

# CITY OF CLAYTON, OHIO

## ORDINANCE NO. O – 08 -17 - 16

### **AN ORDINANCE APPROVING CONSTRUCTION OF STREET LIGHTING IMPROVEMENTS IN AND TO ADOPT ASSESSMENTS FOR ANNUAL LIGHTING CHARGES UPON LOTS LOCATED WITHIN WENGER VILLAGE, SECTION TWO IN THE CITY OF CLAYTON, OHIO AND DECLARING AN EMERGENCY**

**WHEREAS**, by Resolution No. R-05-17-23, enacted May 18, 2017 (the “Resolution of Necessity”) and in accordance with Ohio Revised Code Section 727.12, Council declared the necessity of constructing street lighting improvements; and

**WHEREAS**, in accordance with Ohio Revised Code Section 727.13, notice of the passage of the Resolution of Necessity and the filing of the estimated assessment under Section 727.12 of the Revised Code was served upon the owners of the lots and/or parcels of land to be assessed for the proposed improvement by certified mail; and

**WHEREAS**, no objections were made or requests for the creation of an Assessment Equalization Board under Ohio Revised Code Section 727.16 nor have claims been received pursuant to Ohio Revised Code Section 727.18 by any owner of a lot or parcel of land asserting that the owner will sustain damages by reason of the proposed improvement; and

**WHEREAS**, Council desires and hereby declares its intent to proceed with approval of the construction of the street lighting improvements in accordance with the provisions of the Resolution of Necessity and impose the required assessments for said improvements.

### **NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the City hereby approves construction of the street lighting improvements in Wenger Village Section Two, in accordance with the plans, specifications and assessments, rates and charges provided for in the Resolution of Necessity duly enacted by Council on May 18, 2017, under the authority of Ohio Revised Code Chapter 727.
2. That the assessments prepared and filed in accordance with the resolution of necessity passed under Ohio Revised Code Section 727.12 and on file in the Clayton Government Center are hereby ratified, confirmed and adopted.
3. That as no claims for damages were filed in accordance with Ohio Revised Code Section 727.18, pursuant to that Section of the Code, such claims are deemed waived and therefore barred.
4. That this Council hereby declares it necessary for the preservation and promotion of the public health and welfare, for the reasons set forth in the preambles hereof, to enter into an agreement with DPL/Energy (Miami Valley Lighting) for full service lighting and to assess the

accumulated annual charge estimated to be \$1,750.35 against the lots in Wenger Village, Section Two.

5. The lots or parcels of land to be assessed for the Wenger Village Section Two, Street Lighting Improvement Project are Lots 40 through 58, Wenger Village, Section Two, located in Section 29, Town 5, Range 5 East, City of Clayton, Montgomery County, Ohio and as further described in the attached Petition (**Exhibit A**) and Lot Map (**Exhibit B**).

6. The Wenger Village Section Two, Street Lighting Improvement Project is estimated to consist of installation and trenching of 6 light poles and fixtures at a developers cost of \$9,485.00 and total annual lighting charges for said 6 poles and fixtures of \$3,016.08 to be paid by the City.

7. The boundaries of the area to be assessed include all properties within Wenger Village, Section Two.

8. The Improvements are more particularly described and set out in the plans, specifications, estimates of cost, rates, charges and tentative assessments which are on file in the Clayton Government Center, 6996 Taywood Road, Englewood, Ohio, 45322 where they may be examined and which plans, specifications, estimates of costs, rates, charges and tentative assessments are hereby approved.

9. That the total annual lighting charge is estimated to be \$1,750.35 and shall be funded as follows:

(a) The portion to be specially assessed to property owners on an annual basis totals \$1,750.35 - *\$116.69 per parcel*, as adjusted to reflect increases in future years, in an equal amount against each benefited lot, the amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district.

10. That the assessments against each parcel of property subject to assessment shall be prepared and filed in the office of the Clerk of Council and shall be open for inspection during regular business hours.

11. That Notice of the passage of this Ordinance shall, after the assessment has been made and filed as provided herein be served by the Clerk of Council, or a person designated by the clerk, upon the owners of the lots or parcels of land to be assessed for the Improvements, by certified mail addressed to such owner at his last known address or to the address to which tax bills are sent.

12. That a certified copy of this Ordinance shall be filed with the Montgomery County Auditor.

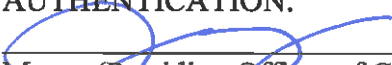
13. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.

14. That in accordance with Charter Section 4.031(B) the requirement that this ordinance be read on two (2) different days is dispensed with by affirmative vote of at least five (5) of the members of Council.

15. That unless the assessments are immediately adopted and passed and submitted to the Auditor of Montgomery County the public peace, health, safety and welfare will be detrimentally affected because the assessments would not appear on the next tax duplicate. Accordingly, pursuant to Charter Section 4.033(A) this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon affirmative vote of at least five (5) of the members of Council.

