR SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING CONTRACT #092922-MNR, 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 Monroe Towmaster, LLC ("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 #092922-MNR, 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 #092922-MNR, as amended, held by Sourcewell as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through Sourcewell to be used by the City of Cleveland.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

k. **Resolution 2023-103** – Authorizing the Mayor to sign a grant contract with the Tennessee Department of Safety and Homeland Security for community-based traffic safety enforcement and education.

RESOLUTION 2023-103

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF THE 2024 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 Highway is sponsoring competition for federal grant funds to be distributed statewide from the National Highway Traffic Safety Administration for the 2023-2024 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 25th day of September 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

l. **Resolution 2024-104** – Authorizing the Mayor to sign an agreement with S&ME for Phase 1 Environmental Site Assessments for various former Whirlpool properties.

RESOLUTION 2023-104

A RESOLUTION APPROVING OF A PROFESSIONAL SERVICES AGREEMENT WITH S&ME, INC. FOR PHASE I ENVIRONMENTAL SITE ASSESSMENTS FOR VARIOUS FORMER WHIRLPOOL PROPERTIES

WHEREAS, the City Manager is recommending to the City Council that the City enter into a professional services agreement with S&ME, Inc. to provide Phase I Environmental Site Assessments for various former Whirlpool parcels; and

WHEREAS, City staff is still finalizing the terms and conditions of the agreement with S&ME, Inc.; and

WHEREAS, the City Council desires to enter into an agreement with S&ME, Inc. once the final agreement has been agreed upon, and to authorize the Mayor to execute the professional services agreement on behalf of the City once a final agreement is received.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee that the City Council does hereby approve of an agreement with S&ME, Inc. to provide professional services, and the City Council further authorizes the Mayor to execute the agreement on behalf of the City once a final agreement is received.

This 25th day of September 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

m. **Motion** – Authorizing staff to develop a small area plan for College Hill & Blythe-Oldfield.

TO: **Mayor and City Council**

FROM: **Joe Fivas, City Manager**

DATE: **September 25, 2023**

RE: **Request Staff to Develop a Small Area Plan for College Hill & Blythe-Oldfield**

SUMMARY:

The City has began it's implementation of RCE Bridge Grant and RAISE Grant. These Grant will change and positively affect the College Hill and Blythe-Oldfield neighborhoods in the future. City staff is requesting to have Council direction on developing a Small Area Plan for the College Hill and the Blythe-Oldfield neighborhoods. This plan will give us a coordinated strategic direction on what future development in College Hill & Blythe-Oldfield should look like in the future. This will include community input from all stakeholders. Dustin Tommey will be the staff liaison for this project.

COMMITTEE FINDINGS:

No Committee or Board action.

FISCAL ANALYSIS:

N/A

RECOMMENDATION:

City staff requests Council approval to develop an RFQ for a consultant a Small Area Plan for College Hill and Blythe-Oldfield neighborhoods.

n. **Motion** – Modification of Authorize Positions.

TO: **Mayor and City Council**

FROM: **Joe Fivas, City Manager**

DATE: **September 25, 2023**

RE: **Modification of Authorized Positions**

SUMMARY:

In our Authorized Positions, modify Director of Parks & Recreation to Level 124. Change one Facility Maintenance I position into a Facility Maintenance III (position. No pay change associated with this level change.

COMMITTEE FINDINGS:

No Committee or Board action.

FISCAL ANALYSIS:

N/A

RECOMMENDATION:

In our Authorized Positions, modify Director of Parks & Recreation to Level 124. Change one Facility Maintenance I (105) position into a Facility Maintenance III position (109).

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Cassada thanked City Staff for participating in the District 3 meeting. Also, the Nature Park Walk is being cleaned up today. Lastly, he is looking forward to a report on Jim Sharp Park at the next meeting. The public inspires us to move the City forward and thanks to Mr. Bennett in the Overbrook Subdivision who brought it to his attention there was not a playground in the 3rd District. Residents that live in the community are what moves us forward.

Councilman May asked Mr. Fivas to fast-track the traffic issue on Julian Drive relating to the need for a stop sign.

Councilman Hughes had no report at this time.

Councilman Webb discussed the Disc Golf course and had a photo of Chad Payne and his children at Fletcher Park this morning. This is what it is about, quality of life in the City of Cleveland. They were excited about the new Disc Golf Course.

Vice Mayor Johnson inquired about the wetlands off Candies Lane and if the mowing crews could cut back some overgrowth away from the walking path. Mr. Fivas stated yes, Public Works will be bringing in heavier equipment to work on overgrowth in some areas.

Councilwoman McKenzie had no report at this time.

Councilman Estes thanked Mr. Fivas for looping him in on the Soccer information. He then thanked Chief Gibson for the extra police presence at school crossings. It really helps the walkers. Lastly, he toured the First Tennessee Building. It was encouraging and it is a radical game changer for the City Schools.

NEW BUSINESS AND ORDINANCES

Micah Smith addressed the City Council concerning the Tee It Up for the Troops event on Veteran's Day, November 11 from 2-7p.m. We are asking for a Special Occasion Beer Permit for the fundraising event to support Veteran's. It will be a ticketed event along 1st Street with music and microbrewing samples. Mr. Kimball stated they are here today asking for a beer permit on public property. The Beer Board can not issue a permit without the Councils approval. Councilman Estes moved to authorize the Beer Board to issue a Special Occasion Permit for Tee It Up for the Troops event on November 11. The motion was seconded by Councilman May. Councilman Cassada asked if the local restaurants along 1st Street were contacted to use their permit. Mr. Smith stated yes, the issue is occupancy capacity, and this event will be held in the street. Councilman Cassada stated the downtown businesses could be affected. He is committed but asked if it could be done without alcohol. We have to be cautious. Mr. Smith stated this is a fundraising model, Foam of the Brave, for the organization. Ross Tarver with Tarver Distributing stated he spoke with Mr. Smith concerning the event. No one is more concerned about underage drinking and over consumption than himself. As Cleveland continues to grow, we have to be responsible, and believe more residents expect things like this as we grow as a community. We have huge downtown development plans. Downtown residents can walk to this event. Wonderful things are happening in the downtown community, and he thinks more of these types of activities are going to be expected from our community. He asks for the Council support for this event. Councilman Cassada thanked Mr. Tarver and stated he is still concerned for downtown businesses. Councilman Hughes added he agrees, downtown businesses could be affected. Mayor Brooks stated we have a model where this is working with downtown businesses and also encourages downtown events. Upon roll call, Councilman Estes, Councilman May, Councilman Cassada, Councilman Webb, and Vice Mayor Johnson voted aye. Councilman Hughes and Councilwoman McKenzie voted no. The motion carries 5:2.

Christy Goza addressed the Council concerning the Witches, Wine & Spirits Stroll event to be held on October 28 for the Breast Cancer Awareness fundraiser. Local businesses have calibrated together to have a contained event along 1st Street; when streets are blocked and businesses are open with live entertainment, people will wander. This Special Occasion Beer Permit would allow people to enjoy entertainment on the street, legally. Upon roll call, Councilman Estes, Councilman Cassada, Councilman May, Councilman Webb, and Vice Mayor Johnson voted aye. Councilman Hughes and Councilwoman McKenzie voted no. The motion carries 5:2.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. City Offices will be closed Monday, October 9, 2023 in observance of Columbus Day.

b. The next City Council meeting will be held on Monday, October 23, 2023.

c. The District 1 Community meeting will be held on October 19 at the Museum Center at 7 p.m.

ADJOURNMENT

There being no further business, Mayor Brooks adjourned the meeting at 4:02 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
OCTOBER 9, 2023
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, OCTOBER 9, 2023 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING DUE TO THE VETERAN'S DAY HOLIDAY.

_____ _____

Mayor City Clerk

REGULAR SESSION
OCTOBER 23, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, OCTOBER 23, 2023 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, Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie. Councilman Tom Cassada was absent from the meeting.

Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Assistant Fire Chief Pete VanDusen, Kris Miller, IT Director; Jonathan Jobe, Director of Development and Engineering; Tommy Myers, Public Works Director; Kim Miller, Human Resource Director; Patti Petitt, Parks and Recreation Director; Robert Varnell, Planning and Community Development Director; Gideon Ratcliff with Mix104.1; Cathy Andrews, CDBG Coordinator; Doug Berry with the Chamber of Commerce; Lawrence Armstrong, NAACP; Marie Tucker; Terry Goldston; Michell Goldston; Paulette Pugh; Jeremiah Million; Hal Taylor; Julie Fivas; Wilhelmena Scott; Charlotte Timberlake; Joan Davis; Gwillen Lowe; Brandon Gibson; Griselda Mee; James Morgan; David Goodwill; Rodney Williams; Steve Barger with Cleveland Utilities; Michael Patel; RaSharon King; Sharon Marr with Mainstreet Cleveland; Mitch McClure; Warbrit Lowery; Lisa Geren; Lucy Rymer; Jami Wise; Kathy Rohsenberger; Marcella Santiago; Deborah Watkins; Seth Sumner; Dustin Tommey; Mayor Emeritus Tom and Sandra Rowland 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 25, 2023 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

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

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Mayor Brooks presented Ms. Lucy Rymer with the Proclamation for National Arts & Humanities Month.

Ms. Rymer thanked the City Council and read the following to the City Council:

Thank you so much for allowing me to speak to you today. October is National Arts & Humanities Month, and for the past 24 years, The Museum & Cultural Center at 5ive Points has served as the anchor of humanities and arts in our community. There is no better demonstration of the difference that cultural, and arts businesses and activities make in a community than those changes that have occurred in our own downtown since MCC5P opened its doors in September of 1999.

The opening of the museum signaled the beginning of downtown revitalization. At that time, there was no 1st St Square, there was a lack of dining options, there was a lack of retail options, and unless you were an attorney or business professional coming to work downtown, there wasn't much of a reason to visit. The opening of the museum changed all of that. Suddenly, people had a reason to visit, retailers and restaurants had a reason to want to locate downtown, and investors began to purchase property, renovate buildings, and create downtown living

options. Fast forward to today and we have thriving downtown with a variety of retailers, restaurants, and professionals and community events throughout the year. I think we can all agree that the museum has increased the vibrancy of our community and quality of life for its residents along with aiding the economic development of the downtown community.
Recently, Michele Mummert, with The Community Foundation of Cleveland and Bradley County, lead the initiative for Cleveland/Bradley County to participate in the AEP6 survey which studies the economic and social impact that non-profit arts organizations have on their communities. During FY2022, from the 27 non-profit arts organizations that participated in the survey, total expenditures from these organizations and audiences totaled $6,772,762 in the City of Cleveland alone, a total of 121 jobs were related to these organizations and audiences, and local tax revenues of $138,240 were generated. Using a tool from the AEP6 website, I've been able to estimate the museum's piece of these results. Out of 27 participating organizations, the Museum & Cultural Center at 5ive Points produced:

- *27% of all expenditures (7.3 times the average)*
- *27% of all FTE Jobs (7.3 times the average)*
- *33% of local tax revenues (roughly 10 times the average)*

I'm so proud of these results and to know that over the past year, while continuing to improve and create a museum we can all be proud of, we are helping to sustain a broader arts and cultural community as well. As a result of the generous support of our donors, you among them, we've been able to tackle all our capital maintenance issues and pay off all our debt. We are now able to put most of our earnings into creating dynamic exhibits and programs that not only support local artists but also support tourism and our local economy.

I would like to take a moment to point out just how special the Museum & Cultural Center at 5ive Points is for our community. While most communities have a downtown with 100-year-old buildings, beautiful churches, and locally owned businesses, it is rare that a community of our size can claim a Smithsonian Affiliated museum at the center of it. We share this prestigious affiliation with museums such as the National Civil Rights Museum in Memphis, The U.S. Space and Rocket Center in Huntsville, The Tellus Science Center and the Booth Western Art Museum in Cartersville, GA, and The McClung Museum of Natural History and Culture in Knoxville. Additionally, we are the only regional history museum in the greater Chattanooga area. We are the only field trip location in our city that meets all K-12 State standards and we will be reaching almost 600 students in the month of November with our education programs. Lastly, we are the only established non-profit arts & humanities institution in Cleveland and Bradley County that offers consistent programs and exhibits, many of which are free, for our community.
The Museum & Cultural Center at 5ive Points is Arts & Humanities under one roof. Coming up in November, we have an array of these programs which all celebrate Native American Heritage Month. These include a fine arts exhibit, Savages & Princesses: The Persistence of Native American Stereotypes, with a panel discussion with the artists on opening night (Nov 10), a lunch & learn with TVA Senior Specialist of Archeology discussing their 1000 Eyes Program, a History Happy Hour featuring Red Clay State Park about Cherokee Lifeways, and the city of Cleveland's first powwow, The Whispering Giants Intertribal Powwow featuring music, crafts, storytelling, dancing and more.

I hope to see you all around the museum, as we continue to provide attractive and impactful programs for our community and beyond and continue to be the anchor for our community to gather, learn, and grow via Humanities and Arts.

Mayor Brooks asked if anyone else would like to address the Council. No one spoke.

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 Mitchell McClure for consideration of an ordinance to zone about 10.88 acres, more or less, of property located on Old Tasso Road from IL Light Industrial Zoning District to R-2 Low Density Single and Multi-family Zoning District and includes Tax Map 042 Parcels 026.00-028.00 and 022.05. Robert Varnell stated this area and grade will not work well with industrial construction/development but will for residential development, which is the intent of the request. The Planning Commission approved this item 7-0 with 2 absent members. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 for consideration of an ordinance to amend the Cleveland Municipal Code, Title 14 Zoning Ordinance, by adding Chapter 13 to Title 14 Zoning and Land Use Control, to provide regulations for short term rentals. Robert Varnell stated a typo was found in the ordinance concerning. A revised copy has been provided which prohibits on-street parking and requires the parking to be on-site. This ordinance primarily regulates how short-term rentals operate, not necessarily where they operate. The definition of a short-term rental is fully or partially rented out for a period of less than 30 continuous days and does not include a hotel or Bed and Breakfast as defined by the State and not considered a permanent residence. The Planning Commission approved this item 7-0 with 2 absent members. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 for consideration of an ordinance to amend the Cleveland Municipal Code, Title 14, Chapter 2, Section 3.8 Accessory Structures to amend standards for accessory structures and accessory dwellings. Robert Varnell stated this ordinance does three things. One, it breaks up accessory buildings into two separate types, major or minor. The breaking point is at 200 square feet. An accessory storage building under 200 square feet can have a smaller setback and can take less room. If it is over 200 square feet, then it would have to meet the setbacks of a primary structure. Third, it removes the ability to have an accessory dwelling completely from the ordinance. These structures cannot be built to be lived in fulltime or parttime. It removes the ability to finish out a structure legally for the purpose of residing in it. We have faced issues of parking, not addressing single-family subdivisions with accessory structures and it acts more like a duplex or apartment complex, which defeats the purpose of zoning. You can still do an in-law suite if it is an addition to the primary structure. Councilman May asked if this stops a handicap or in-law suite. Mr. Varnell stated yes, it can't be a separate structure, it has to be connected. Councilman May asked about a garage? Mr. Varnell stated you could still have a detached garage, but it could not be finished as a residential unit. It would have to meet the primary structure setbacks. The only regulated part is finishing out a space to live in. Jami Moss-Wise asked what about a garage turned into a nonresidential space, like an office or studio. Mr. Varnell stated yes, you can finish out a personal space, it just cannot act as a residential unit. Kathy Rohsenberger stated she has a lot of clients that request buildouts for guest suites or mother in-law suites, which wouldn't be rented out. Mr. Varnell stated we understand the need, that's why the recommendation. Other cities, it must be an addition to the primary structure. Blake Allison stated as everyone is aware, we are having a hard time building affordable housing due to the cost of land and materials. In order to deal with this situation, doing a broad disallowing all accessory dwelling units maybe painting with too broad of a brush. If you look at larger cities, you can see trends. As Cleveland grows it's pretty fair to say we will have the same issues. Just this past year, Chattanooga made it easier for accessory dwellings units to be built due to rising mortgage costs and housing affordability. We are seeing homes being marketed as single-family dwelling homes with an accessory structure in the back for in-law or rental income. There is no way we can govern rentals, but we can, instead of completely

not allowing accessory structure is find a framework that doesn't completely disallow it. There are ways to connect it to the main building. Typically, those look pretty poor, especially if it is an older structure. He proposes to come back with something around lot size as one factor. It is hard to get surveyors, but having a site plan to provide that if you are doing an accessory dwelling, you have the same parking requirements as a townhome or whatever else to make sure two parking spots are allowed based on that lot size. It is another tool to help with affordable housing. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 KACE General Partnership for Consideration of an ordinance to zone about .31 acres, more or less, of property located on Bible Street from IH Heavy Industrial Zoning District to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 057D Group E Parcels 016.00-018.00. Robert Varnell stated this is a request where we have three lots on the edge of downtown and it will be for the construction of three new single-family homes. The Planning Commission approved this item 7-0 with 2 absent members. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 General Board of Trustees of the Church of God of Prophecy for consideration of an ordinance to zone about 8.7 acres, more or less, of property located on North Lee Highway from R-2 Low Density Single and Multi-Family Residential Zoning District to CH Highway Commercial and includes Tax Map 034F Group E Parcel 001.00 and part of Tax Map 034 Parcel 020.01. Robert Varnell stated this new zone would match the uses at the front of the property along North Lee Highway. The Planning Commission approved this item 7-0 with 2 absent members. Councilman Hughes asked about total acreage. Mr. Varnell stated today is the front portion, 8.7 acres but 13-14 total acres. The buildings will remain, but the uses inside will be more commercial. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 Real Life Village for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 28 acres, more or less, of property located on Legacy Parkway from unincorporated county to PUD 47 and R-2 Zoning District and includes Tax Map 041 Parcel 005.30 and part of Parcels 005.03 and 005.29. Robert Varnell stated within these 28-acre, housing options for handicap individuals and recreational uses will be provided. This PUD will be a mix of components. Councilman Hughes stated this is for adult autism residents with approximately 30 units and a portion of the property is in the flood zone. Mr. Varnell stated what they are doing is a good vision. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

Mayor Brooks stated he is reappointing Amy Banks, Clark Taylor, Jo Benjamin, Will Jones and Councilman Dale Hughes to the Shade Tree Board for additional two-year terms.

CONSENT AGENDA

Mayor Brooks stated the Consent Agenda was presented during the Work Session. Councilman May moved to approve the following items from the Consent Agenda. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

a. **Resolution 2023-105** – Authorizing the submission of the Public Entity Partners Property Conservation Grant.

RESOLUTION 2023-105

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 for cameras for Deer Park and Civitan all-inclusive Park as designated in the approved grant application.

This 23rd day of October 2023.

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

b. **Resolution 2023-106** – Approving a Subrecipient Agreement with City Fields to use CDBG funds for Down Payment Assistance to qualified homebuyers.

RESOLUTION 2023-106

WHEREAS, the City of Cleveland Community Development Block Grant Program includes funding within the budget for a Down Payment Assistance Program;

WHEREAS, the Down Payment Assistance Program assists eligible low-income families in the purchase of affordable housing within the CDBG target area to be constructed and financed by City Fields, Inc.;

WHEREAS, said Down Payment Assistance funding can be applied to the down payment, closing costs and/or to reduce the principal balance of the loan;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council hereby approves the Sub-recipient agreement with City Fields Inc.;

BE IT FURTHER RESOLVED THAT the City Council hereby approves of the use of CDBG funds for Down Payment Assistance to qualified homebuyers for the amount of $24,000.

This 23rd day of October 2023.

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

c. **Resolution 2023-107** – Authorizing the Mayor to sign an agreement with Cleveland Utilities for the relocation/installation of a utility pole.

RESOLUTION 2023-107

WHEREAS, the City of Cleveland is preparing for improvements at Tinsley Park; and

WHEREAS, in connection with these public improvements some utility poles need to be relocated and a new pole needs to be installed; and

WHEREAS, City engineering staff contacted Cleveland Utilities about the pole relocations and installation 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 installation; 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 installation, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 23rd day of October 2023

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

d. **Resolution 2023-108 -** Authorizing the City to purchase emergency medical and rescue equipment through the Master Intergovernmental Cooperative Purchasing Agreement #EE08-19.

RESOLUTION 2023-108

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE EMERGENCY MEDICAL AND RESCUE EQUIPMENT THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT #EE08-19, AS AMENDED, WHICH IS ADMINISTERED BY HGACBUY.

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 emergency medical and rescue equipment between Central Alabama Training Solutions ("Company") and HGACBuy a government cooperative purchasing program authorized by the Houston-Galveston Area Council ("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 emergency medical and rescue 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 with HGACBuy 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 #EE08-19, as amended, held by the Houston-Galveston Area Council 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 emergency medical and rescue equipment as a participating public agency under MICPA Contract #EE08-19, as amended, held by Houston-Galveston Area Council as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through HGACBuy 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

e. **Contract Extension** - Banking Services with Pinnacle Banks for an additional one-year term.

TO: **Mayor and City Council**
FROM: **Kristi Powers, Budget/Purchasing Coordinator**
DATE: **October 23, 2023**
RE: **Contract Extension – Banking Services**

SUMMARY:
Requesting an extension to the current banking services contract with Pinnacle Bank for an additional one-year term.

COMMITTEE FINDINGS:
None.

FISCAL ANALYSIS:
None.

