

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

June 15, 2023

OLD BUSINESS

ORDINANCES (FIRST OF TWO READINGS)

ORDINANCE NO. O – 05 – 23 – 08

AN ORDINANCE ADOPTING THE PLANNING COMMISSION’S RECOMMENDATION TO APPROVE, WITH SPECIFIED CONDITIONS, THE APPLICATION OF CLAYTON PROPERTIES GROUP, INC. DBA ARBOR HOMES, FOR A CHANGE IN ZONING FROM RURAL CONSERVATION DISTRICT- 2 (RCD-2) TO PLANNED DEVELOPMENT DISTRICT (PDD) AND TO FURTHER APPROVE THE PRELIMINARY DEVELOPMENT PLAN FOR 42.99 ACRES OF PROPERTY LOCATED ALONG PHILLIPSBURG-UNION ROAD AND HABER ROAD AND BEARING PARCEL I.D. NO. M60 03006 0009 (TO BE CALLED “SALEM SPRINGS”) WITHIN THE CITY OF CLAYTON, OHIO

WHEREAS, on or about March 6, 2023, an application was filed by Clayton Properties Group, Inc. dba Arbor Homes, with consent of the property owner, for property located along Phillipsburg-Union Road and Haber Road consisting of Parcel I.D. Number M60 03006 0009 and containing 42.99 acres within the City of Clayton, Ohio (“Subject Property”)(to be called “Salem Springs”) and requesting a zoning change for same from Rural Conservation District-2 (RCD-2) to Planned Development District (PDD) and further requesting approval of the proposed Preliminary Development Plan for said subject property; and

WHEREAS, the Clayton Planning Commission held a public hearing on March 27, 2023 on said re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon, and the Clayton Planning Commission, at said meeting, *voted to approve as submitted the re-zoning and Preliminary Development Plan request with the following conditions: “(1) That the proposed development has a minimum lot width of 60’; and (2) That the applicant addresses the comments provided in the plan review letter from Planning Staff sent to the applicant on Mach 24, 2023”;* and

WHEREAS, the Clayton City Council held a public hearing on May 4, 2023, on the aforesaid re-zoning and Preliminary Development Plan request at which time any and 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 Council hereby **ADOPTS** the Planning Commission’s *recommendation of approval of the re-zoning and Preliminary Development Plan request for the Subject Property with the following conditions: “(1) That the proposed development has a minimum lot width of 60’; and (2) That the applicant addresses the comments provided in the plan review letter*

from Planning Staff sent to the applicant on Mach 24, 2023.” A copy of the Staff Review comments dated March 24, 2023, is appended hereto as Exhibit A.

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 June 15, 2023 and July 20, 2023.
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 JULY 20, 2023

ORDINANCES (SECOND OF TWO READINGS AND ENACTMENT)

ORDINANCE NO. O – 05 – 23 – 11

AN ORDINANCE MAINTAINING THE CURRENT DIVISION OF WARDS PURSUANT TO CITY OF CLAYTON CHARTER SECTION 3.03(A) IN ORDER TO PROVIDE FOR SUBSTANTIALLY EQUAL POPULATION IN EACH WARD

WHEREAS, Section 3.03 (A) of the Clayton City Charter reads as follows, “No later than the first day of July, 2003, and each ten years thereafter, Council by ordinance shall divide or redivide the City into three wards for the purpose of electing three ward Council members at the next regular municipal election. The division or redivision of the City into three wards shall provide for substantially equal population in each ward.”

WHEREAS, pursuant to the mandate of Section 3.03 (A) of the Clayton City Charter, Joshua D. Ambrosius, Ph.D., was engaged to conduct a Ward Boundary Study (“Study”) and;

WHEREAS, Council has reviewed said study and determined the current Ward Boundaries of the City should be maintained; Council has determined the current Ward Boundaries constitute a less than 2% deviation among Clayton’s three (3) Wards and the same is acceptable and consistent with Charter Section 3.03 (A) in that said Ward divisions provide for “substantially equal population in each ward.”