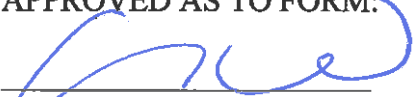
ADOPTED BY COUNCIL ON SEPTEMBER 7, 2017.

AUTHENTICATION:

  
\_\_\_\_\_  
Mayor (Presiding Officer of Council)

  
\_\_\_\_\_  
Clerk of Council

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper      Date of publication  
Englewood Independent      September 14, 2017

  
\_\_\_\_\_  
CLERK

Ref.: R.C. 727.12, R.C. 727.18, Clayton Charter Section 4.031 and 4.031(H), Clayton Charter Section 8.02

**LIGHTING ASSESSMENT PETITION**  
**(Wenger Village Section II)**

**CITY OF CLAYTON, OHIO**

**TO: THE COUNCIL OF THE CITY OF CLAYTON, OHIO**

1. We, the undersigned owners of seventy-five (75%) percent or more of the parcels that abut the street or streets on which lighting improvements are being requested, do hereby petition the Council for the following public improvement:

Installation and maintenance of street lights for the purpose of making our community more desirable, with such street lights to be supplied power through a contract that will be funded with monies from the assessment:

**Description:** Please describe, as thoroughly as possible, the street or streets to be included in the assessment area. This should be accomplished by referring to cross streets, subdivision names, and specific address boundaries, so that an accurate accounting of affected parcels or lots can be attained.

All lights are located on Parsley Place. Two (2) lights are located at the entrance adjacent to Wenger Road, one (1) on each side of Parsley Place. The remaining four (4) lights are staggered the length of Parsley Place with two (2) lights on each side of the Parsley Place.

**Number of Affected Parcels:** Please determine the number of affected parcels or lots that abut the street or streets on which light improvements are being requested. Also, provide any additional information that may be needed to properly understand or verify this accounting.

Fifteen (15) parcels are included in the lighting district, with a \$114.87 annual assessment per parcel.

2. We, the undersigned, request that the entire cost of the lighting improvements be assessed equally amongst all abutting property owners as, regardless of the size of the individual lots, each property owner will equally benefit from the safety and aesthetic enhancement provided by the street lights.

3. We, and each of us, further acknowledge and agree, in consideration of the installation and maintenance of the street light improvement, that no property, other than that which abuts the above-described streets, will receive special benefits from the improvements, and request that all assessments be limited to the parcels or lots that abut the street on which the improvement will be made.

4. In consideration of the improvement, we and each of us, agree to promptly pay all special assessments as they become due and that the determination of the special assessments by the Council against lots and lands owned by each of the undersigned will be final, conclusive and binding upon each of us.

5. We and each of us, consent and request that these special assessments be levied and collected without limitation as to the value of the property assessed, and waive the following:

(a) Any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code, or by any other provision restricting these special assessments to thirty-three and one-third percent (33-1/3%) of the actual improved value of the lots and lands as enhanced by the improvements to be made;

(b) Any and all resolutions, ordinances and notices required for the making of the improvement, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, the equalization of the estimated special assessments, any increase in the cost of labor and materials over the estimated costs and the passage of the assessing ordinance, including but not limited to, the notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code; and

(c) Any and all irregularities and defects in the proceedings.

6. We agree and consent to the submittal of petitions executed in duplicate counterparts all of which shall be considered as a single petition.

7. We, and each of us, further consent and request that all legislation required to be enacted to permit the improvements to commence immediately be enacted at a single Council meeting.

**Collection and Submission of Signatures:** In order for Council to consider this petition, all petitioners must provide their name, address, and signature, along with the parcel number or numbers of their property. Each owner of a particular property must sign in order for that parcel or lot to be included in the 75% calculation.

Name(s)	Address of Property	Parcel Number	Signature
Robert/Marie Alexandre	7986 Parsley Place, Clayton, OH 45315	M60 16326 0001	
Inverness Group, Inc.	7980 Parsley Place, Clayton, OH 45315	M60 16326 0002	See page 2
Inverness Group, Inc.	7976 Parsley Place, Clayton, OH 45315	M60 16326 0003	See page 2
Steven H Jordan	7972 Parsley Place, Clayton, OH 45315	M60 16326 0004	
Inverness Group, Inc.	7968 Parsley Place, Clayton, OH 45315	M60 16326 0005	See page 2
Jamie B/Jeanette R Stonerock	7964 Parsley Place, Clayton, OH 45315	M60 16326 0006	
Inverness Group, Inc.	7960 Parsley Place, Clayton, OH 45315	M60 16326 0007	See page 2
Milton C/Cheryl A Gibson	7956 Parsley Place, Clayton, OH 45315	M60 16326 0008	
Marlene A Slicklen	7963 Parsley Place, Clayton, OH 45315	M60 16326 0009	
Ebony Dowell & Danyell Moore	7967 Parsley Place, Clayton, OH 45315	M60 16326 0010	
Rickey Davis & Charlene L Gipson	7971 Parsley Place, Clayton, OH 45315	M60 16326 0011	
Jeremy R/Kari Geiger	7975 Parsley Place, Clayton, OH 45315	M60 16326 0012	See page 3
Brian D/Melissa A Woehrman	7979 Parsley Place, Clayton, OH 45315	M60 16326 0013	
Aaron/Gina Gray	7985 Parsley Place, Clayton, OH 45315	M60 16326 0014	
Geri/Yolanda Sapp	7991 Parsley Place, Clayton, OH 45315	M60 16326 0015	