RECOMMENDATION:
Staff recommends approval of a one-year contract extension with Pinnacle Bank beginning January 1, 2024.

f. **Resolution 2023-111** – Amending the Personnel Policies of the City of Cleveland.

RESOLUTION 2023-111

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

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

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

WHEREAS, the City Manager, Department Heads, and the City's Human Resources Committee are recommending that the City Council of the City of Cleveland amend the City's Personnel Rules and Regulations; and

WHEREAS, the amended Personnel Rules and Regulations are attached hereto and incorporated by reference; and

WHEREAS, the City Council desires to adopt the attached document in its entirety as the City of Cleveland's Personnel Rules and Regulations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in Regular Session assembled, that the attached document entitled "City of Cleveland Employee Handbook" is hereby adopted as the City of Cleveland's Personnel Rules and Regulations.

Adopted this 23rd day of October, 2023.

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

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman May inquired about Tinsley Park renovations. Mr. Jobe stated we are close to having the bid package ready. We still have to get the Pickleball courts on grade so the contractors can see it, then we will release for bids. The dirt work will be done in-house. Mr. Myers stated the crews are finishing up Mouse Creek Road this week then will be moving to Tinsley Park.

Councilman Hughes congratulated Lucy Rymer with the Museum on being debt free under her leadership. Also, former Middle Valley Commissioner Mitch McClure is here with us today and it is good to see him.

Councilman Webb thanked Tommy Myers for taking care of the safety issue off Hickory Drive due to erosion.

Vice Mayor Johnson echoed Councilman Hughes' statement about the Museum Center. Ms. Rymer has done a great job turning things around. Next, he inquired about the overgrowth

along the Rolling Hills path. Mr. Myers stated crews should have cut it already and he will check on the status.

Councilwoman McKenzie thanked Tommy Meyers' crew for the pothole repairs on Georgetown Road at Guthrie Drive. Lastly, thank you to First Baptist Church for helping get the Civitan Park ready for the grand opening on November 1.

Councilman Estes stated congratulated Cleveland High School Volleyball team, who won the State tournament over the weekend. They defended their championship title and conducted themselves well. Let's have them come to celebrate.

Mayor Brooks thanked Beverely Lindsey for the Breast Cancer Awareness pins. Also, congratulations again to our National Arts and Humanities proclamation recipient the Museum Center.

Councilman Hughes stated Blake Allison is with us today, who was the catalyst that helped build the Isaiah 117 House. We have a $465,000 house for less than $100,000 because of his leadership. He thanked Mr. Allison for his work in the community.

NEW BUSINESS AND ORDINANCES

The following Ordinance was then presented in full:

a. **Ordinance 2023-44** – Amending the Cleveland Municipal Code Title 18, Chapter 1 relating to Sewers and Sewage Disposal.

ORDINANCE 2023-44

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING CERTAIN SECTIONS OF TITLE 18, CHAPTER 1 OF THE CLEVELAND MUNICIPAL CODE RELATING TO SEWERS AND SEWAGE DISPOSAL

WHEREAS, Cleveland Utilities' (CU) Industrial Pretreatment Program is required to classify industries that meet certain Environmental Protection Agency (EPA) designated manufacturing classifications as Significant Industrial Users and to issue a process wastewater discharge permit that, at a minimum, meets EPA discharge standards for that classification; and

WHEREAS, EPA revised the pretreatment program regulations to give utilities the authority to exempt these industries from the Significant Industrial User classification and the associated permitting requirement based on certifying a process wastewater discharge is under 100 gallons/day; and

WHEREAS, these proposed changes to the Sewer Use Ordinance will give CU the local authority to grant these exemptions; and

WHEREAS, there are other minor changes to sections of the current sewer use ordinance that will remove additional stormwater and ground water from the sewer system and improve Cleveland Utilities' ability to access and maintain sewer service to customers; and

WHEREAS, the proposed changes to the Sewer Use Ordinance requested herein have been approved by both the Tennessee Department of Environment and Conservation (TDEC) and the Cleveland Utilities Board as evidenced by the documents attached hereto; and

WHEREAS, Cleveland Utilities is requesting that the City Council pass this ordinance to revise the sewer use ordinance as requested by CU; and

WHEREAS, the City Council desires to pass this ordinance to make the changes to the Sewer Use Ordinance as requested by Cleveland Utilities and as approved by TDEC and the Cleveland Utilities Board.

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

Section 1. That Title 18, Chapter 1, Section 18-102 (1) tilted "Definitions" be amended by amending the definition of "Significant Industrial User" in Section 18-102 (1) (oo) to add new subsection (oo) (v) and (oo) (vi) and to read:

1. "Significant Industrial User."

(i) All dischargers subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.
(ii) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the WWF (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the WWF treatment plant.
(iii) All non-categorical dischargers that, in the opinion of the utility, have a reasonable potential to adversely affect the POTW's operation or for violating any pretreatment standard or requirement. This may include, but not be limited to all centralized waste treatment discharges, all tank and drum cleaning facilities, and all paint manufacturing facilities.
(iv) All non-categorical discharges that contain more than 100 pounds per day of combined BOD_5 and TSS load above that level found in normal wastewater, or that contain more than 1,000 pounds in a month of combined BOD and TSS load above that level found in normal wastewater.
(v) The utility may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- The Industrial User, prior to the utility's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
- The Industrial User annually submits the certification statement required in Section 18-109 (10)(b) per Tennessee Rule 0400-40-14-.12(17)], together with any additional information necessary to support the certification statement; and
- The Industrial User never discharges any untreated concentrated wastewater.

(vi) Upon a finding that a User meeting the criteria in Subsection (ii) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the utility may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in Tennessee Rule 0400-40-14-.08(6)(f), determine that such User should not be considered a Significant Industrial User.

Section 2. That Title 18, Chapter 1, Section 18-102(2) under "Definitions", be amended to include a new abbreviation in the abbreviation list under Section 18-102(2), and to add into the existing abbreviation list an abbreviation for NSCIU-Non-Significant Categorical Industrial User, so that the abbreviation list in 18-102(2) will now read:

Section 18-102 (2) The following abbreviations shall have the following meanings:

(a) BAT - Best Available Technology.
(b) BMP – Best Management Practices
(c) BPT - Best Practical Technology.
(d) BOD_5 - Biochemical Oxygen Demand (5-day).
(e) CFR - Code of Federal Regulations.
(f) COD - Chemical Oxygen Demand.
(g) CWA - Clean Water Act.
(h) CWT - Centralized Waste Treatment Facility.
(i) EPA – Environmental Protection Agency.
(j) GMP - Good Management Practices.
(k) MBAS - Methylene-blue-active substances.
(l) mg/L - Milligrams per liter.
(m) NPDES - National Pollutant Discharge Elimination System.
(n) NSCIU – Non-Significant Categorical Industrial User
(o) POTW - Publicly Owned Treatment Works.
(p) RCRA - Resource Conservation and Recovery Act.
(q) SIC - Standard Industrial Classification.
(r) SIU – Significant Industrial User
(s) SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
(t) TDEC - Tennessee Department of Environment and Conservation
(u) TSS - Total Suspended Non-Filterable Solids.
(v) U.S.C. - United States Code.

Section 3. That Title 18, Chapter 1, Section 18-103 titled "Use of public sewers" be amended under Section 18-103(1)(d) titled "Illegal Connections" to include the words sump pumps, so that 18-103(1) (d) will now read:

Section 18-103(1) (d) Illegal connections. No person shall make or permit connection of roof downspouts, exterior foundation drains, areaway drains, sump pumps, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. If evidence of such illegal connections is discovered by the utility, the owner will be notified in writing and directed to eliminate the illegal connection and/or repair the building sewer, as appropriate.

Section 4. That Title 18, Chapter 1, Section 18-104 titled "Building Sewers, Connections and Permits" be amended so that Section 18-104(1)(b) be amended to read:

Section 18-104 (b) Installation of sewer service lines. The construction and installation of all building sewers shall be in accordance with the requirements of the latest edition of the Standard Plumbing Code published by the Southern Building Code Congress International, Inc. The utility may establish additional requirements and/or standards for materials and methods of installation in accordance with good engineering practice.

Four-inch building sewers shall be laid on a grade of at least 1 percent. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2 feet per second. The slope and alignment of all building sewers shall be neat and regular and shall be bedded in material suitable to achieve proper slope and alignment.
A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another as an interior lot and no private sewer is available or

can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Building sewers shall be constructed only one of the following approved materials:

(i) cast iron soil pipe using rubber compression joints of approved type;
(ii) polyvinyl chloride pipe with rubber compression joints;
(iii) ABS composite sewer pipe with solvent-welded or rubber compression joints of approved type; or
(iv) similar materials of equal or superior quality following utility approval. Under no circumstances will cement mortar joints be acceptable.

Each connection to the sewer system must be made at a tee or stubbed-out service line, or in the absence of any other provision, by means of a saddle of a type approved by the utility, attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

At the connection to Cleveland Utilities' portion of the sewer service a cleanout must be installed with a diameter of not less than 4" inches. If located in a driveway or travel area the cleanout should be placed inside a metal box for protection.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sewer is at a grade of 1 percent or more where possible. In cases where basement or floors are lower than the ground elevation at the point of connection to the sewer, adequate precautions through the installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the sewer, wastes carried by such building drain shall be lifted by an approved means and discharged into the utility's sewer.

Section 5. That Title 18, Chapter 1, Section 18-109 titled "Inspections, monitoring and records" be amended so that Section 18-109(10) entitled "Signatory requirements for industrial user reports" will now read:

Section 18-109 (10) Signatory requirements for permit applications and industrial user reports.

(a) The reports and applications required by this chapter shall include a certification statement as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted 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 for knowing violations.

(b) Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the utility pursuant to 18-102 (1) (pp) (v) must annually submit the following certification statement signed in accordance with the signatory requirements in 18-109 (10) (c) . This certification must accompany an alternative report required by the utility:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under

40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

- *The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 18-102 (1) (pp) (v) and;*
- *The facility complied with all applicable Pretreatment Standards and requirements during this reporting period and;*
- *The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.*

This compliance certification is based on the following information.

_____

_____

(c) The reports shall be signed by an Authorized or Duly Authorized Representative of the User defined as follows:

(i) By a responsible corporate officer if the industrial user submitting the reports required by this section is a corporation. For the purpose of this paragraph, a responsible corporate officer is:
- the president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
- the manager of one or more manufacturing, production or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can assure the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) By a general partner or proprietor if the industrial user submitting the reports required by this section is a partnership or sole proprietorship, respectively.

(iii) By a duly authorized representation of the individual designation in paragraph (a) of this section if:
- The authorization is made in writing by the individual described in paragraph (i).
- The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field utility, or a person in position of equivalent responsibility or with overall responsibility for environmental matters for the company.
- The written authorization is submitted to the control authority.

(d) If an authorization under paragraph (c) of this section is no longer accurate because, a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (c) of this section must be submitted to the utility prior to or in conjunction with any reports to be signed by an authorized representative.

Section 6. 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

Councilman Webb moved that Ordinance 2023-44 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:

b. **Zoning Ordinance 2023-45** – Zoning about 10.88 acres, more or less, of property located on Old Tasso Road from IL Light Industrial Zoning District to R-2 Low Density Single and Multi-family Zoning District and includes Tax Map 042 Parcels 026.00-028.00 and 022.05 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-45

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, rezoned from IL Light Industrial Zoning District to R-2 Low Density Single and Multi-Family Residential Zoning District.

Approximately 10.88 acres, more or less, located on Old Tasso Rd. as shown on the attached map.

For reference, the same property is being shown on a Tax Map 042 Parcels 026.00, 027.00, 028.00, and 022.05 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.

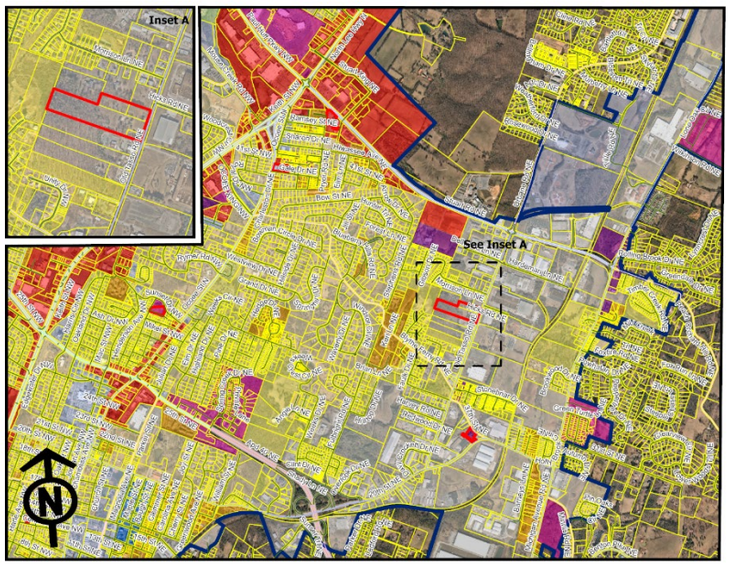
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Ordinance 2023-45 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:

c. **Ordinance 2023-46** – Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, by adding Chapter 13 to Title 14 Zoning and Land Use Control, to provide regulations for short term rentals (Planning Commission: Approved 7-0; 2 absent).

ORDINANCE 2023-46

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, ADDING CHAPTER 13 TO TITLE 14 ZONING AND LAND USE CONTROL, DEFINITIONS AND SUPPLEMENTARY DISTRICTS PROVISION BY PROVIDING REGULATIONS CONCERNING SHORT-TERM RENTAL UNITS.

WHEREAS, the City Council has determined that the existing Code should be revised to include and regulate Short Term Rentals.

WHEREAS, the requirements, restrictions, and permitting of Short-Term Rentals are set forth in The Cleveland Municipal Code to ensure the health, safety, and welfare of the public.

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

Section 1:

The Cleveland Municipal Code, Title 14 Zoning and Land Use Control, Chapter 13, DEFINITIONS, Section 13-101 is hereby added:

DEFINITIONS

Short Term Rentals. Short term rental unit or "unit" means a residential dwelling that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in T.C.A. Section 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in Section T.C.A. 68-14-502.

Section 2:

The Cleveland Municipal Code, Title 14 Zoning and Land Use Control, Chapter 13, Supplementary District Provisions, Section 13-102 is hereby added :

13-102 Short Term Rentals

1. **Short-Term Rentals**. The City has determined that regulation of Short-term Rental Units is necessary in order to protect the health, safety, and welfare of the public, as well as to promote the public interest by regulation of the methods of operation. To meet these ends, the City has determined that all persons who are operating or will

operate Short-Term Rental Units must be issued a permit pursuant to the requirements of this section.

A. Operating Permit Required. It is unlawful to operate or advertise any Short-term Rental Unit within the City without a Short-term Rental Unit Operation Permit issued under this section.

B. Application Requirements. Every qualifying property owner desiring to operate a Short-term Rental Unit shall submit an application for an Operating Permit to the Department of Engineering Services, director of planning, chief building official or his/her designee. In addition to the information required by the application itself, the Department of Engineering Services, director of planning, chief building official or his/her designee may request other information reasonably required to allow the City to process the application. The permit application shall not be considered complete until the Building, Codes, and Department of Engineering Services, director of planning, chief building official has all information as required by the application or otherwise. Each application shall contain at least all of the following information.

1. Applicant much acknowledge that they have read all regulations pertaining to the operation of a Short-Term Rental Unit, including this Section, the City's business license requirements, the City's occupancy privilege tax requirements, any additional administrative regulations promulgated or imposed by the City to implement this Section, and acknowledging responsibility for compliance with the provisions of this article.

2. Applicant must submit an Affidavit of Life Safety Compliance acknowledging that during each Short-term Rental Unit Occupancy, the Rental Unit shall have on the premises, and installed to manufacturer specifications: (i) a smoke alarm meeting Underwriters Laboratory (UL) 217 standards inside each sleeping room, outside of and within fifteen feet of sleeping rooms, and on each story of the dwelling unit, including basements; (ii) a carbon monoxide detector within 15 feet of all bedrooms; and (iii) a fire extinguisher. Every smoke and carbon monoxide alarm must function properly with the alarm sounding after pushing the test button and the fire extinguisher must be operational. It shall be unlawful to operate a Short-term Rental Unit without a smoke alarm, carbon

monoxide detector, and fire extinguisher as required by this section. The Affidavit must also specifically include the number, locations, and operation of the required life safety equipment for the Short-term Rental Unit. This equipment will be subject to verification or inspection before the initial permit is issued, at all other reasonable times upon reasonable notice, and such other times as any safety incident concerning the Rental Unit is reported to the City.

3. If a lessee is operating a Short-term Rental Unit, the lessee shall provide the full legal name of the owner of the Short-term Rental Unit; (ii) the mailing address, email address, and telephone number(s) of the owner; and (iii) the owner's signature acknowledging the owner's understanding of all City Short-term Rental Unit rules and verifying the owner's agreement that they are legally responsible and liable for compliance by the lessee and all occupants of the Short-term Rental Unit with all provisions of this Section and other applicable ordinances of the City.

4. Applicant must designate a person who shall be available twenty- four (24) hours per day, seven (7) days per week for the purpose of: (i) being able to physically respond, as necessary, within forty-five (45) minutes of notification of a complaint regarding the condition, operation, or conduct of occupants of the Short-term Rental Unit; and (ii) taking any remedial action necessary to resolve any such complaints. This contact person may be the owner, a lessee, or the owner's agent.

5. Applicant must provide the full legal name, street and mailing addresses, email address, and telephone number of the owner of the Short-term Rental Unit, and in cases where a business entity or trust is the owner of the property, the individual who has responsibility for overseeing the property on behalf of the business entity or trust, including the mailing address, email address, and telephone number of the individual having such responsibility. If the owner of a Short-term Rental Unit is a business entity, the business must submit documentation to demonstrate that the business is in good standing with the Tennessee Secretary of State.

6. Applicant and owner (if different) must acknowledge in writing that in the event a permit is approved and issued, Applicant and owner (if different) assume all risk and indemnify, defend, and hold the City harmless concerning the City's approval of the permit, the operation and maintenance of the Short-term Rental Unit, and any other matter relating to the Short-term Rental Unit. Applicant must provide proof of liability insurance for the property being utilized as a Short-Term Rental, as defined.

7. Applicant must provide a valid business license along with proof that Applicant remitted taxes due on renting the Short-term Rental Unit, pursuant to Title 67, Chapter 6, Part 5 of the Tennessee Code for filing periods that beginning July 1, 2023. Applicants must submit and provide a copy of Bradley County/City of Cleveland Hotel/Motel Occupancy Privilege Tax form.

8. Applicants must submit a site plan along with the application showing parking availability. Required parking is 1 parking space for every 2 occupants. On-street parking is prohibited, and the yard overlay restrictions outlined in section 4.8 of the Zoning Ordinance shall apply.

2. **Fees.** An application for an Operating Permit under this article shall be accompanied by a fee of Three Hundred ($300.00) Dollars. Said fee is designed to reimburse the City for the cost of processing the application and inspecting the Short-term Rental Unit. There shall be no proration of fees, and once paid, they are non-refundable.

3. **Issuance of Permit.** Once the Department of Engineering Services, director of planning, chief building official or his/her designee has determined that the application is complete, a permit shall be issued or denied within fourteen (14) business days. If the Department of Engineering Services, director of planning, chief building official or his/her designee is satisfied that the application and the Short-term Rental Unit conform to the requirements of this Section and other applicable laws and Ordinances, a permit shall be issued to Applicant. If the application or Short-term Rental Unit does not conform to the requirements of this Section or other pertinent laws or ordinances, the permit shall not be issued, but the Applicant will be advised in writing of the deficiencies and be given a reasonable opportunity to correct them. If not corrected within a reasonable period of time, the application will be permanently denied, and written notice of the denial given. The Operating Permit shall be valid for one (1) calendar year from the date of issuance, unless the Operating Permit is revoked pursuant to this article or terminated by Ordinance or otherwise.

4 **Permit Renewal.** Unless suspended or revoked for a violation of any provision of this Section or other law, City ordinance or rule, a permit may be renewed annually upon payment of a renewal fee of One Hundred ($100.00) Dollars. As with the application fee, this fee is designed to compensate the City for the cost incurred in processing the application and taking any other action necessary to attempt to ensure the Applicant' s compliance with this Ordinance. The renewal fee shall be paid no later than fourteen (14) business days prior to the expiration date for the current permit. A renewal application shall be submitted to the Department of Engineering Services, director of planning, chief building official or his/her designee. A renewed Operating Permit shall be good for one (1) calendar year from the date of issuance.

5. **Permit Non-Transferable.** A permit issued under this Section is non-transferable, and any attempt to transfer it shall render the Permit void. A transfer of the ownership interest in the property itself shall also render the Permit void, whether the transfer is voluntary or involuntary and whether by deed, court order, foreclosure, by law, or otherwise.

6. **No Vested Rights.** Except in instances where constitutional principles or binding state or federal laws otherwise provide, the provisions of this article and any ordinances or other measures concerning Short-term Rental Units are not a grant of vested rights to continue as a Short-term Rental Unit indefinitely. Any Short-term Rental Unit use, and permits for Short-term Rental Units, are subject to provisions of other ordinances, resolutions, or other City measures concerning Short-term Rental Units that may be enacted or adopted at a later date, even though such ordinances, resolutions, or other City measures may change the terms, conditions, allowance, or duration for Short-term Rental Unit use, including but not limited to those that may terminate some or all Short-term Rental Unit uses, with or without some period of amortization. While this recitation concerning vested rights is implicit in any uses permitted by the City, this explicit recitation is set forth to avoid any uncertainty or confusion.

