

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

May 20, 2021

OLD BUSINESS - NONE

NEW BUSINESS

ORDINANCES (FIRST OF TWO READINGS)

ORDINANCE NO. O – 05 – 21 – 02

AN ORDINANCE APPROVING THE RECOMMENDATION OF THE PLANNING COMMISSION TO REPEAL THE CITY OF CLAYTON'S CURRENT *PART ELEVEN-PLANNING AND ZONING CODE* AND REPLACE *PART ELEVEN-PLANNING AND ZONING CODE* OF THE CODIFIED ORDINANCES OF THE CITY OF CLAYTON WITH THE UPDATED PLANNING AND ZONING CODE PREPARED BY ZONECO, LLC

WHEREAS, via enactment of Resolution No. R-10-18-59 on October 18, 2018, Council authorized the City Manager to enter into an agreement with Calfee Zoning for the preparation and presentation of an updated zoning code for the City of Clayton; and

WHEREAS, via enactment of Resolution No. R-11-20-57 on November 5, 2020, Council authorized and consented to the assignment of the aforementioned contract with Calfee Zoning to Zoneco, LLC wherein Zoneco, LLC was to finalize and provide the updated zoning code to the City and present same to the Planning Commission and to Council; and

WHEREAS, working with City Staff, Zoneco, LLC has completed the updated zoning code, said updated code being presented to the Clayton Planning Commission at an open public meeting and hearing on April 26, 2021 where all persons were given an opportunity to be heard thereon and the Planning Commission voted unanimously to recommend approval to Council of the updated zoning code; and

WHEREAS, on May 20, 2021, City Council conducted a public hearing on the recommendation of the Planning Commission to approve the updated zoning code where all persons were given an opportunity to be heard thereon.

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

1. That the recommendation of the Clayton Planning Commission is hereby **ADOPTED** and *Part Eleven-Planning and Zoning Code* of the Codified Ordinances of the City of Clayton, Ohio is hereby repealed in its entirety and replaced with the attached *Part Eleven-Planning and Zoning Code* as updated by

Zoneco, LLC and as recommended for approval by the Clayton Planning Commission.

2. 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.
3. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on May 20, 2021 and June 17, 2021.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON JUNE 17, 2021

ORDINANCES – EMERGENCY – (SINGLE READING AND IMMEDIATE ENACTMENT)

ORDINANCE NO. O – 05 – 21 – 03

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A PURCHASE AGREEMENT WITH CITIZEN REAL ESTATE, LLC DBA KLUTCH CANNABIS AND TRANSFER AT CLOSING PUBLIC PROPERTY LOCATED AT 7651 N. MAIN STREET, CLAYTON, OHIO AND BEARING PARCEL I.D. NUMBER M60 03210 0145 WITH SPECIFIED CONTINGENCY AND DECLARING AN EMERGENCY

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution permits Clayton to exercise its power of local self-government; and

WHEREAS, Clayton Codified Ordinance Section 117.01 provides, “Upon a vote of *two-thirds* of the members of Council, the sale, lease or other conveyance and transfer of an interest in real property no longer needed for municipal purposes may be approved on such terms as are deemed beneficial to the City and dispensing with any requirements for publication and/or competitive bidding.”

WHEREAS, the real property which is the subject of this sale, has been available for sale for approximately two years, but has been unused since being acquired by the City and in its current state is not needed for municipal purposes and therefore Council has determined that the property located at 7651 N. Main Street and bearing Parcel I.D. Number M60 03210 0145 owned by the City of Clayton, Ohio is no longer needed for municipal purposes.

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

1. That the City of Clayton hereby authorizes the City Manager to enter into the Purchase Agreement with Citizen Real Estate, LLC dba Klutch Cannabis, copy appended hereto as *Exhibit A*, with such modifications as deemed appropriate by the Law Department, in order to effectuate

the sale of City-owned real property no longer needed for municipal purposes and being located at 7651 N. Main Street, Clayton, Ohio and bearing Parcel I.D. Number M60 03210 0145 Montgomery County, Ohio, and to transfer at closing said real property to Citizen Real Estate, LLC dba Klutch Cannabis and to execute all documents and take all necessary action to close on said property upon the following contingency which contingency is specified in the attached Purchase Agreement: *The sale of the property located at 7651 N. Main Street, Clayton, Ohio and bearing Parcel I.D. Number M60 03210 0145 Montgomery County, Ohio, is contingent upon Citizen Real Estate, LLC dba Klutch Cannabis successfully obtaining a license to process and/or dispense medical marijuana from the said real property from the State of Ohio.*

2. 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.

3. 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.

4. That, immediate approval of the sale of the real property located at 7651 N. Main Street, Clayton, Ohio, Parcel I.D. No. M60 03210 0145 is necessary and will result in enhancement to the economic health, safety and welfare of the Clayton Community at large. Additionally, in order for Citizen Real Estate, LLC dba Klutch Cannabis to appropriately demonstrate control of the subject property to the State of Ohio as part of the licensing application procedure, it is necessary for this Ordinance to take immediate effect. Accordingly, in accordance with 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 MAY 20, 2021

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 05 – 21 – 30

A RESOLUTION ESTABLISHING THE LOCAL FISCAL RECOVERY FUND AND AUTHORIZING THE FINANCE DIRECTOR TO MAINTAIN REQUIRED BOOKS AND RECORDS TO EVIDENCE PAYMENTS INTO AND WITHDRAWALS FROM SAID FUND

WHEREAS, on March 11, 2021, The American Rescue Plan of 2021 (“ARP”), a \$1.9 trillion COVID-19 economic stimulus package, was signed into law; and

WHEREAS, ARP will provide \$350 billion in additional funding to state and local governments; and

WHEREAS, the City of Clayton expects to receive ARP funds in the very near future; and

WHEREAS, the Ohio Auditor of State recommends government entities receiving said funds clearly document expenditures and withdrawals relative to the use of ARP funds; and

WHEREAS, in order to appropriately account for the deposit(s) and withdrawal(s) of ARP funds, the Finance Director recommends establishment of the “Local Fiscal Recovery Fund”.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

1. That the “Local Fiscal Recovery Fund” is hereby established.
2. That the Finance Director is hereby authorized and directed to utilize said Fund and to maintain required books and records necessary to evidence deposits into and withdrawals and disbursements from said Fund.
3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.
4. That this Resolution shall take effect from and after the date of its passage.

