

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

February 15, 2024

OLD BUSINESS

ORDINANCES (SECOND OF TWO READINGS AND IMMEDIATE ENACTMENT VIA EMERGENCY)

ORDINANCE NO. O – 02 – 24 – 01

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A PURCHASE AGREEMENT WITH KATE’S PIZZA PLACE, LLC AND FURTHER AUTHORIZING TRANSFER AT CLOSING FOR THE PURCHASE PRICE OF \$50,000.00 PLUS CLOSING COSTS AND BROKER FEE OF THE PUBLIC PROPERTY BEARING PARCEL ID NUMBER M60 03102 0112 LOCATED AT THE CORNER OF NATIONAL ROAD AND PROACTION DRIVE WITHIN THE CITY OF CLAYTON, OHIO AND CONTAINING 3.7884 ACRES 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, via adoption of Ordinance O-01-07-02 on January 18, 2007, Council enacted Clayton Codified Ordinance Section 117.01 which 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, Council finds and determines that the subject real property bearing Parcel ID Number M60 03102 0112 located at the corner of National Road and Proaction Drive within the City of Clayton, Ohio and containing 3.7884 acres is no longer needed for municipal purposes and therefore authorizes the sale of same to Kate’s Pizza Place, LLC.

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

1. That the City of Clayton Council hereby authorizes the City Manager to enter into a Purchase Agreement (with such modifications as deemed appropriate by the Law Department) with Kate’s Pizza Place, LLC with a purchase price of \$50,000.00 plus additional closing costs, if any, as specified by the applicable purchase contract(s) and settlement statements plus a broker fee, all said amounts to not be in excess of the City Manager’s spending limit as delineated in current Clayton Codified Ordinance 121.01 (current limit is \$35,000.00) in order to effectuate the sale of said real property no longer needed for municipal purposes bearing Parcel ID Number M60 03102 0112 located at the corner of National Road and Proaction Drive within the City of Clayton, Ohio and containing 3.7884 acres and to transfer at closing said real property and to execute all documents and take all necessary action to close on said property.

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 described herein is necessary and will result in enhancement to the economic health, safety and welfare of the Clayton Community at large. Additionally, in order to timely effectuate the closing of said transaction and transfer of the subject property to the buyer for improvement thereof, 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 FEBRUARY 15, 2024

ORDINANCES: THIS ORDINANCE DID NOT RECEIVE THE REQUIRED NUMBER OF VOTES TO MOVE TO A SECOND READING.

ORDINANCE NO. O – 02 – 24 – 03

AN ORDINANCE REPEALING ORDINANCE NO. O-05-23-08 WHICH ADOPTED 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; and

WHEREAS, on July 20, 2023, Council adopted Ordinance No. O-05-23-08 (*Exhibit A*) adopting 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 March 24, 2023."*

WHEREAS, a Petitioner's Committee was formed per Clayton Charter Section 10.02 seeking the referendum of Ordinance No. O-05-23-08 and on August 25, 2023, the Montgomery County Board of Elections provided its Certification Form certifying the referendum petition contained a sufficient number of valid signatures to be placed on the ballot and said referendum issued is scheduled to appear on the March 19, 2024 ballot; and

WHEREAS, Clayton Charter Section 10.04(A)(2) provides, "Council, at any time, may consider the proposed initiative ordinance *or may reconsider the referred ordinance by voting its repeal.* ...; and

WHEREAS, Clayton Charter Section 10.04(C) provides, "An initiative or referendum petition may be withdrawn at any time prior to the fifth day preceding the day scheduled for the election by filing with the Board of Elections a request for withdrawal signed by a majority of the members of the Petitioner's Committee. Upon the filing of such request, the petition shall have no further force or effect, and all proceedings thereon shall be terminated and any election held thereon deemed to be void and of no effect."

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

1. That, in accordance with Charter Section 10.04(A)(2), the City Council hereby REPEALS Ordinance No. 05-23-08 adopted on July 20, 2023.
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 February 1, 2024 and February 15, 2024.
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 FEBRUARY 15, 2024

NEW BUSINESS

ORDINANCES (SINGLE READING AND IMMEDIATE ENACTMENT VIA EMERGENCY)

ORDINANCE NO. O – 02 – 24 – 04

AN ORDINANCE AUTHORIZING REMOVAL OF SPECIFIC ASSESSMENT FOR GRASS/WEED CUTTING PREVIOUSLY SUBMITTED IN ERROR TO MONTGOMERY COUNTY AUDITOR AND DECLARING AN EMERGENCY

WHEREAS, via enactment of Ordinance No. O-08-23-15 on August 17, 2023, Council previously authorized and directed the Finance Director to certify to the Auditor of Montgomery County, Ohio, unpaid charges for grass/weed cutting on:

Parcel M60 00216 0020, Code 31500, in the amount of \$321.60 for 2023.