7. **Compliance with City and State Laws.** It shall be unlawful to operate a Short-term Rental Unit in a manner that does not comply with all applicable city and state laws, and any violation shall subject the violator to a fine of fifty ($50.00) Dollars for each violation. For any violation, each day that the violation exists shall constitute a separate offense.

8. **Operation without Permit.** Any Short-term Rental Unit operating or advertising for operation without a valid permit shall be deemed a

public safety hazard. The City may issue the operator, the owner, and the local contact person a civil citation for operating a Short-terrn Rental Unit or advertising one for operation without a permit and the penalty for such is fifty ($50.00) Dollars per day per Unit.

9. **Public Nuisance.** It is unlawful and a violation of this article and is hereby declared a public nuisance for any person to commit, cause, or maintain a violation of any provision of this Section or to otherwise fail to comply with any requirement contained in this Section. The operation or maintenance of a Short-term Rental Unit in violation of this article or any other City Ordinance may be abated or summarily abated by the City in any manner permitted by this Code or otherwise provided by law for the abatement of public nuisances. The City may issue civil citations to the operator, owner, occupants, and local contact person for any violation of this article or any other City ordinance by the operator, owner, local contact person, or occupants of the Short-term Rental Unit, and the penalty for such is fifty ($50.00) Dollars per day.

10. **Complaints.** All complaints regarding Short-term Rental Units shall be filed with the Department of Engineering Services, director of planning, chief building official or his/her designee. Those making complaints are specifically advised that any false complaint made against a Short-term Rental Unit owner or provider is punishable as perjury under T.C.A. 39-16-702. For any complaint made, the City shall provide written notification of the complaint by regular mail to the operator and owner (if different) of the property at the address (es) provided on the application on file. The City shall investigate the complaint, and within thirty (30) days of the date notice was sent to the operator, the operator shall respond to the complaint, and may present any evidence they deem pertinent, and respond to any evidence produced by the complainant or obtained by the City through its investigation. If, after reviewing all relevant material, the City finds the complaint to be supported by a preponderance of the evidence, the City may take, or cause to be taken, enforcement action as provided in this Section or otherwise in the Zoning Ordinance, Municipal Code, or the generally applicable law.

I I. **Revocation of Permit.** The City may permanently revoke an Operating Permit if the City discovers that: l) an Applicant obtained the permit by knowingly providing false information on the application; 2) the continuation of the Short-Term Rental Unit presents a threat to public health or safety; 3) the owner ceases to own the property; 4) the property is not used as a Short-Term Rental for a period of thirty (30) months or more; 5) there has been a violation of a generally applicable

local law two (2) or more separate times arising as a result of the operation of the property as a Short-Term Rental Unit and all appeals from the violations have been exhausted.

12. **Appeal of Denial or Revocation.** If a permit is revoked, the Department of Engineering Services, chief building official or his/her designee shall state the specific reasons for the revocation. Any person whose application has been denied or whose Operating Permit has been revoked may appeal such denial by submitting a written request for a hearing to the Department of Engineering Services, chief building official within ten (10) days of the denial or revocation. A hearing shall be conducted by the City Council at its next regularly scheduled meeting, and the Applicant or Permit Holder must be present for the appeal to be heard. The City Council shall consider whether the denial or revocation was justified and whether good cause exists to issue or reinstate the permit. The decision of the City Council shall be issued verbally during the course of the meeting and the Applicant or Operating Permit Holder shall be given the opportunity to address the City Council. Should the Applicant or permit holder fail to appear, the appeal shall be dismissed. The decision resulting therefrom shall be final and subject only to judicial review pursuant to state law.

Section 3. This ordinance shall take effect immediately upon passage on second 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 2023-46 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:

d. **Ordinance 2023-47** –Amending the Cleveland Municipal Code, Title 14, Chapter 2, Section 3.8 Accessory Structures to amend standards for accessory structures and accessory dwellings (Planning Commission: Deniel 6-1; 2 absent).

ORDINANCE 2023-47

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE PROVIDING THAT THE CLEVELAND MUNICIPAL CODE, AMEND CHAPTER 2 OF TITLE 14 ZONING AND LAND USE CONTROL, BY AMENDING SECTION 3.8 ACCESSORY STRUCTURES AND USES TO REMOVE ACCESSORY DWELLINGS AND DELINEATE BETWEEN MAJOR AND MINOR ACCESSORY STRUCTURES AND AMENDING TABLE 3 BUILDING SETBACKS, HEIGHTS, AND IMPERVIOUS SURFACES.

WHEREAS, the City Council has determined that the existing Code should be revised to regulate accessory structures and remove accessory dwellings as an allowable use.

WHEREAS, the requirements, restrictions, and permitting of accessory structures are set forth in The Cleveland Municipal Code to ensure the health, safety, and welfare of the public.

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

Section 1:

The Cleveland Municipal Code, Title 14 Zoning and Land Use Control, Chapter 2, Section 3.8 Accessory Structures and Uses is hereby amended:

3.8 Accessory Structures and Uses

3.8.1 General Provisions:

A. Accessory uses and structures are permitted in conjunction with a permitted principal use.
B. Accessory uses and structures are permitted by district as listed in table 1 in Subsection 2.1 Permitted Accessory Uses and Structures by Zoning District.
C. Accessory uses and structures shall be subject to approval by the Department of Community Development.
D. Accessory Dwellings are not permitted.

3.8.2 Accessory Uses:

A. Clearly incidental and subordinate to a permitted principal use in terms of area and function;
B. Located on the same lot as the principal use; and
C. Owned or operated by the same person as the principal use.

3.8.3 Major Accessory Structures:

Accessory Structures such as large Storage buildings, Garages, Pool Houses without Bedrooms or Kitchens shall:

A. Comply with the maximum number and setback of the principal structure in the applicable zoning district;
B. Not be within platted or recorded easements or over underground utilities
C. Have a building footprint no greater than 40% of the primary structure footprint;
D. Have a building square footage no greater than 40% of the primary structure or 750 square feet, whichever is greater;
E. Not be located within platted or recorded easements or over underground utilities;
F. Be subordinate in area and size to the principal building (except for agricultural structures approved by the Community Development Director on parcels larger than 2.5 acres);
G. Meet all other applicable standards of this Ordinance when taken together with the principal building or use; and
H. Not to be constructed prior to the time the principal building is constructed (except for community gardens and agricultural uses).
I. May not be used as an accessory dwelling.

3.8.4 Minor Accessory Structures:

Minor accessory structures, such as storage or potting sheds, workshops, or greenhouses, shall:

A. Comply with the maximum number and setback in the applicable zoning district for accessory structures;
B. Have a building footprint of less than 200 square feet;
C. Not be within platted or recorded easements or over underground utilities;
D. Not to be constructed prior to the time the principal building is constructed (except for community gardens and agricultural uses).
E. May not be used as an accessory dwelling.

Section 2:

The Cleveland Municipal Code, Title 14 Zoning and Land Use Control, Chapter 2, Table 3 Building Setbacks, Heights, and Impervious Surfaces is hereby amended:

Table 3

Building Setbacks, Heights, and Impervious Surfaces

Zoning District	Minimum Setbacks (feet)			Maximum Building Height	Minimum Green Space	Maximum Impervious Surface
	Front Yard	*Side Yard*	*Rear Yard*			

R-A	25 ft	10 ft (principal & Major Accessory) 5 ft (minor accessory)	15 ft (principal) 5 ft (accessory)	35 feet	0.65	0.35
R-1	25 ft	10 ft (principal & Major Accessory) 5 ft (minor accessory)	15 ft (principal) 5 ft (accessory)	35 feet	0.40	0.45
R-2	25 ft	10 ft (principal & Major Accessory) 5 ft (minor accessory)	15 ft (principal) 5 ft (accessory)	35 feet	0.40	0.50
R-3	25 ft (principal)	10 ft (principal & Major Accessory) 5 ft (minor accessory)	15 ft (principal) 5 ft (accessory)	70 feet	0.25	0.70
R-4	Sec 4.6	Section 4.6	Section 4.6	Section 4.6	Section 4.6	Section 4.6

Section 3. This ordinance shall take effect immediately upon passage on second reading, the public welfare 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 2023-47 be voted for passage on first reading. The motion was seconded by Councilman Estes. Councilman Estes then stated he is not opposed square footage requirements. If someone has 1-2 acres in R-1, you can build it to make it look nice with other requirements. If we start with this, we can loosen it up. Councilman May asked the square footage for a legal lot before a permit is issued. Mr. Varnell stated yes, lot requirements depend on the zone, so R-2 detached home is 5,000 square feet, in R-1 it is 7,500 square feet. Councilman Estes stated the Planning Commission discussion was should it include square footage or just deny it. Thinking about districts, it is not fair to people who already have homes. Councilman May stated it is hurting neighborhoods and the value of houses. Councilman Estes stated if we want to come back and loosen it for specific circumstances, it seems more equitable. He supports the Ordinance. Councilman May asked how many permits have been issued annually. Councilman Estes stated he believes they go up without a permit, they tie on electric and sewer to the existing structure. As an option, we can kick it back to the Planning Commission. City staff is for this, and we need to give them the tools so they can protect neighborhoods. Councilman May stated he has mixed feelings. Councilman Estes stated approve today and tweak it later. Vice Mayor Johnson stated after hearing discussion he would like to rescind his motion. Councilman Estes rescinded his second. Councilman Hughes stated he is not ready to vote on this today. Councilman Hughes then moved to send the Ordinance back to the Planning Commission. The motion was seconded by Councilman Estes. Councilman Estes then

asked if the Council would give some direction for the Planning Commission. Councilwoman McKenzie stated they should look at lot size and connection to the house. Councilman Webb asked for the technical definition for attached to the dwelling; a common wall or breezeway. Mr. Varnell stated he doesn't have a definition prepared but he can provide further research if it is sent back to the Planning Commission. The current ordinance is difficult to enforce and may not speak to what we want as a city. He is happy to work to get us there. Councilwoman McKenzie asked for his preference, approve today and tweak it or send it back to the Planning Commission for further review. Mr. Varnell replied he is not sure of a better path forward but if approved as written today, we can bring something back. Mayor Brooks stated we have a motion on the floor from Councilman Hughes, seconded by Councilman Estes, we've had a large amount of debate, in-fact Roberts Rules of Order might consider this a running debate, which is against the rules. He then asked for closing comments. Councilman Webb stated if we do decide to allow accessory dwellings, it concerns him that if electric is fed from the primary structure that could cause huge issues, for all utilities. If it is studied further that needs to be considered. Councilman Estes stated he'd be happy to rescind his second and move forward today. Councilman Estes then withdrew his second. Councilman Hughes stated if he'd get a second, he would like to speak to the motion. Councilman Estes stated he would second the motion again to hear Councilman Hughes' comments. Councilman Hughes stated we have proven we need to send this back because we are not ready to vote. The Mayor said we've had more discussion on this than he'd like to allow as Chairman, and he agrees. We've had enough discussion, and the problems need resolved at the Planning Commission level and maybe brought back at our next meeting. Councilman Estes stated this can't be back before the next meeting, but it is a very important issue before the City. We shouldn't shut down discussion this important. He doesn't agree there's been too much discussion. If anything deserves our attention and discussion is something like this. Councilman Estes then withdrew his second. Councilman Hughes restated his motion is to refer the ordinance back to the Planning Commission. The motion was seconded by Councilman May. Councilman Estes asked to include asking city staff to expedite this ordinance; give staff direct direction, make it a priority. Councilman Hughes agreed to add that to the motion. Upon roll call, Councilman Hughes, Councilman May, Vice Mayor Johnson, Councilwoman McKenzie and Councilman Webb voted aye. Councilman Estes voted no. Motion carries 5:1. Mayor Brooks added since Roberts Rules were called into question, Rules of debate, item 42, no member shall speak more than twice on the same day, same question.

The following Ordinance was then presented in full:

e. **Zoning Ordinance 2023-48** – Zoning about .31 acres, more or less, of property located on Bible Street from IH Heavy Industrial Zoning District to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 057D Group E Parcels 016.00-018.00 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-48

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, rezoned from IH Heavy Industrial Zoning District to R-2 Low Density Single and Multi-Family Residential Zoning District.

Approximately .31 acres, more or less, located on Bible Street as shown on the attached map.

For reference, the same property is being shown on a Tax Map 057D Group E Parcels 016.00, 017.00, and 018.00 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.

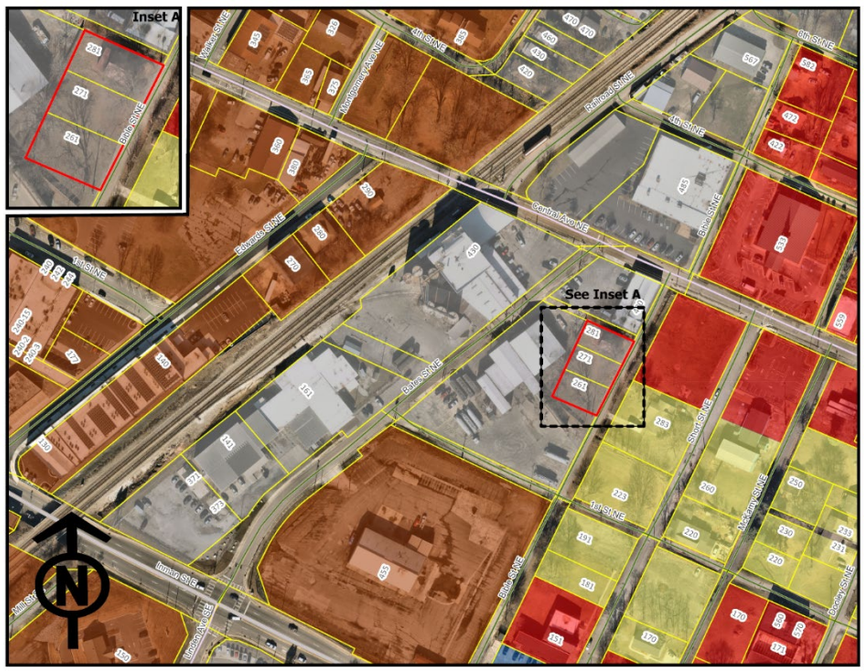
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilman Estes moved that Zoning Ordinance 2023-48 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:

f. **Zoning Ordinance 2023-49** – Zoning about 8.7 acres, more or less, of property located on North Lee Highway from R-2 Low Density Single and Multi-Family Residential Zoning District to CH Highway Commercial and includes Tax Map 034F Group E Parcel 001.00 and part of Tax Map 034 Parcel 020.01 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-49

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, rezoned from R-2 Low Density Single and Multi-Family Zoning District to CH Highway Commercial Zoning District.

Approximately 8.7 acres, more or less, located on North Lee Hwy as shown on the attached map.

For reference, the same property is being shown on a Tax Map 034F Group E Parcels 001.00 and part of Tax Map 034 Parcel 020.01 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.

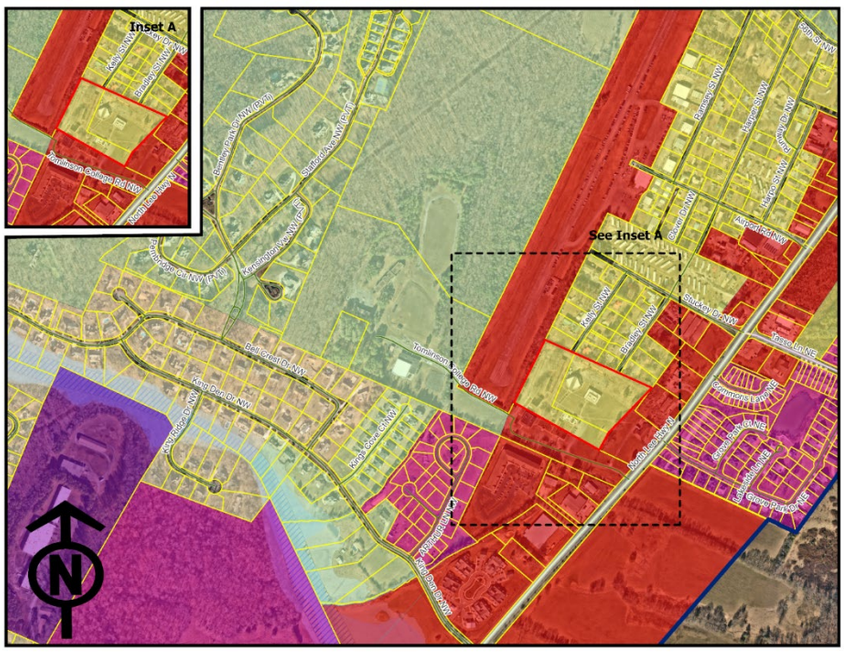
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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 2023-49 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

g. **Resolution 2023-109** – Concerning a request by Real Life Village for consideration of a plan of service for about 28 acres, more or less, for property located on Legacy Parkway and includes Tax Map 041 Parcel 005.30 and part of Parcels 005.03 and 005.29 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-109

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

LEGACY PARKWAY
(041 005.30 and a portion of 005.03 and 005.29)

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

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

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

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

A. That a public hearing is hereby held at 3:00 pm on October 23, 2023, 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 northernmost point of the lands of Real Life Village Inc, as recorded in BCROD deed book 2985 page 52, said point being located in the existing City Limits and eastern line of a 30' sewer easement; thence with the eastern line of the lands of Real Life Village Inc south 53 degrees 47 minutes 19 seconds east, 984.81 feet to an iron pin; thence leaving the existing City Limits south 58 degrees 17 minutes 36 seconds west, 750.60 feet to a concrete monument; thence south 60 degrees 35 minutes 2 seconds west, 242.24 feet to an iron pin; thence north 0 degrees 32 minutes 50 seconds west, 98.15 feet to an iron pin; thence north 9 degrees 14 minutes 50 seconds west, 74.24 feet to an iron pin; north 2 degrees 22 minutes 43 seconds west, 166.49 feet to an iron pin; thence north 12 degrees 28 minutes 45 seconds east, 276.53 feet to an iron pin; thence north 15 degrees 47 minutes 42 seconds west, 110.29 feet to an iron pin; thence north 22 degrees 51 minutes 40 seconds west, 110.42 feet to an iron pin; thence north 17 degrees 8 minutes 59 seconds west, 81.02 feet to an iron pin; thence north 20 degrees 57 minutes 31 seconds east, 120.56 feet to an iron pin; thence north 56 degrees 5 minutes 16 seconds east, 86.89 feet to an iron pin; thence north 54 degrees 23 minutes 18 seconds east, 315.15 feet to an iron pin; thence north 59 degrees 46 minutes 47 seconds east, 427.91 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

SEPTEMBER 19, 2023
LEGACY PARKWAY PROPERTY
(041 005.30 and a portion of 005.03 and 005.29)
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 28, more or less, acres located on Legacy Parkway 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 2023.

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.

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

The annexation consists of one parcel and a portion of two others. The annexation would zone parcel 041 005.30 as a planned unit of development. The annexation would zone a portion of parcel 041 005.03 and 005.29 as R-2 Low Density Single and Multi-Family.

Legacy Parkway Location Map



Legal Description

Beginning at the northernmost point of the lands of Real Life Village Inc, as recorded in BCROD deed book 2985 page 52, said point being located in the existing City Limits and eastern line of a 30' sewer easement; thence with the eastern line of the lands of Real Life Village Inc south 53 degrees 47 minutes 19 seconds east, 984.81 feet to an iron pin; thence leaving the existing City Limits south 58 degrees 17 minutes 36 seconds west, 750.60 feet to a concrete monument; thence south 60 degrees 35 minutes 2 seconds west, 242.24 feet to an iron pin; thence north 0 degrees 32 minutes 50 seconds west, 98.15 feet to an iron pin; thence north 9 degrees 14 minutes 50 seconds west, 74.24 feet to an iron pin; north 2 degrees 22 minutes 43 seconds west, 166.49 feet to an iron pin; thence north 12 degrees 28 minutes 45 seconds east, 276.53 feet to an iron pin; thence north 15 degrees 47 minutes 42 seconds west, 110.29 feet to an iron pin; thence north 22 degrees 51 minutes 40 seconds west, 110.42 feet to an iron pin; thence north 17 degrees 8 minutes 59 seconds west, 81.02 feet to an iron pin; thence north 20 degrees 57 minutes 31 seconds east, 120.56 feet to an iron pin; thence north 56 degrees 5 minutes 16 seconds east, 86.89 feet to an iron pin; thence north 54 degrees 23 minutes 18 seconds east, 315.15 feet to an iron pin; thence north 59 degrees 46 minutes 47 seconds east, 427.91 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 could service this area immediately with our existing Stations without any noticeable impact to the budget.