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

1. That the Clayton City Council hereby maintains the current Ward Boundary Divisions previously adopted via enactment of Ordinance No. O-10-13-18 on November 7, 2013 and further finds that maintenance of said Ward Boundary Divisions provides for substantially equal population in each ward in compliance with and pursuant to the City Charter of Clayton, Section 3.03(A).
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 18, 2023 and June 15, 2023.
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 15, 2023

NEW BUSINESS

ORDINANCES (SINGLE READING AND IMMEDIATE ENACTMENT VIA EMERGENCY)

ORDINANCE NO. O – 06 – 23 – 12

AN ORDINANCE APPROVING AMENDING CHAPTER 183, INCOME TAX SECTIONS 183.012, 183.013, AND 183.081 OF THE ADMINISTRATIVE CODE OF THE CITY OF CLAYTON, OHIO TO PROVIDE FOR IMPOSITION OF ANNUAL INCOME TAX RATE OF TWO AND ONE HALF PERCENT (2.50%) PER YEAR ON INCOME AND RESTORING A ONE HUNDRED PERCENT (100%) CREDIT FOR TAXES PAID BY RESIDENTS TO OTHER MUNICIPALITIES ON SUCH INCOME ON OR AFTER JANUARY 1, 2024, WHEN THE CITY'S INCOME TAX RATE IS INCREASED TO TWO AND ONE HALF PERCENT (2.50%) FOR THE PURPOSES SPECIFIED HEREIN AND DECLARING AN EMERGENCY

WHEREAS, Council of the City of Clayton, Ohio has conducted an on-going review of its rate of income taxation, and has determined it to be in the best interests of the City and its residents to modify the City's rate of income taxation to two and one half percent (2.50%) per year on income on or after January 1, 2024 in order to effectively address the continuing needs of the City and its residents; and

WHEREAS, Council of the City of Clayton, Ohio has further determined it to be in the best interests of the City and its residents to restore the one hundred percent (100%) nonrefundable tax credit for tax paid to other municipalities on or after January 1, 2024, when the City's income tax rate is increased to two and one half percent (2.50%); and

WHEREAS, the electors of the City of Clayton, Ohio shall vote on this rate of income taxation and income tax credit at the general election to be held on November 7, 2023.

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

1. That Clayton Codified Ordinance Chapter 183, Income Tax, Sections 183.012, 183.013, and 183.081 as set forth in the attached **Exhibit A**, incorporated herein by reference as if fully set forth herein, are hereby so amended.
2. That all other existing sections of Chapter 183 of the Administrative Code of the Codified Ordinances of the City of Clayton, Ohio shall remain in full force and effect.

3. That those remaining provisions of Chapter 183 which require modification as a result of the amendments adopted herein, shall be so modified.
4. 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.
5. That Council hereby finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in open meetings of Council open to the public in compliance with all legal requirements.
6. That in accordance with Clayton 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.
7. That unless this Ordinance is immediately enacted the public peace, health, safety and welfare will be detrimentally affected because in order to timely forward this Ordinance to the Montgomery County Board of Elections before the deadline for same to appear on the November 7, 2023 ballot, it is necessary that this legislation become immediately effective. 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.
8. *The Clerk of Council is hereby directed forthwith to certify a true copy of this Ordinance to the Board of Elections of Montgomery County, Ohio, immediately upon its passage.*

ADOPTED BY COUNCIL ON JUNE 15, 2023

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 06 – 23 – 39

A RESOLUTION AUTHORIZING AND DIRECTING THE BOARD OF ELECTIONS OF MONTGOMERY COUNTY, OHIO, TO CONDUCT AN ELECTON OF THE ELECTORS IN THE CITY OF CLAYTON, OHIO AT THE GENERAL ELECTON TO BE HELD ON NOVEMBER 7, 2023 ON THE QUESTION: SHALL ORDINANCE NO. O-06-23-12 ADOPTED BY THE COUNCIL OF THE CITY OF CLAYTON, OHIO PROVIDING ON JANUARY 1, 2024, FOR AN ADDITIONAL ONE PERCENT (1%) LEVY ON INCOME TO A TOTAL RATE OF TWO AND ONE HALF PERCENT (2.50%) WITH FUNDS GENERATED BY THE 2.50% INCOME TAX TO BE APPROPRIATED SOLELY FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS AND FUNCTIONS AND PROVIDING FOR THE RESTORATION OF THE ONE HUNDRED PERCENT (100%) INCOME TAX CREDIT BE PASSED?