ADOPTED BY COUNCIL ON MAY 20, 2021

RESOLUTION NO. R – 05 – 21 – 31

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BRANDSTETTER CARROLL, INC. FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES AND AT A COST NOT TO EXCEED \$150,000.00

WHEREAS, Charter Section 8.02(C)(3)(g) exempts professional services not to exceed \$150,000.00 from competitive bidding; and

WHEREAS, City staff has recommended entering into an agreement with Brandstetter Carroll, Inc. for professional engineering consulting services.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

1. That the City Manager is authorized to enter into an agreement with Brandstetter Carroll, Inc. in a form substantially similar to the agreement appended hereto for professional engineering consulting services at a cost not to exceed \$150,000.00.

ADOPTED BY COUNCIL ON MAY 20, 2021

RESOLUTION NO. R – 05 – 21 – 32

A RESOLUTION REMOVING THE EMERGENCY PROCEDURES PROVIDING FOR REMOTE MEETINGS PREVIOUSLY ADOPTED VIA RESOLUTION NUMBER R-03-20-20 AND RESOLUTION NUMBER R-03-20-20 (A)

WHEREAS, on March 25, 2020, both chambers of the Ohio Legislature passed emergency COVID-19 response legislation via House Bill 197; and

WHEREAS, House Bill 197 was sent to Governor DeWine and signed into law by the Governor on March 27, 2020; and

WHEREAS, House Bill 197 contains amended language with respect to Ohio Revised Code 121.22 (the “Open Meeting Act”) governing public bodies and meetings and hearings of public bodies; and

WHEREAS, the amendments to Ohio Revised Code 121.22 (the “Open Meeting Act”) contained within House Bill 197 provide the following: (A) During the period of emergency declared by Executive Order 2020-01D, but not beyond December 1, 2020, members of a public body may hold and attend meetings and may conduct and attend hearings by means of “teleconference, video conference, or any other similar electronic technology” provided that all of the following apply: (1) Any resolution, rule, or formal action taken by way of a Remote Meeting will have the same effect as if it had occurred during an open meeting or hearing of the public body; and (2) Public body members who attend meetings or hearings via teleconference, video conference, or any other similar electronic technology are considered to be present as if in person at the meeting or hearing and will be permitted to vote, and will be counted for purposes of determining a quorum; and (3) Public bodies must provide notice of meetings and hearings to the public and to the media who have requested notice and to the parties required to be notified of a hearing, at least twenty-four hours in advance of the meeting or hearing by reasonable methods by which any person may determine the time, location, and the manner by which the meeting or hearing will be conducted, except in the event of an emergency requiring immediate official action. In the event of an emergency, the public body shall immediately notify the media which have requested notice or the parties required to be notified of a hearing of the time, place, and purpose of the meeting or hearing; and (4) The public body shall provide the public access to a meeting held and to any hearing held that the public would otherwise be required to attend, “commensurate with the method in which the meeting or hearing is being conducted”, including, but not limited to, live-streaming by means of the internet, local radio, television, cable, or public access channels, call in information for a teleconference, or by means of any other similar electronic technology; and (5) The public body shall ensure that the public can observe and hear the discussions and deliberations of all the members of the public body, whether the member is participating in person or electronically; and (6) When a public body conducts a hearing by means of teleconference, video conference, or other similar technology, the public body must establish a means via electronic equipment which is widely available to the general public to converse with witnesses, and to receive documentary testimony and physical evidence.

WHEREAS, in accordance with the foregoing, via enactment of City of Clayton, Ohio Resolution No. R-03-20-20 on March 19, 2020 and City of Clayton, Ohio Resolution No. R-03-20-20 (A) on April 2, 2020, the Clayton City Council authorized “Remote Meetings” as a result of the State(s) of Emergency declared in response to the COVID-19 pandemic; and

WHEREAS, pursuant to H.B. 404, the amendments to Ohio Revised Code 121.22 (the “Open Meeting Act”) contained within House Bill 197 allowing public bodies to hold and attend meetings by means of teleconference, video conference, or any other similar electronic technology was extended until July 1, 2021; and

WHEREAS, on May 13, 2021, Ohio Governor Mike DeWine announced as of June 2, 2021, most COVID-19 related health orders, including those requiring social distancing and the wearing of face masks in the State of Ohio will be lifted; and

WHEREAS, the Council of the City of Clayton, Ohio believes it to be in the best interest of the City and its citizens, commencing on June 3, 2021, to return to conducting in-person public meetings and hearings and cease the remote public meetings and hearings conducted during the COVID-19 pandemic.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

1. That, commencing June 3, 2021, all public meetings of the City of Clayton, Ohio including, but not limited to, regular and special Council meetings and public hearings, workshops, and all City board and commission meetings and public hearings will be conducted in-person as they were prior to the enactment of Resolution No. R-03-20-20 and Resolution No. R-03-20-20 (A), and said public meetings and hearings will no longer be conducted via remote technology.
2. That this Resolution 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.

ADOPTED BY COUNCIL ON MAY 20, 2021