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

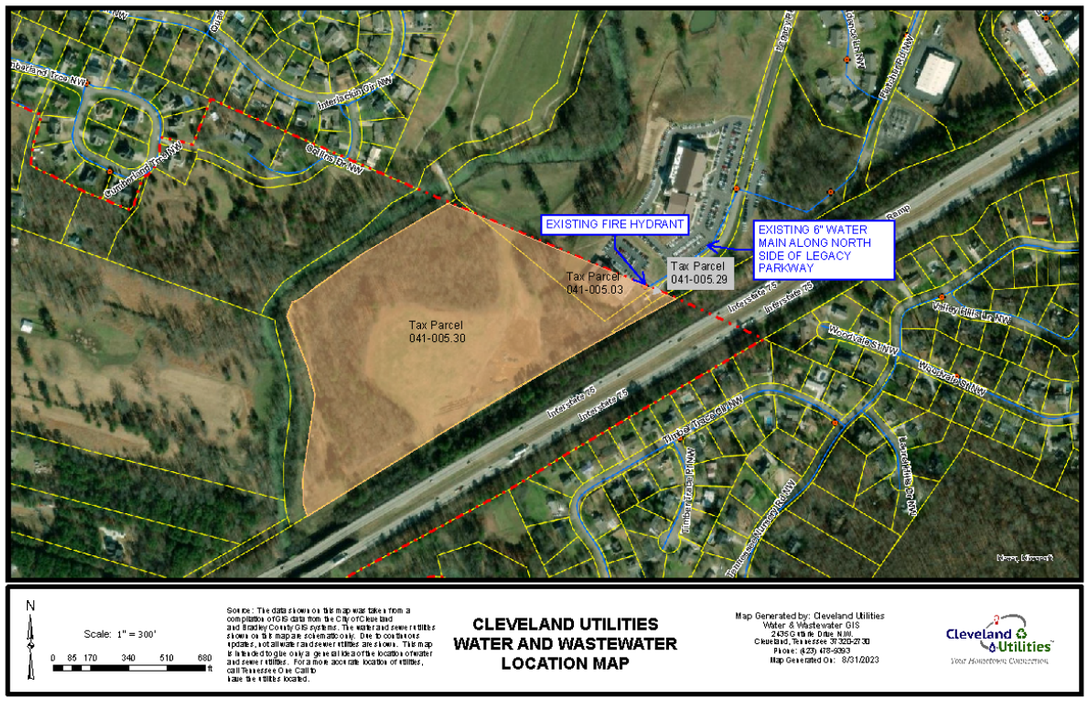
A. Domestic Water---Domestic water service is presently available to the parcels via a 6" water main along the north side of Legacy Parkway. See Figure 1—Water Service.

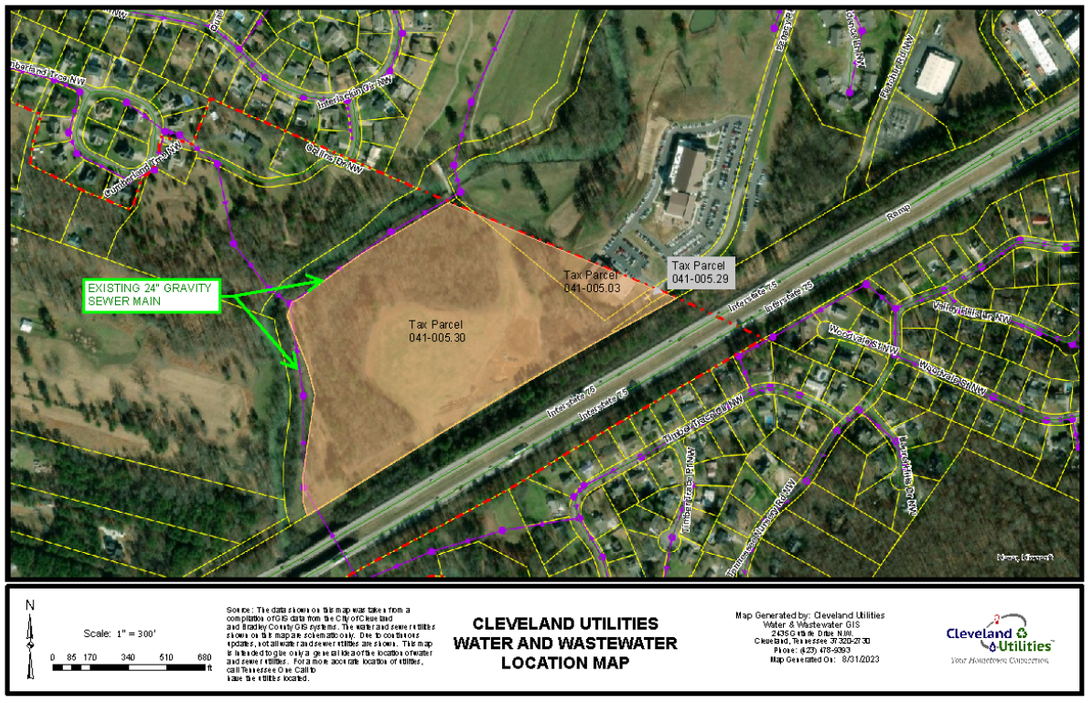
B. Sanitary Sewer—Sewer service is presently available to the parcels via a 24" gravity sewer main along the west and north edges of the parcel. See Figure 2—Sewer Service.

C. Fire Protection—There is an existing fire hydrant at the edge of the parcels at the end of Legacy Parkway. See Figure 1—Water Service.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Legacy Parkway(041 005.30 and a portion of 005.03 and 005.29)	$0	$0	$0	$0





4. Electric Service

Cleveland Utilities Electric currently has facilities along the south side of the proposed property running parallel with I-75. Electric service to potential customers is not a foreseen issue.

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 the 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 educational impact to the City School System would be $28,321.11 per year.

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 R-2 Zoning in the unincorporated County. The property is proposed as Planned Unit of Development (PUD) 47 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 xx 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.

Revenue

The "Real Life Village" is a non-profit entity which will provide a higher quality of life for the people it serves. A second phase of residential construction will be developed on the southeastern portion of the property. The exact acreage is unknown, but the approximate area of future development is 6 acres. The total income from annexation could result in approximately **$37,000** in property tax revenue.

Councilman Hughes moved that Resolution 2023-109 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:

h. **Resolution 2023-110** – Concerning a request by Real Life Village for consideration of a resolution to annex about 28 acres, more or less, of property located on Legacy Parkway and includes Tax Map 041 Parcel 005.30 and part of Parcels 005.03 and 005.29 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-110

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

LEGACY PARKWAY 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 extending its urban growth boundary; and

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

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

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

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

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

WHEREAS, a public hearing on the proposed annexation and Plan of Services was held by the governing body on October 23, 2023.

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 northernmost point of the lands of Real Life Village Inc, as recorded in BCROD deed book 2985 page 52, said point being located in the existing City Limits and eastern line of a 30' sewer easement; thence with the eastern line of the lands of Real Life Village Inc south 53 degrees 47 minutes 19 seconds east, 984.81 feet to an iron pin; thence leaving the existing City Limits south 58 degrees 17 minutes 36 seconds west, 750.60 feet to a concrete monument; thence south 60 degrees 35 minutes 2 seconds west, 242.24 feet to an iron pin; thence north 0 degrees 32 minutes 50 seconds west, 98.15 feet to an iron pin; thence north 9 degrees 14 minutes 50 seconds west, 74.24 feet to an iron pin; north 2 degrees 22 minutes 43 seconds west, 166.49 feet to an iron pin; thence north 12 degrees 28 minutes 45 seconds east, 276.53 feet to an iron pin; thence north 15 degrees 47 minutes 42 seconds west, 110.29 feet to an iron pin; thence north 22 degrees 51 minutes 40 seconds west, 110.42 feet to an iron pin; thence north 17 degrees 8 minutes 59 seconds west, 81.02 feet to an iron pin; thence north 20 degrees 57 minutes 31 seconds east, 120.56 feet to an iron pin; thence north 56 degrees 5 minutes 16 seconds east, 86.89 feet to an iron pin; thence north 54 degrees 23 minutes 18 seconds east, 315.15 feet to an iron pin; thence north 59 degrees 46 minutes 47 seconds east, 427.91 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

SEPTEMBER 19, 2023
LEGACY PARKWAY PROPERTY
(041 005.30 and a portion of 005.03 and 005.29)
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 28, more or less, acres located on Legacy Parkway 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 2023.

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.

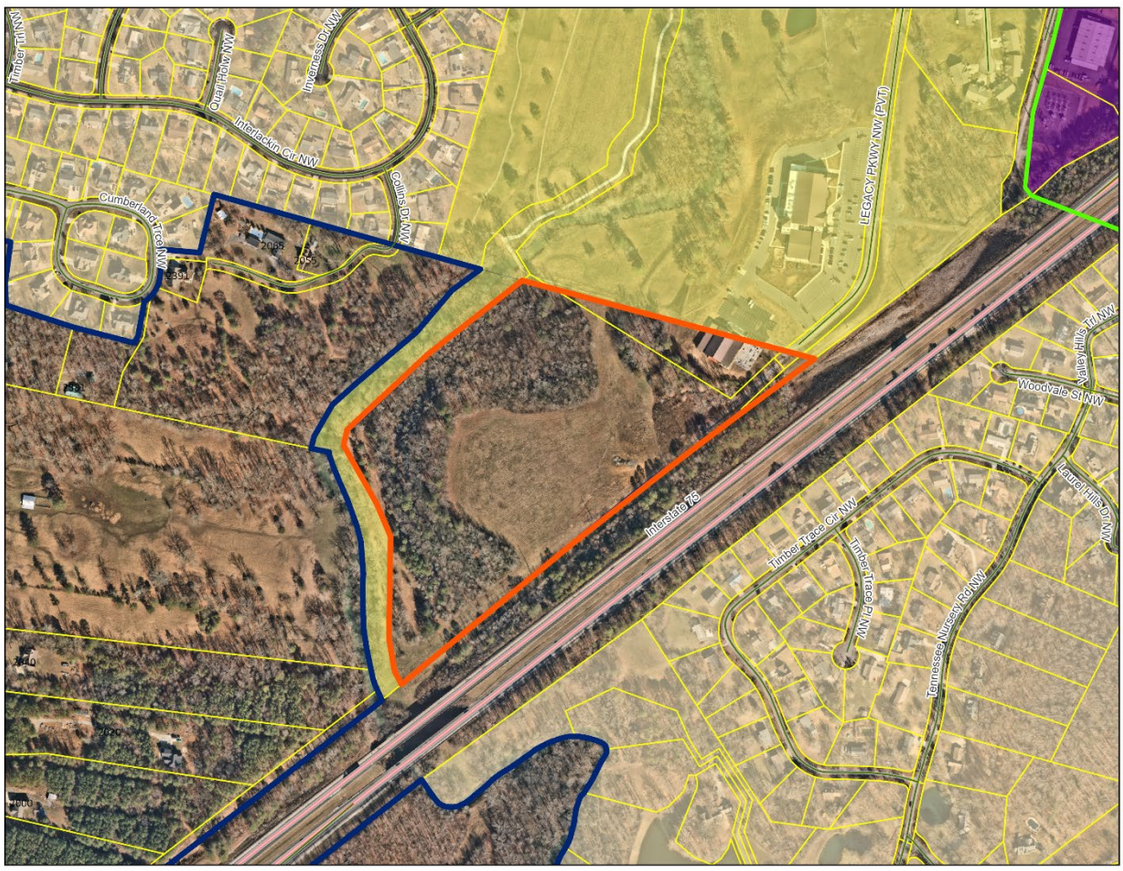
Introduction

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.

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

The annexation consists of one parcel and a portion of two others. The annexation would zone parcel 041 005.30 as a planned unit of development. The annexation would zone a portion of parcel 041 005.03 and 005.29 as R-2 Low Density Single and Multi-Family.

Legacy Parkway Location Map



Legal Description

Beginning at the northernmost point of the lands of Real Life Village Inc, as recorded in BCROD deed book 2985 page 52, said point being located in the existing City Limits and eastern line of a 30' sewer easement; thence with the eastern line of the lands of Real Life Village Inc south 53 degrees 47 minutes 19 seconds east, 984.81 feet to an iron pin; thence leaving the existing City Limits south 58 degrees 17 minutes 36 seconds west, 750.60 feet to a concrete monument; thence south 60 degrees 35 minutes 2 seconds west, 242.24 feet to an iron pin; thence north 0 degrees 32 minutes 50 seconds west, 98.15 feet to an iron pin; thence north 9 degrees 14 minutes 50 seconds west, 74.24 feet to an iron pin; north 2 degrees 22 minutes 43 seconds west, 166.49 feet to an iron pin; thence north 12 degrees 28 minutes 45 seconds east, 276.53 feet to an iron pin; thence north 15 degrees 47 minutes 42 seconds west, 110.29 feet to an iron pin; thence north 22 degrees 51 minutes 40 seconds west, 110.42 feet to an iron pin; thence north 17 degrees 8 minutes 59 seconds west, 81.02 feet to an iron pin; thence north 20 degrees 57 minutes 31 seconds east, 120.56 feet to an iron pin; thence north 56 degrees 5 minutes 16 seconds east, 86.89 feet to an iron pin; thence north 54 degrees 23 minutes 18 seconds east, 315.15 feet to an iron pin; thence north 59 degrees 46 minutes 47 seconds east, 427.91 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 could service this area immediately with our existing Stations without any noticeable impact to the budget.

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

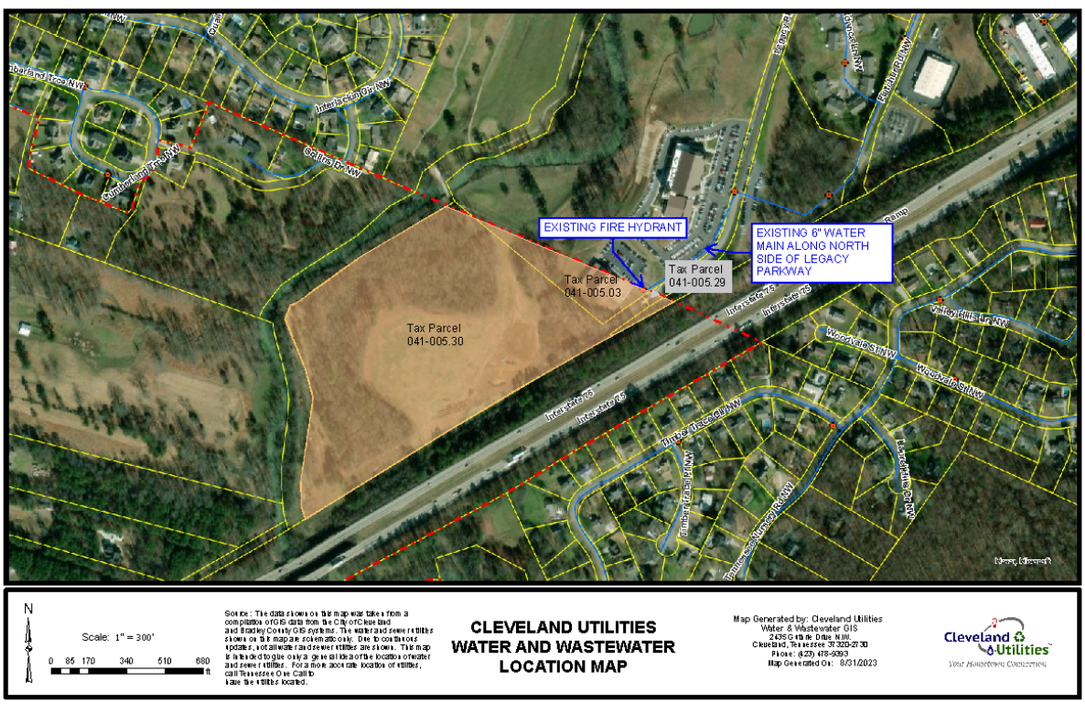
A. Domestic Water---Domestic water service is presently available to the parcels via a 6" water main along the north side of Legacy Parkway. See Figure 1—Water Service.

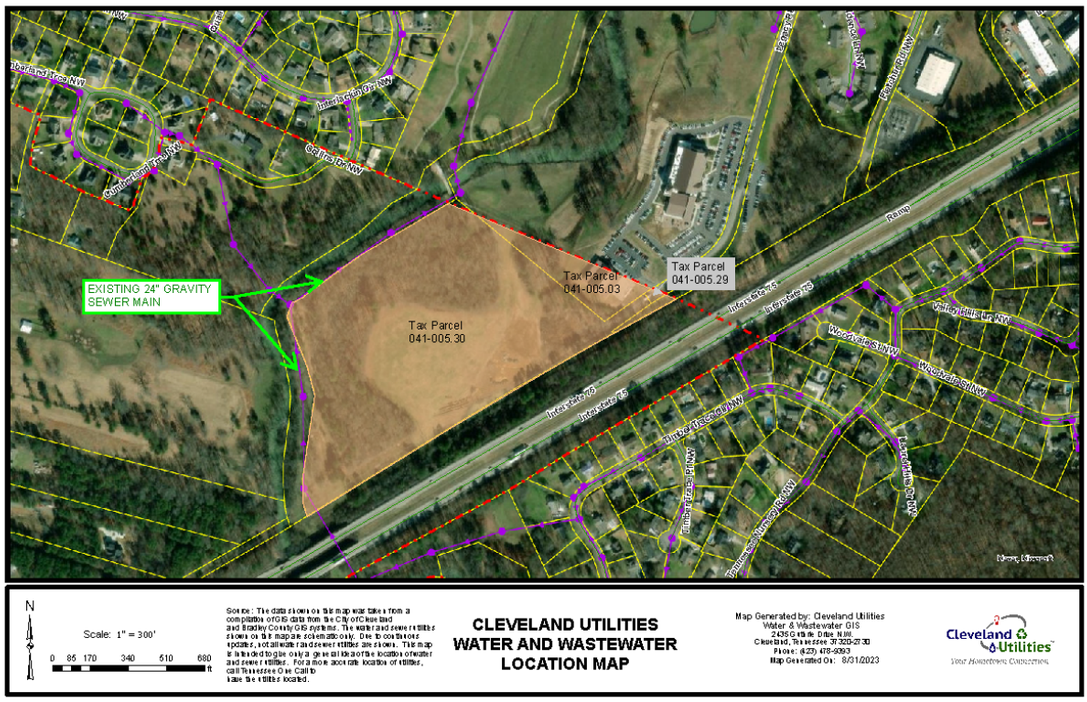
B. Sanitary Sewer—Sewer service is presently available to the parcels via a 24" gravity sewer main along the west and north edges of the parcel. See Figure 2—Sewer Service.

C. Fire Protection—There is an existing fire hydrant at the edge of the parcels at the end of Legacy Parkway. See Figure 1—Water Service.

SUMMARY OF COSTS

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Legacy Parkway(041 005.30 and a portion of 005.03 and 005.29)	**$0**	**$0**	**$0**	**$0**


EXISTING FIRE HYDRANT
EXISTING 6" WATER MAIN ALONG NORTH SIDE OF LEGACY PARKWAY
Tax Parcel 041-005.29
Tax Parcel 041-005.03
Tax Parcel 041-005.30
Interstate 75
Interstate 75
Interstate 75
Interstate 75
Legacy Pkwy
Legacy Pkwy
Legacy Pkwy


EXISTING 24" GRAVITY SEWER MAIN
Tax Parcel 041-005.30
Tax Parcel 041-005.03
Tax Parcel 041-005.29
Interstate 75
Interstate 75
Interstate 75
Interstate 75
Ramp
Ramp
Waterleaf Cir NW
Waterleaf Cir NW
Waterleaf Cir NW
Timber Ridge Rd NW
Timber Ridge Rd NW
Timber Ridge Rd NW
Timber Ridge Rd NW
Timber Ridge Dr NW
Timber Ridge Dr NW
Timber Ridge Dr

within the proposed areas will begin at the 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 educational impact to the City School System would be $28,321.11 per year.

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 R-2 Zoning in the unincorporated County. The property is proposed as Planned Unit of Development (PUD) 47 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 xx 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.

Revenue

The "Real Life Village" is a non-profit entity which will provide a higher quality of life for the people it serves. A second phase of residential construction will be developed on the southeastern portion of the property. The exact acreage is unknown, but the approximate area of future development is 6 acres. The total income from annexation could result in approximately **$37,000** in property tax revenue.

Councilman Webb moved that Resolution 2023-110 be accepted as presented. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

i. **Zoning Ordinance 2023-50** – Zoning about 28 acres more or less, of property located on Legacy Parkway from unincorporated county to PUD 47 and includes Tax Map 041 Parcel 005.30 (Planning Commission: Approved 7-0; 2 absent).

ZONING ORDINANCE 2023-50

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT KNOWN AS "PUD 47" ON CERTAIN PROPERTY LOCATED NEAR LEGACY PARKWAY (TAX MAP 041 PARCEL 005.30) AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 47; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING CONDITIONS FOR MITIGATION OF NOISE AND VIBRATION; ESTABLISHING SITE PLAN REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR TRAFFIC CIRCULATION ON AND ADJACENT TO THE SITE AND PARKING, FIRE LANES, AND SERVICE AND DELIVERY VEHICLES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING; ESTABLISHING REQUIREMENTS FOR GENERAL APPEARANCE, SIGNAGE AND OUTDOOR DISPLAYS; ESTABLISHING REQUIREMENTS FOR LITTER AND SOLID WASTE CONTROL AND DRAINAGE STRUCTURE MAINTENANCE; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; REQUIRING PROPER SUBDIVISION AND SITE PLANNING; REQUIRING A PUD DEVELOPMENT PLAN; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; COMMUNICATING THE BINDING EFFECT OF THE ORDINANCE UPON OTHERS; AND PROVIDING FOR CONFLICTS,
SEVERABILITY, AND AN EFFECTIVE DATE

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

Section 1. ZONING PLAN AND MAP AMENDMENT.

