

# CITY OF CLAYTON, OHIO

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## RESOLUTIONS AND ORDINANCES

January 5, 2023

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### NEW BUSINESS

### ORDINANCES (FIRST OF TWO READINGS)

#### ORDINANCE NO. O – 01 -23- 01

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

**WHEREAS**, by Resolution No. R-12-22-80, enacted December 1, 2022 (“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 Three, in accordance with the plans, specifications and assessments, rates and charges provided for in the Resolution of Necessity duly enacted by Council on December 1, 2022, 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 AES/Miami Valley Lighting LLC for full-service lighting and to assess the accumulated annual charge estimated to be \$3,270.72 against the lots in Wenger Village, Section Three.
5. The lots or parcels of land to be assessed for the Wenger Village Section Three, Street Lighting Improvement Project are Lots 58 through 116, Wenger Village, Section Three, 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 Three, Street Lighting Improvement Project is estimated to consist of installation and trenching of eight (8) light poles and fixtures at a developers cost of \$84,342 and total annual lighting charges for said 8 poles and fixtures of \$3,270.72 to be assessed as delineated herein with no portion of the improvement to be paid by the City.
7. The boundaries of the area to be assessed include all properties within Wenger Village, Section Three.
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 \$3,270.72 and shall be funded as follows:
  - (a) The portion to be specially assessed to property owners on an annual basis totals \$3,270.72 - **\$55.44 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. The City does not intend to issue securities in anticipation of the levy of the assessments. The City does not intend to issue securities in anticipation of the collection of the assessments.
11. 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.
- 12. 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, RRR, addressed to such owner at his/her last known address or to the address to which tax bills are sent.***

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

14. 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.

15. 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 January 5, 2023 and January 19, 2023.

16. 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 JANUARY 19, 2023.

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## **RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)**

### **RESOLUTION NO. R – 01 – 23 – 01**

#### **A RESOLUTION TO RE-APPOINT DAVE BILLS TO THE CLAYTON PLANNING COMMISSION**

**WHEREAS**, Charter Section 7.01 provides for the creation and appointment of members to the Clayton Planning Commission; and

**WHEREAS**, Member Mr. Bills' term will expire January 5, 2023; and

**WHEREAS**, Council desires to re-appoint Dave Bills to a five (5) year term on the Clayton Planning Commission.

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

1. That Dave Bills is re-appointed to a five (5) year term with the Clayton Planning Commission to commence January 6, 2023 through January 5, 2028.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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### **RESOLUTION NO. R – 01 – 23 – 02**

#### **A RESOLUTION TO RE-APPOINT ROBERT MCGUINNESS TO THE CLAYTON BOARD OF ZONING APPEALS**

**WHEREAS**, Charter Section 7.02 provides for the creation and appointment of members to the Clayton Board of Zoning Appeals; and

**WHEREAS**, Member Robert McGuinness' term will expire January 14, 2023; and

**WHEREAS** Council desires to re-appoint Mr. McGuinness to a five (5) year term on the Clayton Board of Zoning Appeals.

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

1. That Robert McGuinness is re-appointed to a five (5) year term with the Clayton Board of Zoning Appeals to commence January 15, 2023 through January 14, 2028.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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***COUNCIL VOTED TO TABLE THE FOLLOWING RESOLUTION NO. R-01-23-03:***

**RESOLUTION NO. R – 01 – 23 - 03**

**A RESOLUTION APPOINTING \_\_\_\_\_ TO THE PARKS ADVISORY COMMISSION**

**WHEREAS**, Clayton Codified Ordinance Chapter 159 created the Parks Advisory Commission; and

**WHEREAS**, Clayton Codified Ordinance Chapter 159 provides for the appointment of nine (9) members to the Parks Advisory Commission to be appointed by a majority vote of Council for overlapping terms of three years each; and

**WHEREAS**, the appointment of Kris Roll to the Parks Advisory Commission expires January 8, 2023 and Council desires to appoint \_\_\_\_\_ to a new term on said Commission.