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

1. It is the legislative determination and order of this Council that an election shall be held within the City of Clayton, Ohio on November 7, 2023, at which election the Board of Elections of Montgomery County, Ohio, is directed and ordered to conduct an election within the City of Clayton, Ohio on the question set forth in Section 2 of this Resolution. The election shall be conducted by the Board of Elections during the regular hours of voting on such date as prescribed by the laws of Ohio. The purpose of such election shall be to submit to the electors of the City of Clayton, Ohio for their approval or rejection, the question of whether an additional municipal income tax rate of one percent (1%) income tax be levied for municipal purposes. Council declares that the amount of taxes being currently raised are insufficient to provide an adequate amount for the necessary requirements of the City for current operating expenses and other expenses payable from the general fund and capital improvements and that it is necessary to levy taxes in excess of the state limit.
2. The ballot shall, pursuant to Section 718.01, et seq., of the Ohio Revised Code be in the following form:

“SHALL THE ORDINANCE PROVIDING FOR AN ADDITIONAL ONE PERCENT (1%) MUNICIPAL INCOME TAX FOR PURPOSES OF INCREASING THE TOTAL MUNICIPAL INCOME TAX RATE TO TWO AND ONE HALF PERCENT (2.50%) WITH FUNDS GENERATED BY THE ADDITIONAL 1% TO BE APPROPRIATED SOLELY FOR THE PURPOSES OF GENERAL MUNICIPAL OPERATIONS AND FUNCTIONS AND PROVIDING FOR THE RESTORATION OF THE ONE HUNDRED PERCENT (100%) INCOME TAX CREDIT BE PASSED?”

A MAJORITY VOTE REQUIRED FOR PASSAGE.

_____ FOR THE INCOME TAX AND CREDIT RESTORATION

_____ AGAINST THE INCOME TAX AND CREDIT RESTORATION

3. There is no limit on the number of years this proposed income tax shall be effective.
4. The Board of Elections of Montgomery County, Ohio, the Clerk of Council, the City Manager and the Law Director are hereby directed and authorized to take all actions necessary to submit the above question to the electors of the City of Clayton, Ohio at the general election required by this Resolution to be held on November 7, 2023.
5. ***The Clerk of Council is hereby directed forthwith to certify a true copy of this Resolution to the Board of Elections of Montgomery County, Ohio, immediately upon its passage.***
6. This Resolution shall take effect and be in force from and after the date of its passage.

RESOLUTION NO. R – 06 – 23 – 40

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE KLEINGERS GROUP FOR PROFESSIONAL CITY-WIDE THOROUGHFARE PLAN SERVICES AT A COST OF \$49,600.00

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

WHEREAS, via City Charter Section 8.02(C)(1) and enactment of Ordinance No. 01-21-01 on February 18, 2021, the current minimum competitive bid threshold is \$64,498.00; and

WHEREAS, City staff has recommended entering into an agreement with The Kleingers Group for professional City-wide thoroughfare plan 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 The Kleingers Group in a form substantially similar to the agreement appended hereto as *Exhibit A* for professional City-wide thoroughfare plan services (with such agreed upon modifications thereto as authorized by the Law Director) and at a cost of \$49,600.00.

ADOPTED BY COUNCIL ON JUNE 15, 2023

RESOLUTION NO. R – 06 – 23 – 41

A RESOLUTION AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO MONTGOMERY COUNTY FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS

WHEREAS, City staff has requested authority to allow the City Manager and/or her designees to apply to Montgomery County for Community Development Block Grant (CDBG) funds for a community and economic development project within Clayton; and

WHEREAS, the application which the City of Clayton would submit is as follows: (1) An \$89,440.00 application for the installation of a 5' sidewalk along Union Road from Hunter's Glen to Salem Avenue and to include storm water improvements with respect to same, which would be paired with a \$22,360.00 local match by the City.

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

1. That the City Manager and/or her designees are authorized to apply to Montgomery County for Community Development Block Grant (CDBG) funds for the following project: An \$89,440.00 application for the installation of a 5' sidewalk along Union Road from Hunter's Glen to Salem Avenue and to include storm water improvements with respect to same, which would be paired with a \$22,360.00 local match by the City.

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 Resolution or which imposes additional requirements for effectiveness or validity.