The zoning plan and map are hereby amended so as to zone the property described in section 2 herein as “PUD 47” subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 47 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for PUD 47 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 a 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 47, Legacy Parkway Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 041 Parcel 005.30. Exhibit A illustrates the overall Legacy Parkway 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 Legacy Parkway Development. The project consists of a mixture of residential and public institutional uses associated with the non-profit entity that will be located on site as well as future residential uses not associated with the non-profit entity. The developer shall include any permanent retention and detention pond areas or landscaped common areas.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 47 development allows for the construction of residential and general commercial entities with uses specified in within R-2 Low Density Single and Multi-Family Zoning District and allowable uses within CG General Commercial Zoning District. Specifically prohibited uses include outdoor firing ranges, racetracks, car washes, storage facilities, and adult businesses or sex outlets as defined by the City's Zoning Ordinance.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTIAL PLAN

A conceptual plan (exhibit A) for PUD 47, Legacy Parkway Development, was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on September 19th, 2023. The concept 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 47 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 35 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 building and type within the development area. 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 feature 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 47 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 PUD 47 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plats will describe and dedicate public streets and 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 47 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 47 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 party to them.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD 47 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R-2 Low Density Single and Multi-Family residential zone for residential development and CG General Commercial zoning for commercial development from the City of Cleveland's zoning regulations.

A 25' buffer shall be established between the non-profit development and associated amenities and the greenway right-of-way for mutual enhancement.

The general appearance for all development within the PUD 47 development area shall be in accordance with the IGC Interstate Gateway District Standards outlined in section 2.20 of the Cleveland, TN Zoning Ordinance.

A monument style ground sign shall be installed at the primary entrance(s) to the site. 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 homeowner's association shall enforce a no overnight parking within the Rights-of-way for emergency service access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal Service, and shall include a minimum of 3 off-street parking

spaces per. 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 public ROW. Each single-family residential lot must provide a minimum of 2 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 60 feet and the depth requirements are 100 feet. The front setback requirements are 15 feet, side setback requirements are 5 feet, 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 5 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 R2 Low Density Single Residential Zoning District shall apply for any standards this ordinance does not address concerning residential development and CG General Commercial zoning for commercial development.

The developer shall dedicate a 50-foot-wide strip of unopened right-of-way along the front of the parcel which boarders Interstate 75 Right-of-way for future road development by the City of Cleveland.

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 successor in title, is responsible for obtaining all federal, state, and local permits required for the construction of the Proposed PUD 47 Legacy Parkway 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 structed 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 47, 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 PUD 47 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 Real Life Village 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 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

Vice Mayor Johnson moved that Zoning Ordinance 2023-50 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

j. **Zoning Ordinance 2023-51** – Zoning about 2.25 acres more or less, of property located on Legacy Parkway from FAR zoning district to R-2 Zoning District and includes Tax Map 041 Parcel 005.03 and 005.29 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-51

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, rezoned from FAR Zoning District to R-2 Low Density Single and Multi-Family Residential Zoning District.

Approximately 2.25 acres, more or less, located on the corner of Durkee Rd. and Bates Pike as shown on the attached map.

For reference, the same property is being shown on a portion of Tax Map 041 Parcels 005.03 and 005.29, 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

Councilman May moved that Zoning Ordinance 2023-51 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:

k. **Ordinance 2023-52** – Amending Title 9, Chapter 8 of the Municipal Code pertaining to Nightclubs to add a new Section 9-804; Unauthorized Nightclub Operation.

ORDINANCE 2023-52

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE
AMENDING TITLE 9, CHAPTER 8 NIGHTCLUBS
TO ADD A NEW SECTION 9-804: UNAUTHORIZED NIGHTCLUB OPERATION.

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Cleveland, Tennessee, that Title 9, Chapter 8, of the Cleveland Municipal Code entitled Nightclubs be amended by adding the following section:

Section 9-804: Unauthorized Nightclub Operation, Civil Penalty for Violations, Cease and Desist Orders, Emergency Closure

(a) It is a civil offense to operate an unauthorized nightclub or to participate in the operation of an unauthorized nightclub within the corporate limits of the City of Cleveland.

(b) Definition: For the purposes of this chapter, an "unauthorized nightclub" refers to any establishment that operates as a nightclub as defined in Section 9-801 of the Cleveland Municipal Code without obtaining all the required permits and licenses from both the City of Cleveland and/or the State of Tennessee.

(c) Cease and Desist Order: Upon discovering an individual, or entity operating an unauthorized nightclub, or any owner of record where the unauthorized nightclub operates, the City of Cleveland shall issue a written cease and desist order to the owner of record, owner, operator, or any individuals involved in the operation of the unauthorized nightclub. The order shall notify the owner of record, owner, operator, and any individuals involved that they are operating an unauthorized nightclub or that they are otherwise participating in the operation of an authorized nightclub. This Order shall provide a clear timeframe within which the unauthorized nightclub operation must cease. In addition to a cease-and-desist order, the individual may be issued a citation to municipal court.

(d) Penalties for Unauthorized Nightclub Operation:

Any person operating an unauthorized nightclub, or participating in the operation of an unauthorized nightclub, or any owner of record where the unauthorized nightclub operates, may be issued a citation to municipal court for operating or participating in the operation of an unauthorized nightclub.

If an individual is found guilty of operating an unauthorized nightclub or otherwise participating in the operation of an unauthorized nightclub, or any owner of record where the unauthorized nightclub operates, they shall be subject to the imposition of a civil penalty of fifty Dollars for each offense, plus court costs and litigation tax. Citations for a violation may be issued by a member of the Cleveland Police Department or by a member of the City of Cleveland’s Code Enforcement Division. Each day that a violation continues shall constitute a separate offense punishable by a civil penalty of fifty dollars per day.

The foregoing civil penalty is not intended to be the exclusive means of enforcing Title 9, Chapter 8, Nightclubs, and a violation of this section is expressly declared to be a public nuisance. In addition to the civil penalty provided herein, the nuisance shall also be abatable by a separate proceeding in law or in equity.

(e) Emergency Closure: In cases where an unauthorized nightclub poses an immediate threat to public safety or the operation exhibits severe violations of any health, safety, or zoning regulation of the City, the City of Cleveland Police Department and the City of Cleveland’s Code Enforcement Division are hereby authorized and empowered to order an emergency closure of the unauthorized nightclub until all violations are rectified and regulatory compliance is established. Regulatory compliance includes, but is not limited to, compliance with all of the requirements of Title 9, Chapter 8 as well as all other provisions of the Cleveland Municipal Code.

Section 1. 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 2023-52 be voted for passage on first reading. 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 held on Monday, November 13, 2023.

b. Holiday Schedule: Following Tennessee State Government Holiday Office Closure Schedule, City offices will be closed as follows:

- Friday, November 10 in observance of Veterans Day.
- Thursday, November 23 and Friday, November 24 due to the Thanksgiving Holiday.
- Friday, December 22 and Monday, December 25 for the Christmas Holiday. The December 25 Council meeting will be cancelled.
- Friday, December 29 and Monday, January 1, 2024 for the New Year's Holiday.

ADJOURNMENT

There being no further business, Mayor Brooks adjourned the meeting at 4:24 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
NOVEMBER 13, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, NOVEMBER 13, 2023 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, Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie.

Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Assistant Fire Chief Pete VanDusen, Kris Miller, IT Director; Tommy Myers, Public Works Director; Patti Petitt, Parks and Recreation Director; Robert Varnell, Planning and Community Development Director; Gideon Ratcliff with Mix104.1; Cathy Andrews, CDBG Coordinator; Doug Berry with the Chamber of Commerce; Donald Humes; Kathryn Haley; Charlotte Timberlake; Allen Mincey; Ben Berry; Mitch McClure; Matt Wayne; Sharon Marr with Mainstreet Cleveland; Warbrit Lowery; Seth Sumner; Dustin Tommey and Tim Siniard with the *Cleveland Daily Banner*.

Following the Pledge of Allegiance to the American Flag, prayer by Vice Mayor Johnson, and a moment of silence for Bishop W.C. Ratchford, the following business was then entered into:

Mayor Brooks thanked all involved in this year's Veteran's Day Ceremony.

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on October 23, 2023 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 asked if anyone would like to address the Council. No one spoke.

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 Big Buck Construction for consideration of an ordinance to zone about .52 acres, more or less, of property located on King Street from CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 065D Group B Parcels 012.04. Robert Varnell stated this request is for future townhome development. The Planning Commission approved this item 7-0 with 2 absent members. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 Joan Darnell to zone about .52 acres, more or less, of property located on Old Chattanooga Pike from IL Light Industrial to R-2 Low Density Single and Multi-Family zoning and includes Tax Map 065B Group A Parcel 001.01. Robert Varnell stated there are existing homes on this property and the property needs to be zoned correctly. The Planning Commission approved this item 7-0 with 2 absent members. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 Duane Goff for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 1.33 acres, more or less, of property located on Tennessee Nursery Road from unincorporated county to R-1 Single Family Residential and includes Tax Map 049H Group D Parcels 012.00 and 012.01. Robert Varnell stated R1 is the expected long-term use and they are looking to add on city services at this location. The Planning Commission approved this item 7-0 with 2 absent members. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 Bancroft Development Co. for consideration of a plan of service, a resolution to annex, and an ordinance to zone about 2.16 acres, more or less, of property located on Georgetown Rd from unincorporated county to CH Highway Commercial and includes Tax Map 026G Group D Parcels 024.00 and 025.00. Robert Varnell stated this a partial piece of property along Georgetown Road and will be a commercial use property, with no definitive plan at this time. The Planning Commission approved this item 7-0 with 2 absent members. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the request. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

Mayor Brooks stated the Consent Agenda was presented during the Work Session. Councilman May moved to approve the following items from the Consent Agenda. The motion was seconded by Councilman Estes; and upon roll call, unanimously passed.

a. **Final Passage - Zoning Ordinance 2023-32** – heretofore passed on first reading August 14, 2023 and found in Minute Book 31, Page 276; Zoning about 13 acres more or less, located on Urbane Road from unincorporated county to PUD46 Planned Unit of Development Zoning District and includes a portion of Tax Map 042 Parcel 058.00 (Planning Commission: Approved 6-0; 1 recused, 2 absent).
b. **Final Passage - Ordinance 2023-44** – heretofore passed on first reading October 23, 2023 and found in Minute Book 31, Page 355; Amending the Cleveland Municipal Code Title 18, Chapter 1 relating to Sewers and Sewage Disposal.
c. **Final Passage - Zoning Ordinance 2023-45** – heretofore passed on first reading October 23, 2023 and found in Minute Book 31, Page 360; Zoning about 10.88 acres, more or less, of property located on Old Tasso Road from IL Light Industrial Zoning District to R-2 Low Density Single and Multi-family Zoning District and includes Tax Map 042 Parcels 026.00-028.00 and 022.05 (Planning Commission: Approved 7-0; 2 absent).
d. **Final Passage - Ordinance 2023-46** – heretofore passed on first reading October 23, 2023 and found in Minute Book 31, Page 361; Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, by adding Chapter 13 to Title 14 Zoning and Land Use Control, to provide regulations for short term rentals (Planning Commission: Approved 7-0; 2 absent).
e. **Final Passage - Zoning Ordinance 2023-48** – heretofore passed on first reading October 23, 2023 and found in Minute Book 31, Page 370; Zoning about .31 acres, more or less, of property located on Bible Street from IH Heavy Industrial Zoning District to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 057D Group E Parcels 016.00-018.00 (Planning Commission: Approved 7-0; 2 absent).

f. **Final Passage - Zoning Ordinance 2023-49** – heretofore passed on first reading October 23, 2023 and found in Minute Book 31, Page 371; Zoning about 8.7 acres, more or less, of property located on North Lee Highway from R-2 Low Density Single and Multi-Family Residential Zoning District to CH Highway Commercial and includes Tax Map 034F Group E Parcel 001.00 and part of Tax Map 034 Parcel 020.01 (Planning Commission: Approved 7-0; 2 absent).
g. **Final Passage - Zoning Ordinance 2023-50** – heretofore passed on first reading October 23, 2023 and found in Minute Book 31, Page 387; Zoning about 28 acres more or less, of property located on Legacy Parkway from unincorporated county to PUD 47 and includes Tax Map 041 Parcel 005.30 (Planning Commission: Approved 7-0; 2 absent).
h. **Final Passage - Zoning Ordinance 2023-51** – heretofore passed on first reading October 23, 2023 and found in Minute Book 31, Page 392; Zoning about 2.25 acres more or less, of property located on Legacy Parkway from FAR zoning district to R-2 Zoning District and includes Tax Map 041 Parcel 005.03 and 005.29 (Planning Commission: Approved 7-0; 2 absent).
i. **Final Passage - Ordinance 2023-52** – heretofore passed on first reading October 23, 2023 and found in Minute Book 31, Page 392; Amending Title 9, Chapter 8 of the Municipal Code pertaining to Nightclubs to add a new Section 9-804; Unauthorized Nightclub Operation.
j. **Resolution 2023-116** – Authorizing the Mayor to sign a Sub-recipient agreement with Habitat for Humanity for Down Payment Assistance through CDBG.

RESOLUTION 2023-116

WHEREAS, the City of Cleveland Community Development Block Grant Program includes funding within the budget for a Down Payment Assistance Program;

WHEREAS, the Down Payment Assistance Program will assist eligible low-income families in the purchase of affordable housing within the CDBG target area to be constructed and financed by Habitat for Humanity of Cleveland;

WHEREAS, said Down Payment Assistance funding can be applied to the down payment, closing costs and/or to reduce the principal balance of the loan;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council hereby approves the Sub-recipient agreement with Habitat for Humanity;

BE IT FURTHER RESOLVED THAT the City Council hereby approves of the use of CDBG funds for Down Payment Assistance to qualified homebuyers for the amount of $24,000.

This 13th day of November 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

k. **Motion** – Authorizing the Mayor to sign an addendum with City Fields related to the ARP contract.
l. **Motion** – Approving a Memorandum of Understanding with Bradley County Sheriff's Office related to the Violent Crimes Intervention Grant.
m. **Motion** – Authorizing the City Attorney to institute an action in Chancery Court for Declaratory Judgement and other relief pertaining to an alleyway on 9th Street SE.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Hughes had no report at this time.

Councilman Webb stated he has been a bit frustrated recently with our ability to address some code issues and asked if there was anything they could do to strengthen or revise our ordinances that might cut down on the time involved on addressing those in a more effective manner. Councilman May stated he has a similar problem and not sure if its communication. Sometimes in these meetings we vote and think things are going to happen and being taken care of, then we find out it somehow slipped through the cracks. He feels there could be a weak spot. Councilman Webb added we know we are required to follow the Tennessee Code but maybe we need to lobby the State Legislature for a change to free our hands. Mr. Fivas stated at the next meeting Robert Varnell and Jonathan Jobe can give a report and any suggested changes. Councilman May stated it would be good for Codes to come and give a presentation on the process. Councilman Webb stated secondly, he would like the assurance to be sure that we are not running into arbitrage issues with our bond issues or timing with he covid funds. Mr. McKay stated with the covid funds, we have a deadline for the money to be committed and spent and that has been communicated. We are moving forward with the Cherokee and if we get it occupied by December 31, 2026, we will be okay. Councilman Webb asked about the bond proceeds. Mr. McKay stated we probably need to take a look at the spend down schedule, but the timetable has been communicated. Councilman Webb stated we don't want to be in a situation of arbitrage. Mr. McKay stated no we do not.

Vice Mayor Johnson stated Donald Humes was speaking to him between the meetings and brought up a safety issue on East Inman Street, where Hwy 64 goes from four lanes to two lanes and kids walking. There is a lot of speeding traffic and no sidewalks. The area needs to be reviewed by staff for some way to slow traffic down. Mr. Humes added two people have been struck and the vehicles have driven off. Traffic needs to be slowed down. Also, let's put some money into the east side of Cleveland, where Hwy 64 comes into Cleveland. It is embarrassing and it should be beautiful and safe when you come into our town. Councilman May stated other than sidewalks maybe a caution light. Mr. Humes stated a lot of kids walk to the store. We need sidewalks and patrol in the area. Mayor Brooks stated we are putting sidewalks to East Street. Mr. Humes stated they need to continue as far as they can. Mr. Fivas stated staff will take a look and come back with a plan.

Councilwoman McKenzie had no report at this time.

Councilman Estes had no report at this time.

Councilman Cassada had no report at this time.

Councilman May stated he received an email over the weekend concerning Blueberry Hill, west of Ocoee Street, that people think that road will take you to Keith Street and when they realize it does not, they turn around and speed down the hill. He requested a "no thru street" sign be installed at the entrance of Blueberry Hill. Also, it was asked that staff look at the first intersection [Blueberry Hill and Edgewood Circle] to see if we can install a four-way stop. The numbers will not call for it, but we have done it at other intersections due to safety. Secondly, we have discussed Julian Drive and installing a four-way stop. The numbers probably won't call for it but again it is a safety factor to slow people down. Mr. Fivas stated David Sheely has spoken to the residents who requested a stop sign at Elm and Julian. Councilman May stated wherever is best, the residents know the traffic more than we do. He then asked about a timeframe. Mr. Myers stated he would think by the end of the week we should have something. Councilman May asked about the timeframe for Blueberry Hill. Mr. Fivas replied by Thanksgiving. Lastly, the new Pickleball Courts at Tinsley. People want to see dirt moving. Do

we have an update on the timeframe. Mr. Fivas stated the issue right now is we are waiting for the SWPP permit from the State to begin moving dirt. It was discussed this morning and any day we should receive it.

Mayor Brooks stated he is appointing Ray Garner, Sr. to fill the term vacated by Dennis Epperson, to the Shade Tree Board for a two-year term. Also, he is appointing Councilwoman McKenzie as the Mayor's proxy vote on the Greenway Board.

Mr. Fivas gave an update on the Land Bank Authority appointments. We have not received authorization from the State to use the word bank in the title. Mr. Kimball stated yes, you cannot form a corporation or an LLC in Tennessee with the word bank in the title without authorization from the Department of Financial Institutions. They have to provide a letter to the Secretary of State saying they do not object to using the word bank. We are still waiting on that approval.

Councilman Hughes stated he received a call from the Bradley County Schools Director, who is concerned about vaping at the middle and high schools. Mr. Kimball stated tobacco is heavily regulated by the State and the General Assembly basically preempted all local regulations of tobacco products. There are laws in the books that can be used by law enforcement. It is against the law for anyone under 21 to possess those products. They shouldn't have them in schools, and it is an offense to provide them to a minor. Councilman Hughes stated the City Schools Director has also verified that they are having issues with vaping and dab pens. Vaping is treated like smoking in school, 5 days suspension, but dab pens, you are expelled. Mr. Kimball stated it is a juvenile offense and somehow, they are obtaining them easily. Chief Gibson stated the SROs are in every school and disciplinary action is through school policy internally. The dab pens are CBD type product and are regulated a bit more, but they are obtainable online which makes it difficult to regulate. It is an ongoing problem similar to other tobacco products.

NEW BUSINESS AND ORDINANCES

The following Zoning Ordinance was then presented in full:

a. **Zoning Ordinance 2023-53** – Zoning about .52 acres, more or less, of property located on King Street from CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 065D Group B Parcels 012.04 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-53

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 CH Highway Commercial to R2 Low Density Single and Multi-Family Zoning District.

Approximately .52 acres, more or less, located at King Street SE as shown on the attached map.

For reference, same property is being shown on Tax Map 065D Group B Parcels 012.04, in the Assessor's Office for Bradley County, Tennessee

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

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

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

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Exhibit A



Councilwoman McKenzie moved that Zoning Ordinance 2023-53 be voted for passage 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:

b. **Zoning Ordinance 2023-54** – Zoning about .52 acres, more or less, of property located on Old Chattanooga Pike from IL Light Industrial to R-2 Low Density Single and Multi-Family zoning and includes Tax Map 065B Group A Parcel 001.01 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-54

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 IL Light Industrial to R2 Low Density Single and Multi-Family Zoning District.

Approximately .52 acres, more or less, located at Old Chattanooga Pike as shown on the attached map.

For reference, same property is being shown on Tax Map 065B Group A Parcels 001.01, 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.