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

1. That \_\_\_\_\_ is hereby appointed to a new term on the Parks Advisory Commission, said term expiring on January 8, 2026.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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**RESOLUTION NO. R – 01–23 – 04**

**A RESOLUTION APPOINTING MEMBERS TO THE *COUNCIL SALARY REVIEW COMMISSION***

**WHEREAS**, Charter Section 3.08 provides that the salaries of elected officials of the City shall be established by Council via ordinance; and

**WHEREAS**, the salaries of the Mayor and Council Members have remained unchanged since the formation of the City of Clayton, Ohio and;

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

**WHEREAS**, Charter Section 7.04 provides Council with the following authority: “Council may, by ordinance or resolution, establish, revise, merge or abolish other boards and commissions.” and;

**WHEREAS**, *via Resolution No. R-12-22-84 adopted on December 15, 2022, Council established a Council Salary Review Commission for the purpose of reviewing the current salaries of the Mayor and Council Members and making recommendations respecting same to Council as provided herein.*

**WHEREAS**, Council desires to appoint members to the Council Salary Review Commission.

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

1. That the following persons are hereby appointed to the Council Salary Review Commission:
  - A. Reginald Greathouse
  - B. Duane Martin
  - C. Tony Napier
2. Said Council Salary Review Commission shall perform its duties in accordance with and as delineated in the attached *Resolution No. R-12-22-84 (Exhibit A)*.
3. 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 Resolution or which imposes additional requirements for effectiveness or validity.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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**RESOLUTION NO. R – 01 – 23 – 05**

**A RESOLUTION TO APPOINT CLAYTON REPRESENTATIVES TO THE FIRST SUBURBS CONSORTIUM FOR THE YEAR 2023**

**WHEREAS**, pursuant to the Bylaws of the First Suburbs Consortium, of which the City is a member, each member community is entitled to and should designate two representatives and one alternate thereto.

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

1. That the City of Clayton does hereby designate Tim Gorman and Kenneth Henning as representatives and Greg Merkle as alternate to serve on the First Suburbs Consortium for the year 2023.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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**RESOLUTION NO. R – 01 – 23 – 06**

**A RESOLUTION APPOINTING CLAYTON REPRESENTATIVES TO THE  
VOLUNTEER FIRE FIGHTERS’ DEPENDENTS FUND BOARD FOR THE YEAR  
2023**

**WHEREAS**, the City of Clayton is required to appoint two persons to the Volunteer Fire Fighters’ Dependents Fund Board on an annual basis; and

**WHEREAS**, the City desires to designate Dennis Lieberman and Tina Kelly to serve on the Volunteer Fire Fighters’ Dependents Fund Board for the year 2023.

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

1. That the City of Clayton does hereby designate Dennis Lieberman and Tina Kelly to serve on the Volunteer Fire Fighters’ Dependents Fund Board for the year 2023.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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**RESOLUTION NO. R - 01 - 23 - 07**

**A RESOLUTION TO APPOINT A CLAYTON REPRESENTATIVE AND AN  
ALTERNATE TO THE MIAMI VALLEY REGIONAL PLANNING COMMISSION  
AND TRANSPORTATION COMMITTEE FOR THE YEAR 2023**

**WHEREAS**, the City of Clayton participates as a member of the Miami Valley Regional Planning Commission ("MVRPC"); and

**WHEREAS**, the City desires to designate a representative to serve on the MVRPC and the Transportation Planning Committee of said Commission for 2023 and an alternate.

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

1. That the City of Clayton does hereby designate Tim Gorman as representative and Mike Stevens as alternate to serve on the Miami Valley Regional Planning Commission and its Transportation Committee for the year 2023.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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**RESOLUTION NO. R – 01 – 23 - 08**

**A RESOLUTION APPOINTING MEMBER TO THE COST RECOVERY/IMPACT FEE APPEALS BOARD**

**WHEREAS**, by Ordinance No. O-05-05-07 adopted May 19, 2005, a process was adopted to impose a Cost Recovery/Impact Fee for development within Clayton Improvement District No. 1; and

**WHEREAS**, said ordinance provided for the creation of a Cost Recovery/Impact Fee Appeals Board to address and decide objections to the imposition and amount of said fees; and

**WHEREAS**, the 3-year term of member Dennis Lieberman will expire January 8, 2023 and Council desires to appoint Dennis Lieberman to fill said expired term;

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

1. That the following elector of the City of Clayton is hereby appointed to the Cost Recovery/Impact Fee Appeals Board for the term set forth:

Dennis Lieberman                      Term ending: January 8, 2026

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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**RESOLUTION NO. R – 01 – 23 - 09**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE JOHN R. JURGENSEN COMPANY FOR THE 2023 SALEM STREET RESURFACING PROJECT PID 116866 AT A TOTAL PROJECT COST OF \$409,542.43 AND A TOTAL COST TO THE CITY OF CLAYTON, OHIO NOT TO EXCEED \$81,906.49**

**WHEREAS**, in accordance with the provisions of Charter Section 8.02, bids were solicited for the Salem Street Resurfacing Project, PID 116866; and

**WHEREAS**, said bids have been received and reviewed and the City Manager and City staff has recommended for acceptance the bid received from John R. Jurgensen Company as being the lowest and best bid submitted by a responsible bidder; and therefore, City staff recommends accepting said bid in accordance with the terms of the request for bids.