ADOPTED BY COUNCIL ON JUNE 15, 2023

RESOLUTION NO. R – 06 – 23 – 42

**A RESOLUTION PURSUANT TO CLAYTON CHARTER SECTION 12.12(D)
SUPPORTING THE CITY OF CLAYTON INCOME TAX LEVY TO BE
PLACED ON THE NOVEMBER 7, 2023 BALLOT**

WHEREAS, on June 15, 2023, Council adopted legislation and directed the Clerk of Council to submit said legislation to the Montgomery County Board of Elections to conduct an election on November 7, 2023 on the issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit; and

WHEREAS, Clayton Charter Section 12.12(D) provides, “The City, through action of Council, may financially support the passage of or opposition to issues, that in Council’s opinion, affect the operation and/or well being of the City. City employees and officials may be authorized by Council to engage in activities related to the passage of or opposition to such issues. The City shall not provide financial support to any political parties or candidates for office.”; and

WHEREAS, in accordance with Clayton Charter Section 12.12(D) and the holdings of the Courts in *Lash v. City of Union, 104 F. Supp.2d 866 (1999)* and *Kidwell v. City of Union, 462 F.3d 620 (2006)*, City Council hereby finds and determines that passage of the proposed ballot issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit is “germane to the fundamental function of local government” and passage of said ballot issue will affect the operation and/or well being of the City; and Council therefore desires to authorize support of the passage of the aforementioned proposed ballot issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit.

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

1. That the Clayton Council, in accordance with Charter Section 12.12(D), hereby authorizes the City Manager and her authorized designees to take such actions as are necessary to financially support the passage of the aforementioned proposed ballot issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit. Further, in accordance with Charter Section 12.12(D), City employees and officials are authorized to engage in activities related to the passage of the aforementioned proposed ballot issue of a 1.00% increase in the City income tax rate and to further restore the 100% tax credit.

ADOPTED BY COUNCIL ON JUNE 15, 2023

RESOLUTION NO. R – 06 – 23 – 43

A RESOLUTION SUPPORTING PASSAGE OF LEGISLATION BY THE 135TH GENERAL ASSEMBLY OF THE STATE OF OHIO URGING THE UNITED STATES CONGRESS TO REPEAL THE WINDFALL ELIMINATION PROVISION AND THE GOVERNMENT PENSION OFFSET

WHEREAS, the Windfall Elimination Provision enacted in 1983 reduces the Social Security benefits of public servants who receive a pension for public service that was not subject to Social Security taxes; and

WHEREAS, the Government Pension Offset reduces the Social Security spousal or survivor benefit paid to an individual's spouse who receives a government pension based on the spouse's own public employment not covered by Social Security; and

WHEREAS, members of the 118th United States Congress have introduced legislation to repeal the Windfall Elimination Provision and the Government Pension Offset; and

WHEREAS, the City of Clayton desires to support passage of legislation by the 135th General Assembly of the State of Ohio urging the United States Congress to repeal the Windfall Elimination Provision and the Government Pension Offset.

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

1. That the Clayton Council hereby fully supports and endorses the legislation currently introduced by members of the 118th United States Congress to repeal the Windfall Elimination Provision and the Government Pension Offset and the Council further supports passage of legislation by the 135th General Assembly of the State of Ohio urging the United States Congress to repeal the Windfall Elimination Provision and the Government Pension Offset consistent with the currently proposed legislation to repeal same.
2. *The Clerk of Council is hereby directed to forward a certified copy of this Resolution to Ohio Representative Phil Plummer.*

ADOPTED BY COUNCIL ON JUNE 15, 2023

RESOLUTION NO. R – 06 – 23 – 44

A RESOLUTION AUTHORIZING THE FIVE-YEAR LEASE TO PURCHASE OF TWO (2) 2023 CHEVY SILVERADO TRUCKS FOR USE BY THE FIRE DEPARTMENT FROM ENTERPRISE FLEET MANAGEMENT, INC. AT A TOTAL COST OF \$159,583.00

WHEREAS, via City Charter Section 8.02(C)(3)(a), Council may exempt from competitive bidding such expenditures as are authorized via a two-thirds vote of Council; and

WHEREAS, the Fire Chief has recommended the acquisition of two (2) 2023 Chevy Silverado Trucks for use by the Fire Department from Enterprise Fleet Management via a five-year lease to purchase option.

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 a five (5) year lease to purchase option agreement with Enterprise Fleet Management, Inc. for two (2) 2023 Chevy Silverado Trucks for use by the Fire Department at a total purchase price of \$159,583.00 (\$100,730.00 of which is the vehicle cost and \$58,853.00 is the upfitting cost).

ADOPTED BY COUNCIL ON JUNE 15, 2023