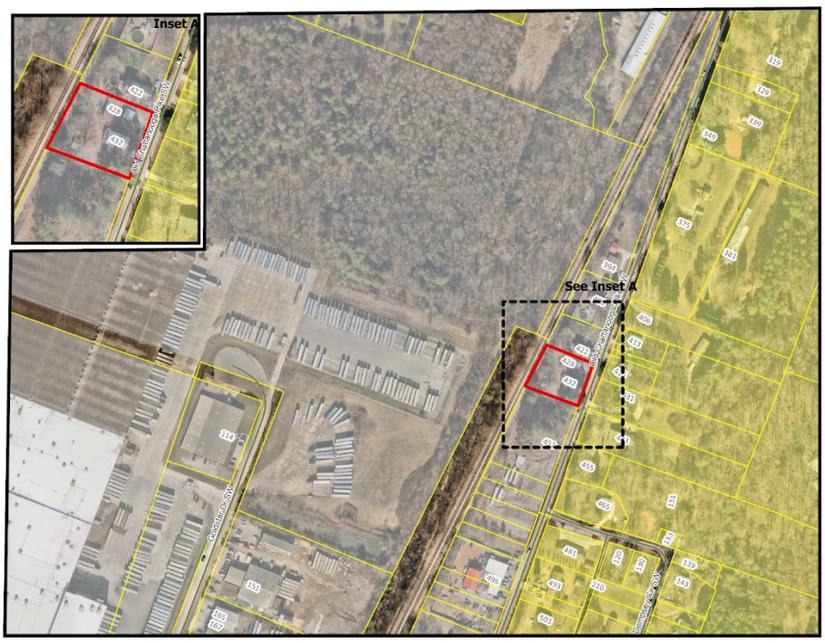
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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

_____
Kein Brooks, Mayor

_____
Shawn McKay, City Clerk

Exhibit A



Councilwoman McKenzie moved that Zoning Ordinance 2023-54 be voted for passage on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

c. **Resolution 2023-112** - Concerning a request by Duane Goff for consideration of a plan of service for about 1.33 acres, more or less, for property located on Tennessee Nursery Road and includes Tax Map 049H Group D Parcels 012.00 and 012.01 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-112

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

TENNESSEE NURSERY RD NW (049H D 012.00 012.01)

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 November 13, 2023, 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 intersection of Tennessee Nursery Road and Martin Drive, said corner also being the northwest corner of the lands of CMG TN Holdings, LLC, as recorded in BCRD deed book 2664 page 613, said point also being located in the existing City Limits; thence with the southern right of way of Martin Drive south 73 degrees 57 minutes east, 160 feet to the northeast corner of the lands of CMG TN Holdings, LLC; thence leaving the existing City Limits south 15 degrees 48 minutes west, 220.8 feet to the southeast corner of the lands of CMG TN Holdings, LLC, said point also being the northeast corner of a second tract of CMG TN Holdings, LLC as recorded in BCRD deed book 2664 page 646; thence with the eastern line of the second tract of CMG TN Holdings, LLC in a southwesterly direction, 159.83 feet, more or less, to the southwest corner of the second tract of CMG TN Holdings, LLC; thence with the southern line of the second tract of CMG TN Holdings, LLC in a northeasterly direction 160.22 feet, more or less, to the southwest corner of the second tract of CMG TN Holdings, LLC, said point being located in the eastern right of way of Tennessee Nursery Road; thence with the eastern right of way of Tennessee Nursery Road in a northeasterly direction 396.7 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

OCTOBER 17, 2023
TENNESSEE NURSERY ROAD
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 1.33 acres located at 800 and 810 Tennessee Nursery Road 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 2023.

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 two parcels, approximately 1.33 acres total. The annexation would zone the property as R-1 Single Family Residential. There are two existing single-family homes, and no new development is proposed at this time. The property is described as Tax Map 049H Group D Parcels 012.00 and 012.01.

Tennessee Nursery Road Annexation Map



Legal Description

Beginning at the southeast corner of the intersection of Tennessee Nursery Road and Martin Drive, said corner also being the northwest corner of the lands of CMG TN Holdings, LLC, as recorded in BCRD deed book 2664 page 613, said point also being located in the existing City Limits; thence with the southern right of way of Martin Drive south 73 degrees 57 minutes east, 160 feet to the northeast corner of the lands of CMG TN Holdings, LLC; thence leaving the existing City Limits south 15 degrees 48 minutes west, 220.8 feet to the southeast corner of the lands of CMG TN Holdings, LLC, said point also being the northeast corner of a second tract of CMG TN Holdings, LLC as recorded in BCRD deed book 2664 page 646; thence with the eastern line of the second tract of CMG TN Holdings, LLC in a southwesterly direction, 159.83 feet, more or less, to the southwest corner of the second tract of CMG TN Holdings, LLC; thence with the southern line of the second tract of CMG TN Holdings, LLC in a northeasterly direction 160.22 feet, more or less, to the southwest corner of the second tract of CMG TN Holdings, LLC, said point being located in the eastern right of way of Tennessee Nursery Road; thence with the eastern right of way of Tennessee Nursery Road in a northeasterly direction 396.7 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 1 without any impact to the budget.

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

A. Domestic Water---Domestic water service is presently available to these parcels via an 8" water main along the east side of Tennessee Nursery Road. See Figure 1—Water Service.

B. Sanitary Sewer--- Sewer service is presently not available to these parcels. To provide sewer to these parcels, approximately 480 LF of 8" gravity sewer main is required to be constructed. The new sewer main would begin at an existing manhole near Heather Lane/Tennessee Nursery Road intersection and then north to the boundary of the parcels (049H D 012.01 and 049H D 012.00). Easements will need to be acquired or the sewer main would be installed in the road. To provide sewer service to the two parcels, the Opinion of Probable Cost is $86,000[1]. The sewer main can be completed within 8 years. See Figure 2—Sewer Service.

C. Fire Protection--- There is an existing fire hydrant at the intersection of Martin Drive and Tennessee Nursery Road.

SUMMARY OF COSTS[1]

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
800 & 810 Tennessee Nursery Road (049H D 012.01 & 012.00)	**$0**	**$86,000[1]**	**$0**	**$86,000**

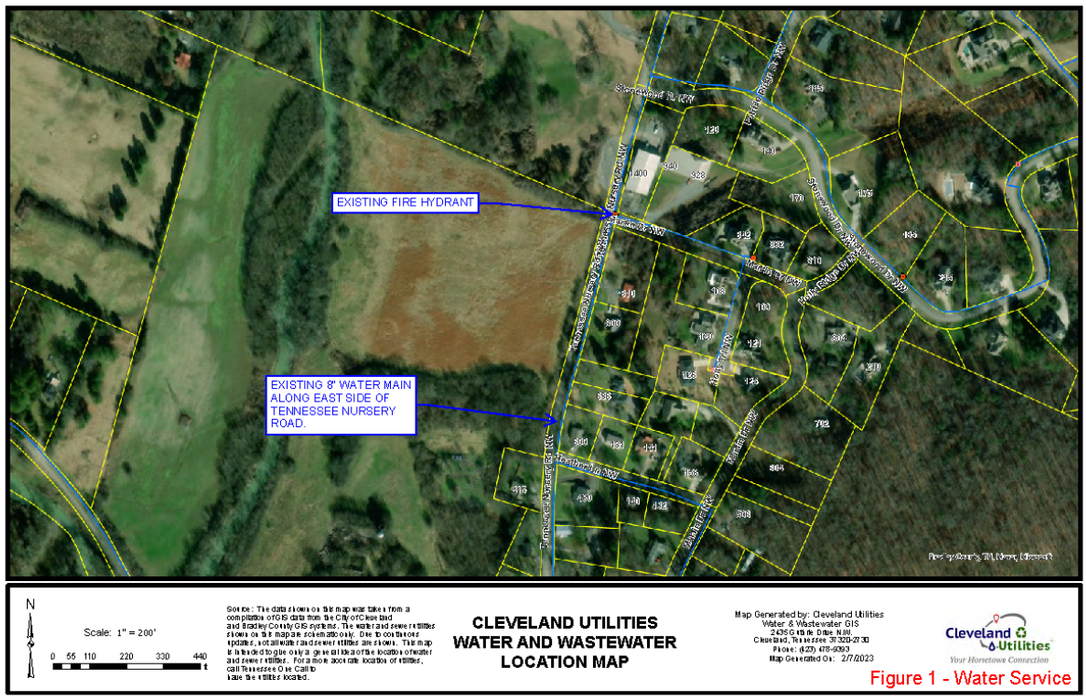


Figure 1 - Water Service

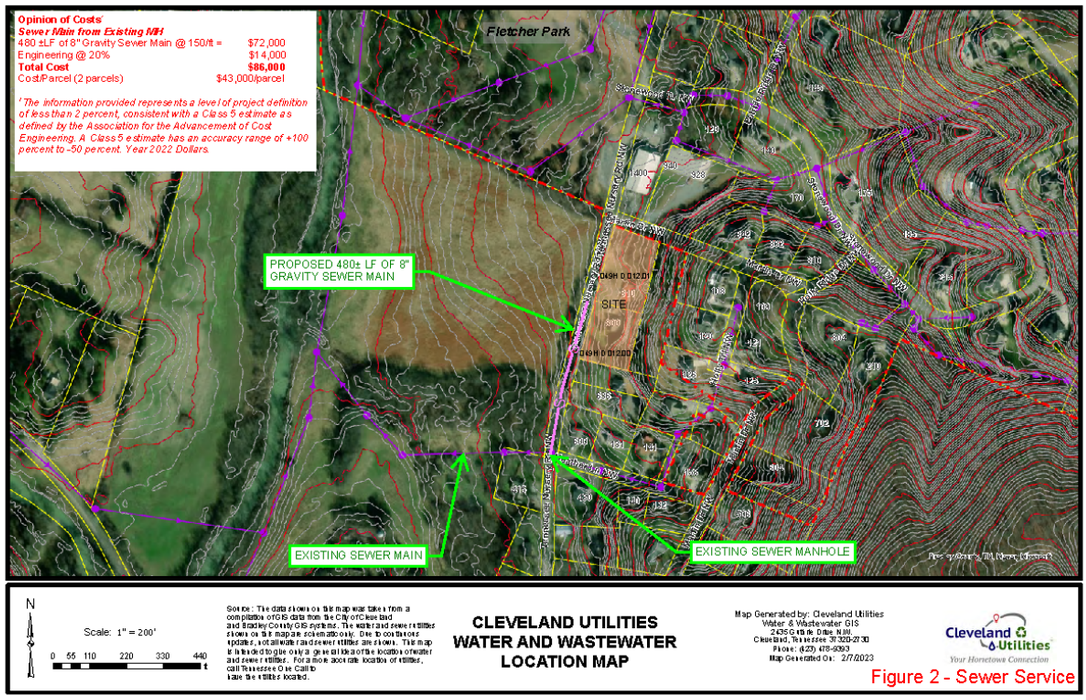


Figure 2 - Sewer Service

4. Electric Service

Cleveland Utilities electric currently has existing facilities serving the two homes on the proposed lots. No work is required.

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

This annexation will cost Cleveland City Schools less than $750 per year.

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 R-1 Single Family Residential 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 4 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 developments 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.

Revenue

Total revenue generated by this annexation is approximately **$1224.00.**

Councilman Hughes moved that Resolution 2023-112 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:

d. **Resolution 2023-113** - Concerning a request by Duane Goff for consideration of a resolution to annex about 1.33 acres, more or less, of property located on Tennessee Nursery Road and includes Tax Map 049H Group D Parcels 012.00 and 012.01 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-113

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

TENNESSEE NURSERY ROAD NW 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 November 13, 2023.

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 intersection of Tennessee Nursery Road and Martin Drive, said corner also being the northwest corner of the lands of CMG TN Holdings, LLC, as recorded in BCRD deed book 2664 page 613, said point also being located in the existing City Limits; thence with the southern right of way of Martin Drive south 73 degrees 57 minutes east, 160 feet to the northeast corner of the lands of CMG TN Holdings, LLC; thence leaving the existing City Limits south 15 degrees 48 minutes west, 220.8 feet to the southeast corner of the lands of CMG TN Holdings, LLC, said point also being the northeast corner of a second tract of CMG TN Holdings, LLC as recorded in BCRD deed book 2664 page 646; thence with the eastern line of the second tract of CMG TN Holdings, LLC in a southwesterly direction, 159.83 feet, more or less, to the southwest corner of the second tract of CMG TN Holdings, LLC; thence with the southern line of the second tract of CMG TN Holdings, LLC in a northeasterly direction 160.22 feet, more or less, to the southwest corner of the second tract of CMG TN Holdings, LLC, said point being located in the eastern right of way of Tennessee Nursery Road; thence with the eastern right of way of Tennessee Nursery Road in a northeasterly direction 396.7 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. [Exhibit on file with original resolution]

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 2023-113 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:

e. **Zoning Ordinance 2023-55** – Zoning about 1.33 acres, more or less, of property located on Tennessee Nursery Road from unincorporated county to R-1 Single Family Residential and includes Tax Map 049H Group D Parcels 012.00 and 012.01 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-55

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 County FAR Agriculture to R-1 Single Family Residential Zoning District.

Approximately 1.33 acres, more or less, located at Tennessee Nursery Rd. as shown on the attached map.

For reference, same property is being shown on Tax Map 049H Group D Parcels 012.00 and 012.01, 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 2023-55 be voted for passage on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

f. **Resolution 2023-114** – Concerning a request by Bancroft Development Co. for consideration of a plan of service for about 2.16 acres, more or less, of property located on Georgetown Rd. and includes Tax Map 026G Group D Parcels 024.00 and 025.00 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-114

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

GEORGETOWN RD NW (026G D 024.00 025.00)

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 November 13, 2023, 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 a tract of the lands of Howard Hamilton as recorded in BCRD deed book 3013 page 757, said point being located in the western right of way of Freewill Road; thence with the southern line of the lands of Hamilton in a northwesterly direction 466.41 feet, more or less, to the southwest corner of said tract, said point also being the southeast corner of a second tract of Hamilton recorded in the same book and page; thence with the southern line of the seconds tract of Hamilton in a northwesterly direction 120.06 feet, more or less, to the southwest corner of the seconds tract of Hamilton; thence with the western line of the second tract of Hamilton in a northeasterly direction 356.8 feet, more or less, to the northwest corner of the seconds tract of Hamilton, said point being located in the southern right of way of Georgetown Road; thence crossing Georgetown Road in a northeasterly direction 130 feet, more or less, to the northwest corner of the lands of Paul & Keith Clark, also known as Tax Map 26G Group A Parcel 002.00 , as recorded in BCRD deed book 2981 page 528, said point being located in the northern right of way of Georgetown Road; thence with the western line of the lands of Clark and the northern right of way of Georgetown Road in a south easterly direction 150 feet, more or less, to the southwest corner of the tract of Clark, said point being located in the northern line of the lands of State of TN as recorded in BCROD deed book 2724 page 387; thence with the northern line of the lands of State of TN in a northwesterly direction 40 feet, more or less, to the northwest corner of the lands of State of TN; thence with the western line of the lands of State of TN in a southeasterly direction 250 feet, more or less, to the southern corner of the lands of State of TN, said point being the northwest corner of the intersection of Georgetown Road and Eureka Road; thence crossing Georgetown Road in a southwesterly direction 180 feet, more or less, to the northeast corner of the first referenced tract of Hamilton; thence with the eastern line of the first tract of Hamilton in a southwesterly direction 53 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

OCTOBER 17, 2023
5527 GEORGETOWN ROAD
ANNEXATION ANALYSIS
PLAN OF SERVICE
CITY OF CLEVELAND, TENNESSEE

The City of Cleveland, Tennessee is pursuing the annexation of approximately 2.16 acres located at 5527 Georgetown Rd. as described in this report, along with a corresponding plan of service and zoning plan for the area. The area is inside the existing Urban Growth Boundary (UGB). The proposed annexation is proposed to occur in 2023.

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 two parcels, approximately 2.16 acres total. The annexation would zone the property as CH Highway Commercial. There is an existing commercial building, and no new development is proposed at this

time. The property is described as Tax Map 026G Group D Parcels 024.00 and 025.00.

Georgetown Road Annexation Map



Legal Description

Beginning at the southeast corner of a tract of the lands of Howard Hamilton as recorded in BCRD deed book 3013 page 757, said point being located in the western right of way of Freewill Road; thence with the southern line of the lands of Hamilton in a northwesterly direction 466.41 feet, more or less, to the southwest corner of said tract, said point also being the southeast corner of a second tract of Hamilton recorded in the same book and page; thence with the southern line of the seconds tract of Hamilton in a northwesterly direction 120.06 feet, more or less, to the southwest corner of the seconds tract of Hamilton; thence with the western line of the second tract of Hamilton in a northeasterly direction 356.8 feet, more or less, to the northwest corner of the seconds tract of Hamilton, said point being located in the southern right of way of Georgetown Road; thence crossing Georgetown Road in a northeasterly direction 130 feet, more or less, to the northwest corner of the lands of Paul & Keith Clark, also known as Tax Map 26G Group A Parcel 002.00 , as recorded in BCRD deed book 2981 page 528, said point being located in the northern right of way of Georgetown Road; thence with the western line of the lands of Clark and the northern right of way of Georgetown Road in a south easterly direction 150 feet, more or less, to the southwest corner of the tract of Clark, said point being located in the northern line of the lands of State of TN as recorded in BCROD deed book 2724 page 387; thence with the northern line of the lands of State of TN in a northwesterly direction 40 feet, more or less, to the northwest corner of the lands of State of TN; thence with the western line of the lands of State of TN in a southeasterly direction 250 feet, more or less, to the southern corner of the lands of State of TN, said point being the northwest corner of the intersection of Georgetown Road and Eureka Road; thence crossing Georgetown Road in a southwesterly direction 180 feet, more or less, to the northeast corner of the first referenced tract of Hamilton; thence with the eastern line of the first tract of Hamilton in a southwesterly direction 53 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 could service this area immediately without any impact to the budget.

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

A. Domestic Water---Domestic water service is presently available to these parcels via a 6" water main along the west side of Georgetown Road NW. See Figure 1—Water Service.

B. Sanitary Sewer--- Sewer service is not presently available to the parcels.

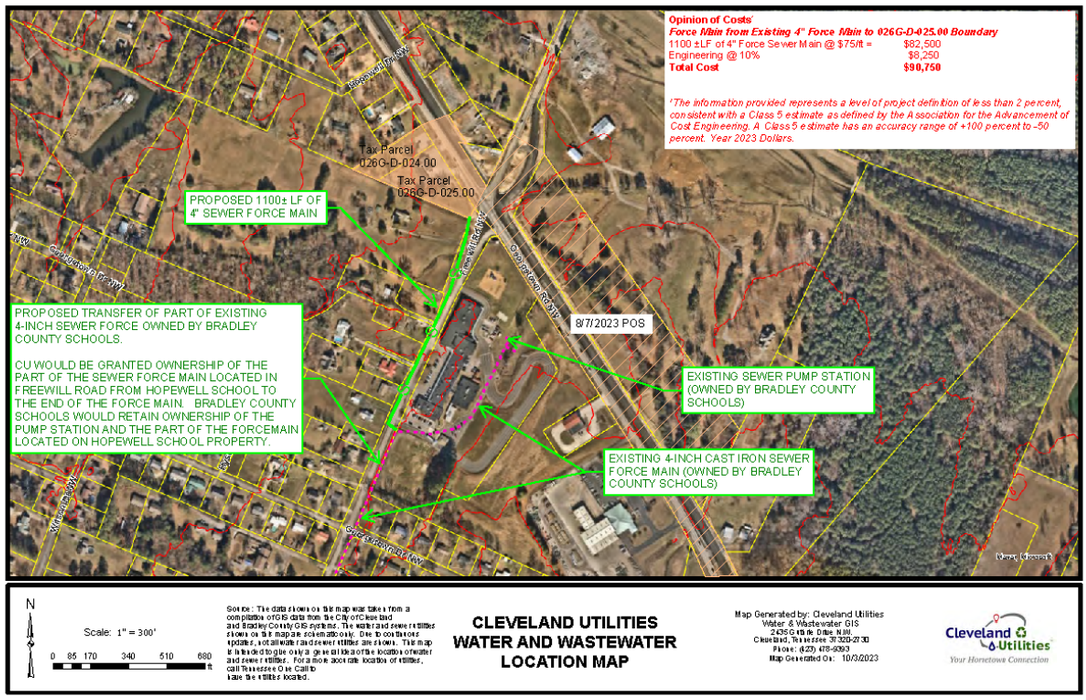
To provide sewer service to these parcels is approximately 1100 LF, more or less, of 4-inch sewer force main. The proposed force main will connect into an existing 4-inch sewer force main about 1,000 feet southwest of the intersection of Freewill Road NW and Georgetown Road NW. To provide sewer service to the parcels, the Opinion of Probable Cost is $90,750. The sewer force main can be completed within 8 years. See Figure 2—Sewer Service.

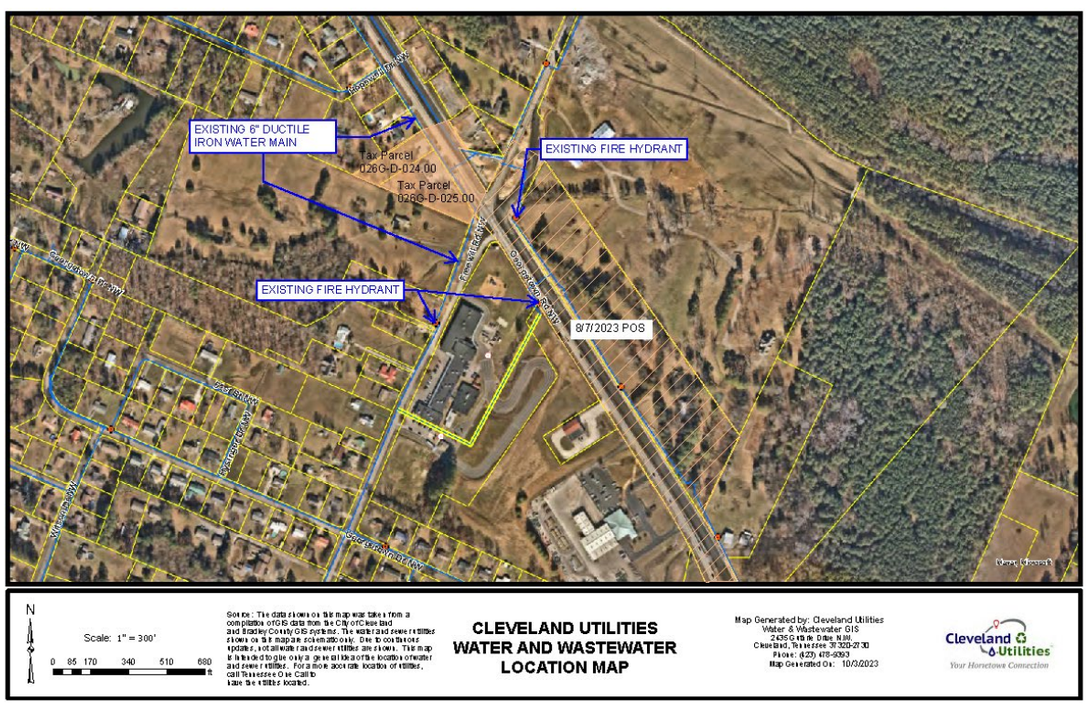
C. Fire Protection--- There is an existing fire hydrant on the east corner of Georgetown Road NW and Eureka Road NW, and an existing fire hydrant 500 feet south of the parcels. See Figure 1—Water Service.

SUMMARY OF COSTS[1]

Location	Domestic Water	Sanitary Sewer	Fire Protection	Total
Georgetown Road NW (026G D 024.00 & 025.00)	**$0**	**$90,750**	**$0**	**$90,750**

[1]The 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. Year 2023 Dollars.





4. Electric Service

Prior to providing service to these parcels, the annexation of the southeast corner (Georgetown_Eureka Rd) must take place. The following is required to provide electric service to this parcel (taken from Georgetown-Eureka Rd POS):

Our Engineering staff has looked at the annexation request for the property located on Eureka Rd. illustrated in the attached map. Cleveland Utilities Electric does not presently serve this area. Our service lines stop at the end of the existing City limits to the south as represented by the blue boundary shown in the attached map. Volunteer Energy presently serves this piece of

property. For us to serve this property, Cleveland Utilities would have to build a 3-phase primary utility line from our existing dead-end pole across from the Dollar General Store going north 4,100 linear feet along the eastern side of the new highway. This line would require 17 – 50ft. steel poles with 3-primary conductors and guying as required to navigate the curvature of the roadway. This will put a pole line on both sides of the new highway with Volunteer Energy on the west side and Cleveland Utilities on the east side. The cost estimate to build this line would be approximately $184,000. Easements will also have to be purchased from the property owners along the route, which would add additional cost as well as having to cross existing Volunteer Energy lines which will require them to modify some of their facilities. We are assuming that the City will be requiring street lighting along the roadway which will add approximately $36,000 to the street lighting account resulting in $270.00 monthly facilities and $84.88 monthly energy charge to the City. The total cost of this project could easily approach $250,000. Depending on the present road construction conflicts, TDOT approval process, supply chain issues and possible difficulties in acquiring easements, serving this property might not be able to be completed till late 2024 or early 2025. If we placed an order for steel poles or transformers today, we are seeing 52-to-60-week delivery times being quoted.

Once this connection takes place, CU electric division can service 5527 Georgetown Rd. with little cost.

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

This annexation will cost Cleveland City Schools less than $750 per year.

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 C-1 in the unincorporated County. The property is proposed for a CH Highway Commercial 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 0 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.

Revenue

Total revenue generated by this annexation is approximately **$1676.75.**

Councilman Webb moved that Resolution 2023-114 be accepted as presented. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Resolution was then presented in full:

g. **Resolution 2023-115** - Concerning a request by Bancroft Development Co. for consideration of a resolution to annex about 2.16 acres, more or less, of property located on Georgetown Rd. and includes Tax Map 026G Group D Parcels 024.00 and 025.00 (Planning Commission: Approved 7-0; 2 absent).

RESOLUTION 2023-115

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

GEORGETOWN ROAD NW 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 November 13, 2023.

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 a tract of the lands of Howard Hamilton as recorded in BCRD deed book 3013 page 757, said point being located in the western right of way of Freewill Road; thence with the southern line of the lands of Hamilton in a northwesterly direction 466.41 feet, more or less, to the southwest corner of said tract, said point also being the southeast corner of a second tract of Hamilton recorded in the same book and page; thence with the southern line of the seconds tract of Hamilton in a northwesterly direction 120.06 feet, more or less, to the southwest corner of the seconds tract of Hamilton; thence with the western line of the second tract of Hamilton in a northeasterly direction 356.8 feet, more or less, to the northwest corner of the seconds tract of Hamilton, said point being located in the southern right of way of Georgetown Road; thence crossing Georgetown Road in a northeasterly direction 130 feet, more or less, to the northwest corner of the lands of Paul & Keith Clark, also known as Tax Map 26G Group A Parcel 002.00 , as recorded in BCRD deed book 2981 page 528, said point being located in the northern right of way of Georgetown Road; thence with the western line of the lands of Clark and the northern right of way of Georgetown Road in a south easterly direction 150 feet, more or less, to the southwest corner of the tract of Clark, said point being located in the northern line of the lands of State of TN as recorded in BCROD deed book 2724 page 387; thence with the northern line of the lands of State of TN in a northwesterly direction 40 feet, more or less, to the northwest corner of the lands of State of TN; thence with the western line of the lands of State of TN in a southeasterly direction 250 feet, more or less, to the southern corner of the lands of State of TN, said point being the northwest corner of the intersection of Georgetown Road and Eureka Road; thence crossing Georgetown Road in a southwesterly direction 180 feet, more or less, to the northeast corner of the first referenced tract of Hamilton; thence with the eastern line of the first tract of Hamilton in a southwesterly direction 53 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. [Exhibit on file with original resolution]

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 2023-115 be accepted as presented. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Zoning Ordinance was then presented in full:

h. **Zoning Ordinance 2023-56** – Zoning about 2.16 acres, more or less, of property located on Georgetown Rd. from unincorporated county to CH Highway Commercial and includes Tax Map 026G Group D Parcels 024.00 and 025.00 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-56

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 County C-1 to CH Highway Commercial Zoning District.

Approximately 2.16 acres, more or less, located at 5527 Georgetown Rd. as shown on the attached map.

For reference, same property is being shown on Tax Map 026G Group D Parcels 024.00 and 025.00, 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.

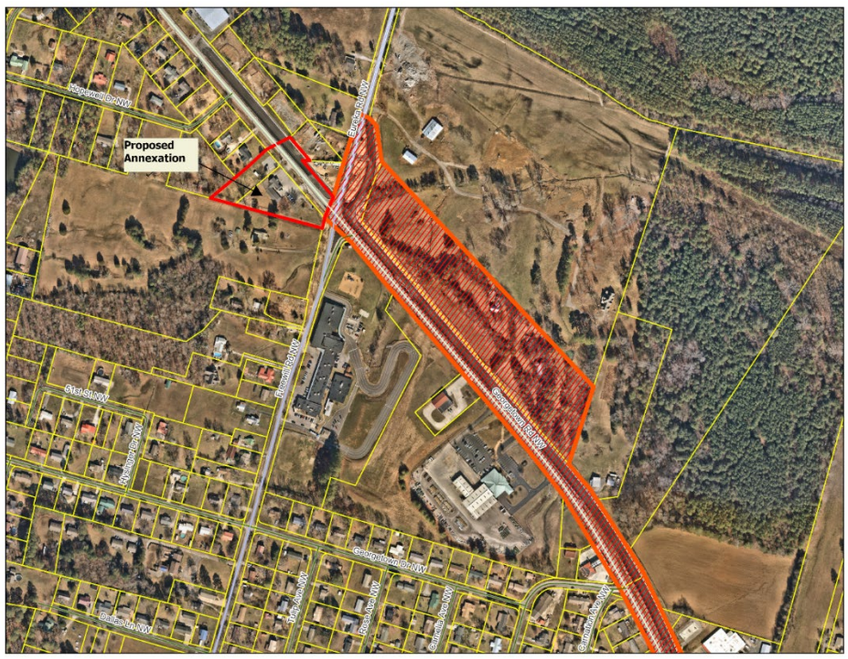
BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

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 2023-56 be voted for passage on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

Councilman Webb moved that staff take immediate action to preserve the Cherokee Chieftain and begin the process of determining the future location and preservation efforts of the statue with a recommendation due back to the Council at the first meeting in February 2024. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

Councilman Webb moved that staff develop criteria to determine which capital project are such a necessity we use contactors as opposed to in-house personnel considering all the variables involved. This includes cost estimates, estimated time, all variables. The motion was seconded by Councilman May. Councilman Estes clarified staff gives us the variables and we decide? Councilman Webb stated staff would tell us what variables are involved and then we come up with some kind of decision as to which one they would actually follow on the larger projects. Councilman May stated we voted to borrow money at a low rate, to speed up some of the projects. We knew Public Works was loaded down. Councilman Webb stated one of the criteria's they might develop is if it's a project over $50,000 or $100,000 then we have an opportunity to listen to their recommendation on whether Public Works does it or we bid it out to use a contractor. Councilman Estes added he is not against it, just want some clarification. They bring us the criteria. Will they rank projects, like by quarter, monthly. Is each project standing on its own or compete against (others). The administration of this sounds like a nightmare. Is it annually, at our budget retreat, ranking for the year. Councilman Webb stated it can be project by project over a certain amount. Councilman Estes stated he feels we do that now. We say yes to a project, if it is a federal or state funds, we know we have to do x,y and z. Some, we have the option to do in-house for quite a bit more. The Greenway sits on Phase VI forever, waiting on the TA Grant. Central Avenue agreement, we have been through an entire election cycle. We promised Lee University when they finish Parker, we would do Central. Councilman Webb stated he is open to finetuning the motion. He is just trying to do something that will get some of our projects completed so our citizens can benefit from them. Councilman Estes asked for a list

of what the projects are. Maybe set the priorities at our annual budget retreat. He understands getting the most for the citizens and balancing the goals. Councilman Webb stated his intent was to ask them to come back with how they best think we can make this decision. There may be some projects we would like to use a contractor for that would actually take longer than it does for Public Works to do it because contractors are so busy. Councilman May add believes he is trying to speed up things. Councilman Webb stated at the end of the day, we know it would probably cost more money to have a contractor to do it but there is a time issue involved in getting some needed projects done. Councilman May stated we get grants, we are thrilled but from the time you get a grant and move dirt, sometimes it is too long. Any way we can help staff to move things on, he is for it. Councilman Cassada asked if we have a contract for concrete and asphalt work. Mr. Myers stated yes. Councilwoman McKenzie asked if it was project by project. Councilman Webb stated yes, he doesn't know what we use now to determine in-house or bid but is asking staff to come back with a recommendation on how to best make a decision, whether it is completed in-house or by a contractor. His intent is to ask for a recommendation. Councilman Estes asked for the motion to include a process on how it fits into how we operate now. He now enjoys prioritizing projects with community meetings and annual retreats and staff fund them, he doesn't want that jeopardized. Councilman Webb stated yes, it might even free up staff to do the much-needed smaller projects. He doesn't want to spend more money but sometimes things become a necessity and if there is a better way to get it done then we need to look at it. Upon roll call, the motion unanimously passed.

Councilman Hughes stated Cleveland and Bradley County are God-fearing people and the word of the Lord in Numbers says if you Bless Israel, you will be Blessed. Councilman Hughes then moved for the support of Israel in this time of conflict. The motion was seconded by Councilwoman McKenzie; Upon roll, Councilman Hughes, Councilwoman McKenzie, Councilman Webb, Vice Mayor Johnson, Councilman Cassada, Councilman May, and Councilman Estes, who stated he was voting for, specifically because of the declaration of the standards of Hamas and what they did in the past month, voted aye. The motion passed 7-0.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. City Offices will be closed Thursday, November 23 and Friday, November 24 due to the Thanksgiving Holiday.

b. The next City Council meeting will be held on Monday, November 27, 2023.

ADJOURNMENT

There being no further business, Mayor Brooks adjourned the meeting at 3:56 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
NOVEMBER 27, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, NOVEMBER 27, 2023 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, Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie.

Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Assistant Fire Chief Pete VanDusen, Jonathan Jobe, Development and Engineering Department; Chris Gaylor, Assistant IT Director; Seth Sumner, Transportation Planner; Tommy Myers, Public Works Director; Robert Varnell, Planning and Community Development Director; Gideon Ratcliff with Mix104.1; Doug Berry with the Chamber of Commerce; Warbrit Lowery; Kathryn Haley; Lucy Rymer with the Museum Center; Roy Roman; Kim Brooks with Lee University and Tim Siniard with the *Cleveland Daily Banner*.

Following the Pledge of Allegiance to the American Flag, 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 13, 2023 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

Lucy Rymer, with the Museum Center at Five Points thanked the City Council for moving forward with preservation efforts for the Cherokee Chieftain. We are eager to preserve it for future generations and looks forward to further conversations. The Museum Board has agreed to set aside funding for ongoing and long-term preservation efforts if it remains on their property permanently.

Mayor Brooks asked if anyone else would like to address the Council. No one spoke.

HEARING PETITIONS AND COMMUNICATIONS

There were no hearing petitions and communications.

CONSENT AGENDA

Mayor Brooks stated the Consent Agenda was presented during the Work Session. 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.

a. **Final Passage - Zoning Ordinance 2023-41 –** Heretofore passed on first reading September 11, 2023 and found in Minute Book 31, Page 332; Zoning about 10 acres more or less, of property located on the NE corner of Georgetown Rd. and Eureka Rd. from unincorporated county to CH Highway Commercial Zoning District and includes Tax Map 026 Parcel 029.01 (Planning Commission: Approved 9-0).

b. **Final Passage - Zoning Ordinance 2023-53** – Heretofore passed on first reading November 13, 2023 and found in Minute Book 31, Page 399; Zoning about .52 acres, more or less, of property located on King Street from CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 065D Group B Parcels 012.04 (Planning Commission: Approved 7-0; 2 absent).
c. **Final Passage - Zoning Ordinance 2023-54** – Heretofore passed on first reading November 13, 2023 and found in Minute Book 31, Page 400; Zoning about .52 acres, more or less, of property located on Old Chattanooga Pike from IL Light Industrial to R-2 Low Density Single and Multi-Family zoning and includes Tax Map 065B Group A Parcel 001.01 (Planning Commission: Approved 7-0; 2 absent).
d. **Final Passage - Zoning Ordinance 2023-55** – Heretofore passed on first reading November 13, 2023 and found in Minute Book 31, Page 409; Zoning about 1.33 acres, more or less, of property located on Tennessee Nursery Road from unincorporated county to R-1 Single Family Residential and includes Tax Map 049H Group D Parcels 012.00 and 012.01 (Planning Commission: Approved 7-0; 2 absent).
e. **Final Passage - Zoning Ordinance 2023-56** – Heretofore passed on first reading November 13, 2023 and found in Minute Book 31, Page 420; Zoning about 2.16 acres, more or less, of property located on Georgetown Rd. from unincorporated county to CH Highway Commercial and includes Tax Map 026G Group D Parcels 024.00 and 025.00 (Planning Commission: Approved 7-0; 2 absent).
f. **Motion** – Appointments for Land Bank Authority.

TO: **Mayor & City Council**
FROM: **Dustin Tommey, Redevelopment Coordinator**
DATE: **November 27, 2023**
RE: **Appointments for Land Bank Authority**

SUMMARY:
The City Council has approved the formation of the Land Bank Authority. We have strategically hoped to have someone who has experience in legal transactions, banking transactions, real estate transactions, and a member at-large that would have special skills in working on redevelopment.

City staff has received the applications of Jarrod Casteel, Bill Martin, and Julie Martinez to represent the City on Land Bank Authority. Jarrod Casteel is an attorney, Bill Martin works at Pinnacle Bank, and Julie Martinez works at Lee University.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
Appointment of Bill Martin to a 3-year term beginning January 1, 2024
Appointment of Jarrod Casteel to a 3-year term beginning January 1, 2024
Appointment of Julie Martinez to a 3-year term beginning January 1, 2024

g. **Motion** – Authorization for staff to begin right-of-way purchases for multiple city projects.

TO: **Mayor & City Council**
FROM: **Joe Fivas, City Manager**
DATE: **November 27, 2023**
RE: **Process for ROW Acquisition**

SUMMARY:
City staff will work with the Land Bank Authority and the City Council to begin the acquisition of ROW on several City capital projects. These projects include ROW for the South Lee sidewalk project, 20th Street widening near Old Tasso, 3rd Street widening in downtown, Adkisson Sidewalk Project, Mouse Creek widening project, Michigan Avenue widening project.

All of these projects are outlined in our December 2022 Capital Projects and approved by the City Council. The City Council has allocated Bond Funds for these projects, and the approval of this item will allow City staff and Land Bank Authority to use these Bond funding to make these purchases for capital projects.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends the approval of giving authority for City staff to work with the Land Bank Authority to acquire ROW properties for the South Lee sidewalk project, 20th Street widening near Old Tasso, 3rd Street widening in downtown, Adkisson Sidewalk Project, Mouse Creek widening project, Michigan Avenue widening project. The approval also gives City staff authorization to transfer funds to the Land Bank Authority for the acquisition of these ROW properties. City staff will update the City Council on these ROW purchases.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Webb had no report at this time.

Vice Mayor Johnson had no report at this time.

Councilwoman McKenzie had no report at this time.

Councilman Estes had no report at this time.

Councilman Cassada had no report at this time.

Councilman May had no report at this time.

Councilman Hughes had no report at this time.

Mayor Brooks stated the Council has discussed giving city employees an additional day during the Christmas holiday on Tuesday, December 26. Councilman May moved to give city employees an additional holiday on Tuesday, December 26. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

NEW BUSINESS AND ORDINANCES

Councilman May moved to appoint Councilman Estes, as Council Representative to the Land Bank Authority. Councilman Cassada stated he would like to add Councilman Webb to the motion as the second Council Representative. The motion was seconded by Vice Mayor Johnson; and upon roll, unanimously passed.

Councilman Estes asked for further clarification on the Land Bank Authority beginning the ROW acquisition for projects and if it needed action from the Council today. Mr. Fivas stated no, Dustin Tommey will be working on this project, and he would work with the Land Bank Authority to acquire designated projects from the Council to acquire ROW. They are working on specific projects approved by the Council and to begin negotiations for purchase options. The memo approved on the consent agenda outlined the projects. Councilman Estes asked if a motion should be added to give city staff authorization to transfer funds to the Land Bank Authority for ROW acquisitions for projects approved by Council. Mr. Fivas stated at the next Council meeting, we will probably work with Shawn McKay and bring back the initial seed monies for each project. Councilman Estes asked for that to be on the December 11 agenda.

ANNOUNCEMENTS

Mayor Brooks announced the following:

The next City Council meeting will be held on Monday, December 11, 2023, which will begin at 12 noon for a Council Strategic Meeting.

The Holiday Schedule, City offices will be closed as follows:

- Friday, December 22, Monday, December 25 and Tuesday, December 26 for the Christmas Holiday.
- The December 25 Council meeting will be cancelled.
- Friday, December 29 and Monday, January 1, 2024 for the New Year's Holiday.

ADJOURNMENT

There being no further business, Mayor Brooks adjourned the meeting at 3:21 p.m.

_____ _____

Mayor City Clerk

REGULAR SESSION
DECEMBER 11, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, DECEMBER 11, 2023 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, Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie. Councilman David May was absent from the meeting.

Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Sue Zius, Administrative Coordinator; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Interim Fire Chief Rock Eulo, Jonathan Jobe, Development and Engineering Department; Kris Miller, IT Director; Seth Sumner, Transportation Planner; Tommy Myers, Public Works Director; Robert Varnell, Planning and Community Development Director; Doug Berry with the Chamber of Commerce; Warbrit Lowery; Cathy Andrews, CDBG Coordinator; Keisha Parks; Gracie Shamblin with Congressman Fleischmann's office and Tim Siniard with the *Cleveland Daily Banner*.

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

Following the Pledge of Allegiance to the American Flag, 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 27, 2023 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

Mayor Brooks presented a proclamation to Director of Forestry & Landscaping Dan Hartman. Mayor Brooks and the City Council congratulated Mr. Hartman on his retirement from the City of Cleveland and thanked him for his dedicated years of service.

"DAN HARTMAN DAY"

Whereas, Dan Hartman earned an Associates degree in Applied Science in 1980 in Forestry Technology from Southeastern Illinois College; and a Bachelor of Science in Plant and Soil Science - Landscape/Horticulture from Southern Illinois University and a Bachelor of Science in Business Administration in 2006, from Bryan College, Dan is also ISA-certified arborist/municipal specialist, and;

Whereas, Dan has recently received the Tennessee Urban Forestry Council's 2023 Government Employee Award;

Whereas, Dan has worked as the City Forester for over 28 years, beginning his service to the City of Cleveland on September 29, 1995. He was promoted to Assistant Parks & Recreation Director in 2010 and was then promoted to Forestry and Landscaping Director, and;

Whereas, under his leadership for the Forestry Division, He has planted over 7,000 trees. He has also served on the City Tree Board as well as other boards & committees and has received numerous grants throughout the years for tree planting projects, and;

Whereas, Dan will be celebrating his retirement on December 30, 2023; His current plans for retirement include travel to see his granddaughter in Zurick Switzerland, and work on some home improvement projects, and:

Whereas, Dan's daily presence will be deeply missed by all city staff, board members and citizens who have benefitted from his knowledge, visionary leadership, professionalism, and friendship.