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

1. That the City Manager is hereby authorized to enter into an agreement with John R. Jurgensen Company to complete the Salem Street Resurfacing Project, PID 116866, with the total cost of said repaving not to exceed \$409,542.43 and with a total cost to the City of Clayton for its portion of the paving project not to exceed \$81,906.49.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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**RESOLUTION NO. R - 01- 23- 10**

**A RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 4379**

**WHEREAS**, the City of Clayton (City) and the International Association of Fire Fighters Local 4379 (Union) entered into a Collective Bargaining Agreement (CBA) dated April 1, 2022 through March 31, 2025; and

**WHEREAS**, the City and Union believe it to be in the best interest of both parties to clarify and amend the aforementioned CBA as further delineated in the attached MOU (*Exhibit A*).

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

1. That the City Manager, on behalf of the City, is hereby authorized to enter into the attached Memorandum of Understanding (*Exhibit A*) with the Union. The appended Memorandum of Understanding is incorporated herein and made a part hereof.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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**RESOLUTION NO. R - 01 - 23 - 11**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PROVIDE WRITTEN NOTICE TO THE BOARD OF COMMISSIONERS OF MONTGOMERY COUNTY, OHIO OF TERMINATION OF A CERTAIN SEPTEMBER 2, 1997 AGREEMENT BETWEEN THE THEN VILLAGE OF CLAYTON, OHIO (NOW CITY OF CLAYTON, OHIO) AND BOARD OF COMMISSIONERS OF MONTGOMERY COUNTY, OHIO RELATIVE TO BUILDING INSPECTION AND RELATED DUTIES (EXCEPTING PLUMBING INSPECTIONS AND RELATED DUTIES) AND FURTHER REQUESTING WAIVER OF THE NOTICE OF TERMINATION PROVISION IN SAID AGREEMENT SUCH THAT SAID TERMINATION MAY BECOME IMMEDIATELY EFFECTIVE**

**WHEREAS**, Charter Section 8.02 provides the City Manager shall be the contracting officer of the City and shall award and execute all contracts on behalf of the City; and

**WHEREAS**, the City of Clayton, Ohio is the legal successor to the Village of Clayton, Ohio; and

**WHEREAS**, the Village of Clayton, Ohio and the Board of Commissioners of Montgomery County, Ohio entered into an *Agreement* dated September 2, 1997 by which Montgomery County agreed to provide specified building inspections and related duties as delineated in said *Agreement*, a copy of which is appended hereto as *Exhibit A*; and

**WHEREAS**, the City of Clayton, Ohio desires to terminate the *Agreement* appended hereto, except with respect to plumbing inspections and related duties, and further requests the Board of Commissioners of Montgomery County, Ohio waive the 90-day notice of termination provision found at Paragraph 4 of said *Agreement* such that the City's termination may become immediately effective.

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

1. That the City Manager is hereby authorized to provide written notice of the City's termination of the *Agreement* dated September 2, 1997 (***Exhibit A***) by which Montgomery County agreed to provide specified building inspections and related duties as delineated in said *Agreement* to the Village of Clayton, Ohio (now City of Clayton, Ohio).
2. The City Manager is further authorized to request the Board of Commissioners of Montgomery County, Ohio waive the 90-day notice of termination provision found at Paragraph 4 of said *Agreement* such that the City's termination may become immediately effective.
3. Said termination and agreement by the Board of Commissioners of Montgomery County, Ohio to waive the 90-day notice of termination provision found at Paragraph 4 of said *Agreement* shall release Montgomery County from any further obligations under said *Agreement*, except that, pursuant to the attached December 2, 2022 Public Health- Dayton & Montgomery County correspondence (***Exhibit B***), Public Health- Dayton & Montgomery County will continue to conduct all plumbing permitting, fee collection, and inspections for the City.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

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