WHEREAS, the above assessment was certified in error and Council therefore desires to remove said charge.

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

1. That Council hereby approves and authorizes removal of the grass/weed cutting charge *on the following Parcel* which was listed in error:

Parcel M60 00216 0020, Code 31500, in the amount of \$321.60 for 2023.

2. *That immediately upon becoming effective, the Clerk is directed to forward a copy of this Ordinance to the Montgomery County Auditor.*

3. 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.

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

5. That unless this assessment placed in error is immediately removed from the Auditor records, the public peace, health, safety and welfare will be detrimentally affected because the removal thereof would be unnecessarily delayed as the charge was placed in error and should be removed as expeditiously as possible to reflect actual circumstances. 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 FEBRUARY 15, 2024

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – PC – 23 – 05

A RESOLUTION ADOPTING THE RECOMMENDATION OF THE PLANNING COMMISSION TO APPROVE REQUEST FOR MODIFICATION OF THE PDD FINAL DEVELOPMENT PLAN FOR THE VILLAGES OF NORTH CLAYTON

WHEREAS, a request for a modification of the PDD Final Development Plan for the Villages of North Clayton was submitted by Kurt and Kathy Crim, said request being to combine lots 6 and 7 on Steinman Way to build a new single-family home and;

WHEREAS, the Clayton Planning Commission held a public hearing on January 22, 2024 on said request at which time any and all persons were given an opportunity to be heard thereon, and;

WHEREAS, the Clayton Planning Commission after public meeting on January 22, 2024 has recommended approval of the request for a modification of the PDD Final Development Plan for the Villages of North Clayton as submitted by Kurt and Kathy Crim, said request being to combine lots 6 and 7 on Steinman Way to build a new single-family home.

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

1. That the recommendation of the Clayton Planning Commission to approve the aforementioned request for a modification of the PDD Final Development Plan for the Villages of North Clayton as submitted by Kurt and Kathy Crim, said request being to combine lots 6 and 7 on Steinman Way to build a new single-family home is hereby APPROVED.
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 FEBRUARY 15, 2024

RESOLUTION NO. R – 02 – 24 – 15

A RESOLUTION AUTHORIZING THE FIVE-YEAR LEASE TO PURCHASE OF ONE (1) 2024 FORD INTERCEPTOR UTILITY SUV FOR USE BY THE POLICE DEPARTMENT FROM ENTERPRISE FLEET MANAGEMENT, INC. AT A TOTAL COST OF \$60,600.00

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 Police Chief has recommended the acquisition of one (1) 2024 Ford Interceptor Utility SUV for use by the Police 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 one (1) 2024 Ford Interceptor Utility SUV for use by the Police Department at a total purchase price of \$60,600.00 (\$13,560.00 paid the first year of the lease and \$11,660.00 paid per year for each of the next 4 years of the lease, plus \$400.00 charge at termination).

ADOPTED BY COUNCIL ON FEBRUARY 15, 2024

RESOLUTION NO. R – 02 – 24 – 16

A RESOLUTION TO AUTHORIZE AND APPROVE PURCHASE ORDER

WHEREAS, for purposes of complying with State Auditor accounting methods confirmation is required that monies had been appropriated for certain expenditures at the time the following were approved.

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

1. That upon report and confirmation from the City of Clayton Finance Director, Council hereby certifies that funds had been appropriated and monies were available for payment of the following purchases at the time they were entered into and remain available as of the date of this enactment:

Order Date	Vendor	Amount	Item
January 6, 2022	Outdoor Enterprise, LLC	\$11,830.50	Westbrook/Salem Safety Project
June 16, 2022	Kalida Truck Equipment, Inc.	\$29,100.00	Price Increases for parts related to purchase of 3 dump trucks for the Street Department

2. That the Finance Director is hereby authorized, empowered and directed to take all action necessary to comply with the obligations reflected by said Orders and evidence same on the books and financial record of the City.

ADOPTED BY COUNCIL ON FEBRUARY 15, 2024