NOW THEREFORE, I, Kevin Brooks, Mayor of the City of Cleveland, do hereby proclaim the 11TH day of December. 2023 as "DAN HARTMAN DAY" in Cleveland and Bradley County and express sincere appreciation for his years of service and dedication to our citizens and wish him continued success and happiness in his retirement.

Mayor Brooks presented a proclamation to Andy Hunt and congratulated him on his retirement from the Cleveland Public Library.

Mayor Brooks stated today we are swearing-in twelve 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 Scotty Barrera, Sadler Bartula, Victor Bednarski, Dawson Buttram, Hunter Davis, Mary Judkins, Jordan Martin, Lucas McCune, Samantha Rossetter, Seth Stockner, Henry Thompson, and Daniel Welch.

Mayor Brooks awarded the following 2023 Service Awards to 25+ years:

2023
SERVICE AWARDS

5 YEARS	10 YEARS	15 YEARS	20 YEARS	25 YEARS	30 YEARS	35 YEARS
2018	2013	2008	2003	1998	1993	1988
$75.00	$100.00	$150.00	$200.00	$250.00	$250.00	$250.00
TYLER PAYNE	CODY VAUGHN	JOHN KIMBALL	LAURA DUNCAN	TRAVIS GRAIG	AVERY JOHNSON	JEFF TILLEY
TIM PRESLEY	ALAN ST CLAIR	MATTHEW WITTMAIER	KAREN STOVALL	ANDY RATCLIFF		
TAHJ MCGEE	JEFFREY NUNNELLY	CHRIS LIGHT	KRISTI POWERS	SCOTT CRIDDLE		
BENJAMIN FOWLER	NATHAN KUZDZAL	JEREMY KELLY		DEAN BEVERLY		
TAYLOR RYANS	MICHAEL GLASGOW	ZACHARY JAGGERS		NEKITA BLAIR		
AUSTIN RODERICK	CORY FOX	WILLIAM HICKS		RYAN MALONE		
JOHN ROBINSON	BEN ACHATA	WILLIAM BEARDEN		RENEA BROWN		
WILLARD BRIDGES	STEPHEN WARNER	TIM WALKER		PETE VANDUSEN		
MIKA VAUGHN	MATTHEW LANDOLT	JOSHUA MOWERY		ERIC RENFROE		
ROBERT TARVER	RAUL CRUZ	SHAUN MCAMIS		JASEN PARKS		
CLAYTON SNEED	SHAWN MCKAY	CHARLES FREEMAN		MATTHEW FORD		
MATTHEW SLOAN		ROBERT CANNATELLA		CRAIG FOOTE		
CAMERON SEWELL		RANDY BIENVENU		MICAH AKINS		
MICHAEL RUEBUSCH		RICHARD TANKSLEY		SHANE CLARK		
THOMAS PENDERGRAFT		DAVID SHEELY		KRIS MILLER		
TREVOR MCINTURFF		CODY HINSON		RANDY SHARP		
NATHAN LEWIS		ROSA LEE BOTTS				
JAMIAL KING		ERIC DAVIS				
ISAAC HARUO		BOBBY RUTH				
ROBERT FOSTER		JAMES BURNETTE				
CODY FLOWERS						
ZACHARY DODSON						
KEN WEBB						
KEVIN BROOKS						
COTY SMITH						
AARON HARDING						
KORY GILLAM						

Mayor Brooks asked if anyone else would like to address the Council.

Mr. Fivas introduced the new Library Director Keisha Parks. Ms. Parks stated she has been with the Library for twelve years and is excited about this opportunity. Andy Hunt was an amazing example of a director, and she looks forward to working with everyone.

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 Ben Bradley for consideration of an ordinance to zone about 1.6 acres, more or less, of property located on Fair Street from CG General Commercial Zoning District to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058H Group C Parcels 027.00. Robert Varnell stated this request is to build a single-family home and staff approves the request. The Planning Commission approved the item 8-0, with one absent member. Mayor Brooks asked if anyone would like to speak in favor of the approval of the request. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition to the 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 John Bailey Jones for a nightclub permit to be located at 529 Inman Street and includes Tax Map 049N Group O Parcel 002.00. Robert Varnell stated they have met all of the requirements and staff recommends approval. Mayor Brooks asked if anyone would like to speak in favor of the permit. No one spoke, Mayor Brooks asked if anyone would like to speak in opposition of the permit. No one spoke. Mayor Brooks declared the public hearing to be closed.

CONSENT AGENDA

Mayor Brooks stated the Consent Agenda was presented during the Work Session. Councilman Hughes moved to approve the following items from the Consent Agenda. The motion was seconded by Councilman Webb; and upon roll call, unanimously passed.

a. **Resolution 2023-117** – Authorizing the Mayor to sign an Interlocal Agreement with Bradley County in connection with the annexation of a parcel of property owned by Larry and Nancy Eskew, located at the corner of Georgetown Road and Eureka Road.

RESOLUTION 2023-117

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 Larry and Nancy Eskew, which parcel is located at the corner of Georgetown Road and Eureka Road, and which is generally described as Tax Map 029, Parcel 001.00 as described in the interlocal agreement; and

WHEREAS, the Bradley County Commission approved of this Interlocal agreement at its voting meeting on November 20, 2023; 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. [on file in the City Clerk's Office.]

This 11th day of December, 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

b. **Resolution 2023-118** – Authorizing the City to purchase equipment through the Master Intergovernmental Cooperative Purchasing Contract #0041123-MSL between Musco Sports Lighting, LLC and Sourcewell for the soccer fields lighting project.

RESOLUTION 2023-118

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PURCHASE EQUIPMENT, PRODUCTS, OR SERVICES THROUGH A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING CONTRACT #0041123-MSL, 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 Musco Sports Lighting, LLC ("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 #041123-MSL, 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 #041123-MSL, as amended, held by Sourcewell as required by *Tennessee Code Annotated* § 12-3-1205 (a)(1) through Sourcewell to be used by 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

c. **Resolution 2023-119** – Authorizing the Mayor to sign a contract with BluLynx Solutions, LLC for consulting services for the CDBG 5-year Consolidated Plan, FY2024-25 Annual Action Plan and Analysis of Impediments for Fair Housing Choice.

RESOLUTION 2023-119

WHEREAS, City staff are recommending that the City enter a contract with BluLynx Solutions, LLC whereby BluLynx Solutions will provide consulting services for the preparation of the City's 2024-2028 5-Year Consolidated Plan and 2024 Year Annual Action Plan, and Analysis of Impediments to Fair Housing Choice; and

WHEREAS, the services to be provided to the City are described in the attached contract; and

WHEREAS, under the terms of the agreement, the City's total fee is an amount not to exceed $28,690; and

WHEREAS, based on the recommendation of City staff, the City Council desires to approve of the attached contract with BluLynx Solutions 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 contract with BluLynx Solutions.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the attached agreement with BluLynx Solutions on behalf of the City. [on file in the City Clerk's Office.]

This 11th day of December 2023

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

d. **Motion** – Demolition Change Order #1 for the Cherokee Hotel.

TO: Mayor and City Council
FROM: Bryan Turner, Director of Building and Project Development
DATE: December 11, 2023
RE: Cherokee Hotel – Demolition Change Order #1

SUMMARY:
Attached is a change order for an increase in scope to the original contract for the selective demolition and cleanup of the Cherokee Hotel.

At the time of the original contract there was a tenant located on the ground floor. That tenant has now relocated, and the space is vacant. This change order authorizes the contractor to continue the work into that space, as well as some minor additions to the cleanup based on recommendations from the architect.



EAI | Knoxville Office
865-816-6405
717 Kevin Ln.
Lenoir City, TN 37772
www.eaitn.com

10/24/2023
EAI Proposal Change Order #1

Bryan Turner
City of Cleveland
423-457-3095
bturner@clevelandtn.gov

PROJECT: Cherokee Hotel Additional Demo

PROJECT ADDRESS: 44 Inman St E, Cleveland, TN 37311

SCOPE OF WORK: Perform additional demolition shown on the drawings AD-1.1 and AD-1.2, revised by Bryan Turner per email on 10/16/2023 (demolition notes in red) See attached drawings.

-Restaurant and Additional Lobby Demo: Price of $48,000.00
1. Remove screened porch structure
2. Remove fixtures
3. Remove wall finish and expose original exterior wall
4. Remove restroom fixtures in three restrooms
5. Remove infill walls at restrooms
6. Remove wall and doors separating kitchen and dining room
7. Remove all drop ceiling and plaster ceiling throughout the 2,814 sq ft space
8. Remove two additional walls on lobby level
9. Remove block wall to expose original mezzanine floor level
10. Remove finish from noted wall to expose infilled block opening

-Add Alternate for Dumbwaiter Demo: Price of $9,000.00
-Remove dumbwaiter equipment and associated walls

The above scope of work is offered for a lump sum of $57,000.00 (Fifty seven thousand & 00/100 dollars)

EXCLUSIONS:
- Any items not stated above
- Any/all utility disconnects, capping of MEP items.
- Any/all weather protection, waterproofing, barricades
- Any/all salvage for reuse.
- Any/all shoring, bracing and lintels.
- Any/all floor demo or floor prep.

*This proposal is valid up to 30 days from the date listed above.

Thank you for the opportunity to provide a quote for this project. If you have any questions, please do not hesitate to email, call or text me directly.

Demolition Services • Concrete Cutting • Asbestos Removal

e. **Motion** – Approval to install and operate Law Enforcement Automated License Plate Recognition Cameras on State highway right-of-way at specific locations.

TO: **Mayor and City Council**
FROM: **Lt. Kody Fox- Cleveland Police Department**
DATE: **November 29, 2023**
RE: **Vigilant License Plate Reader Locations**

SUMMARY:
The Cleveland Police Department is purchasing Vigilant License Plate Readers for the City with the State of Tennessee's Formula and Collaborative Grant project. The Excess Land Office of the Tennessee Department of Transportation requires approval prior to placement of the license plate readers on state routes. As part of the approval process, they are requesting we have approval from our "legislative body" for the license plate readers and locations. Staff requests the City Council to approve the locations proposed for the license plate readers.

COMMITTEE FINDINGS:
No Board or Committee findings.

FISCAL ANALYSIS:
Funded by Formula Based and Collaborative Grant through State of Tennessee Office of Criminal Justice Program.

RECOMMENDATION:
Staff recommends approval.

VCIF - Cleveland PD, TN (Formula)	Site #	Direction	LPR Camera Type	Capture Direction
VCIF-Cleveland PD, TN - CapEx BOM, IPVM Link				
APD 40 @ Cherokee Gateway Exit (SE towards Cleveland) EB: 35.149730, -84.939782	1	East	L6Q	Rear
Georgetown Rd. @ Exit 25, Inbound SB: 35.192795, -84.886082	2	South South	Fixed Fixed	Rear Rear
Georgetown Rd. @ Exit 25, Outbound NB: 35.192266, -84.885031	3	North North	Fixed Fixed	Rear Rear
North Lee Hwy. @ Before Anatole Ln. SB: 35.227622, -84.819174	4	South	L6Q	Rear
Dalton Pike @ Rodney Dr. NB: 35.125886, -84.864847	5	North	L6Q	Rear
South Lee Hwy. @ SB of Southgate Dr. (Light Pole @ God's Family Church) NB/SB: 35.138661, -84.929109	6	North South	L6Q L6Q	Rear Rear

f. **Motion** – Approving a Nightclub Permit for John Bailey Jones located at 529 Inman Street and includes Tax Map 049N Group O Parcel 002.00.

g. **Motion** – Approving a one-time $5,000 funding request for Art is Here!

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **December 11, 2023**
RE: **Art is Here Request**

SUMMARY:
Art is Here! has requested $5,000 for the new Art is Here! Studio and headquarters located at the Old Woolen Mill. They are providing community programming, acting as an art incubator for Cleveland, and providing office space for the organization. When upfitting their new facility they ran into several unforeseen problems with construction. These funds are already budgeted in our current budget.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends approval of this $5,000 funding request for Art is Here!

h. **Motion** – Approving $30,448 in funding to the Cleveland/Bradley County Public Library for two HVAC replacement units (50/50 with Bradley County; Total Cost $60,896).

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **December 11, 2023**
RE: **Cleveland/Bradley County Library HVAC**

SUMMARY:
Unfortunately, the Cleveland/Bradley County Library had two large HVAC units fail. These units provide HVAC services for the computer labs, fiction, and non-fiction sections of the Library. The City is owner of the Library buildings and it is also a component unit of the City. The total cost to replace the two HVAC units is $60,896. The Library did get multiple bids for this capital improvement. The County has agreed to pay 50% of these costs. We will use City Bond Funds for this capital project.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends approval of funding of 50% ($30,448) of the total amount of the replacement costs for these two units. Any additional costs on this project will be the responsibility of the Library Board. This motion also allows staff to set up the Library Project for the utilization of City Bond Funds.

i. **Reappointment** – *Stormwater Regulations Board* - Chris Berry for an additional four-year term to expire December 2027.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Vice Mayor Johnson had no report at this time.

Councilwoman McKenzie thanked Bryan Turner for the presentation given on the Cherokee Hotel. She then wished all City Employees a Merry Christmas. Thank you for working all year long to make us look good.

Councilman Estes thanked staff for the Planning Session and the time it took to pull together. He reminded the Council that the Mainstreet grants are now out. He then asked Mr. Jobe to provide an update when bids go out and when funds would be released by TDOT for the Gaut Street project. Lastly, a visitor stopped him to say how much they liked the downtown Christmas lights. It does look good.

Councilman Cassada wished everyone a Merry Christmas and thanked staff for the hard work and services provided to the residents of Cleveland. He then stated he would like to see crosswalks installed at Willow and 17th Street, to help with walking accessibility to the Greenway. Also, if Cleveland Utilities could lengthen the pedestrian walk time at the intersection at Willow and Keith.

Councilman Hughes thanked staff for a good year. We had a positive year. He then wished everyone a Merry Christmas and Happy New Year.

Councilman Webb wished everyone a Merry Christmas and thanked staff for all they do for the residents of Cleveland. He then thanked Chief Gibson and staff for their assistance at the Reindeer Run for the American Cancer Society. We had lots of much needed rain and the route had to change due to high water under the bridge at Raider Drive. A call was made and within minutes patrol units helped all participants get across Raider Drive safely. It was greatly appreciated.

Mr. Fivas acknowledge Mayor Brooks for spearheading the downtown lighting project. It has been an improvement to the downtown area. Mayor Brooks thanked Mr. Fivas and stated Mrs. Brooks enjoys the Hallmark channel and pushes for additional Christmas lights. Mayor Brooks then stated he has received thanks for the additional day off for employees at Christmas, but it was the City Council vote that deserves the credit.

Mr. Fivas updated the Council on the Gaut Street project. We finally received the official go ahead to begin the bid process. Mr. Varnell has patience working through it. It is a State funded 80/20 project, which will be a sidewalk from College Hill Recreation Center down to Gaut Street. A new sidewalk from Gaut Street to Inman Street. The sidewalk on Inman Street will be replaced and that will go to Mosby Park. We hope it will begin in early Spring.

Mayor Brooks thanked Beverely Lindsey with helping him prepare for the meeting and to Sue Zius for working on the Proclamations.

NEW BUSINESS AND ORDINANCES

a. **Zoning Ordinance 2023-57 –** To zone about 1.6 acres, more or less, of property located on Fair Street from CG General Commercial Zoning District to R-2 Low Density Single and Multi-Family Zoning District and includes Tax Map 058H Group C Parcels 027.00 (Planning Commission: Approved 8-0; 1 absent).

Zoning Ordinance 2023-57

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 to R2 Low Density Single and Multi-Family Zoning District.

Approximately 1.6 acres, more or less, located at 295 Fair Street as shown on the attached map.

For reference, same property is being shown on Tax Map 058H Group C Parcel 027.00, 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 Estes moved that Zoning Ordinance 2023-57 be voted for passage on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

b. **Motion** – Appropriating funds to the Land Bank Authority as detailed in the memorandum from the City Manager ($25,000 General Fund; $500,000 Bond Fund).

TO: **Mayor and City Council**
FROM: **Joe Fivas, City Manager**
DATE: **December 11, 2023**
RE: **Funding of the Land Bank Authority**

SUMMARY:
The Land Bank Authority has held their first meeting. The Land Bank Authority is an independent organization, and will be responsible for advertising meetings, having their own auditor, and having their own legal service invoices.

In order to facilitate the start-up of this organization, City staff is requesting the City Council to directing appropriate $25,000 to general operations of the Land Bank Authority. We will evaluate and determine the future costs during the upcoming budget process.

At the last meeting, the City Council gave a request to the Land Bank Authority to begin the purchase of Right-of-Way for a few City projects that are funded with Bond Funds. City staff is requesting to appropriate $500,000 of Bond Funds, only to be used as directed by the City Council. At the next City Council meeting, the City Attorney and staff will propose an Agreement between the Land Bank Authority and the City in sharing services, transfer of

property between the organizations, and how we work together to achieve our collective goals.

COMMITTEE FINDINGS:
No Committee or Board action.

FISCAL ANALYSIS:
N/A

RECOMMENDATION:
City staff recommends approval of appropriating $25,000 of General Fund dollars to the Land Bank Authority, and the appropriations of $500,000 of Bond Funds to only be used for Right-of-Way purchases as requested by the City Council.

Before appropriating the ROW funds, City staff is working with our Bond Counsel to develop the appropriate process to accomplish this transfer.

Councilman Webb moved to appropriate funds to the Land Bank Authority as outlined in the memorandum from the City Manager. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

c. **Resolution 2023-120** – Initiating the annexation process and draft plan of services for the annexation of 293.51 acres located on Frontage Road, Dry Valley Road and South Lee Highway.

RESOLUTION 2023-120

CONSIDERATION OF INITIATING THE ANNEXATION PROCESS AND DRAFT PLAN OF SERVICES, FOR THE ANNEXATION OF 293.51 ACRES LOCATED ON FRONTAGE ROAD, DRY VALLEY ROAD, AND SOUTH LEE HIGHWAY

WHEREAS, the property owners, petitioned the Mayor and City Council of Cleveland, Tennessee ("City"), to annex 4 parcels, containing approximately 283.51 acres, outside the City limits and located outside the Cleveland Urban Growth Boundary ("UGB"); and

WHEREAS, it is believed it is in the best interest of the City to further investigate the area petitioned to be annexed in order to consider the area for future development in accordance with City standards; and

WHEREAS, this resolution shall not bind the City to later annex the Property; and

WHEREAS, Tennessee Code Annotated (T.C.A.) § 6-51-102, as amended, requires that a Plan of Services be adopted by a municipal governing body prior to the passage of an annexation resolution.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, AS FOLLOWS:

SECTION I. That the Property to be further considered by the Cleveland Municipal Planning Commission and Mayor and City Council of Cleveland, Tennessee is located, as described herein and as depicted on the Map attached hereto as Exhibit A:

Map-Parcel	Acres	Owner
014-051.00	4.93	Bank of Cleveland
028-048.00	113	Anna Suits
028-048.03	160	David Henry, Tonya Wilson, Tommy Haun, Mary Ann McCamey
056-092.00	5.58	Lynn Jones
Total	283.51	

SECTION II: That the attached Draft Plan of Services hereto as Exhibit B shall provide guidance to Mayor Brooks and the City Council of Cleveland, Tennessee on how the Property would be served by City resources but is not binding on final annexation.

SECTION III: That the Draft Plan of Services shall be studied by City Staff and amended as needed during the study before final presentation to the Cleveland Municipal Planning commission, Mayor and City Council of Cleveland, Tennessee.

SECTION IV: BE IT FURTHER RESOLVED by the City Council of the City of Cleveland, Tennessee, that this Resolution shall become effective upon its adoption.

Adopted this 11th day of December 2023.

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

_____
Kevin Brooks, Mayor

_____
Shawn McKay, City Clerk

Councilman Estes moved that Resolution 2023-120 be accepted and move to initiate the process with Bradley County in extending the Urban Growth Boundary, to go down both paths at the same time. The motion as seconded by Councilwoman McKenzie. Councilman Cassada asked for legal counsel to look at it for liability issues as well. Upon roll call, the motion was unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

a. Holiday Schedule: Following Tennessee State Government Holiday Office Closure Schedule, City offices will be closed as follows:

- Friday, December 22, Monday, December 25 and Tuesday, December 26 for the Christmas Holiday.
- The December 25 Council meeting will be cancelled.
- Friday, December 29 and Monday, January 1, 2024 for the New Year's Holiday.

b. The next City Council meeting will be held on Monday, January 8, 2024.

ADJOURNMENT

There being no further business, Mayor Brooks adjourned the meeting at 3:58 p.m.

_____ _____
Mayor City Clerk

REGULAR SESSION
DECEMBER 25, 2023
3:00 P.M.
MINUTE BOOK 31

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE DID NOT MET IN A REGULAR SESSION THIS MONDAY, DECEMBER 25, 2023 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING DUE TO THE CHRISTMAS HOLIDAY.

_____ _____

Mayor City Clerk