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Inverness Group, Inc.	7976 Parsley Place, Clayton, OH 45315	M60 16326 0003	<i>Jill Holland</i>
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Milton C/Cheryl A Gibson	7886 Parsley Place, Clayton, OH 45315	M60 16326 0008	
Marlene A Slicklen	7863 Parsley Place, Clayton, OH 45315	M60 16326 0009	
Ebony Dowell & Danyell Moore	7987 Parsley Place, Clayton, OH 45315	M60 16326 0010	
Rickey Davis & Charlene L Gibson	7971 Parsley Place, Clayton, OH 45315	M60 16326 0011	
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Jeremy Geiger	7975 Parsley Place, Clayton, OH 45315	M60 16326 0012	<i>Jerry R. Hejzic 15 May 17</i>
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Miami Valley Lighting  
 1065 Woodman Drive  
 Dayton, OH 45432  
 937/259-7866 Fax 937/259-7867

**Street Light Proposal**

**Customer Name:** City of Clayton  
**Attention:** David Rowlands, City Manager  
**Address:** PO Box 280  
**City, St., Zip:** Clayton, Ohio 45315

**Date:** 07/31/09  
**Job ID:** 752 /  
**Rep:** Ted Valley

**Project Location:** Wenger Village, Sec. 2  
**Developer:** Midlife Development, Sam Knobler

**Trench Estimate Expires:** 08/31/09

Qty.	Description	Unit	Total
6	Install-Lease 16,000L HPS Regal post-top fixture, wire.		
6	Install-Lease 12' fluted cast aluminum pole, screw-anchor foundation.	\$633	\$3,798
		\$659	\$3,954
<b>Total Installation Charge (To be paid by the developer)</b>			<b>\$7,752</b>

**TRENCHING QUOTATION**  
 (To be paid by the developer)

1. Trench, install conduit to a min. depth of 24" throughout, and backfill to final grade. The Developer is responsible for installing rod or seed and water, as desired.
2. The Developer is responsible for locating all underground utilities not normally OUPS'd, such as irrigation systems, etc.
3. If DPLE trenches, and if rock is encountered to such a degree that it precludes normal trenching and/or boring, we reserve the right to quote "rock adder" charges prior to continuation of underground work.

**Total Trenching Charge** \$1,733

**Grand Total (To be paid by the developer)** \$9,485

Qty	Description	Full-Service Lighting	Accumulated Monthly Chg	Accumulated Annual Charge
6	16,000L HPS Regal post-top fixture, wire	\$25.00	\$150.00	\$1,800.00
6	12' fluted cast aluminum pole, foundation	\$16.89	\$101.34	\$1,216.08
<b>Total Annual Lighting Charge (To be paid by the City)</b>				<b>\$3,016.08</b>

**Proposal Authorization**

**Signature:** \_\_\_\_\_  
 City Authorization

**Date:** \_\_\_\_\_



Remit To: Miami Valley Lighting  
C/O Ted Valley  
1066 Woodman Drive  
Dayton, OH 45432  
(937) 259-7866 Fax (937) 259-7867

## INVOICE

Name: Midlife Development  
Attention: Sam Knobler  
Address: 21 South Alex Road  
City St Zip: Miamisburg, Ohio 45342

Date: 07/31/09  
Invoice No. 752  
DPLE Lighting Representative Ted Valley  
937/259-7866

Location: Wenger Village, Sec. 2  
Clayton, Ohio

**PAY THIS AMOUNT:** \$9,485

**PAY TERMS:** Receipt of Invoice

Qty.	Description	Unit Cost	Total
6	Install-Lease 150 watt 16000L HPS Regal-style post-top fixture, wire.	\$633	\$3,798
6	Install-Lease 12 ft. fluted cast alum pole and screw-base foundation.	\$859	\$3,954
1	Trenching, conduit, backfill to grade. Developer responsible for seed, straw, water.	\$1,733	\$1,733
		<b>Total</b>	<b>\$9,485</b>

### Notes

Upon receipt of payment we will order materials and schedule construction.

