

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JUNE 14, 2021 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Mayor Kevin Brooks. Also present were Vice Mayor Avery Johnson, Councilmen Bill Estes, Tom Cassada, David May, Jr., Dale Hughes, Ken Webb and Councilwoman Marsha McKenzie. Others in attendance were: City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Christy Brandon, Assistant City Clerk; Corey Divel, Assistant to the City Manager/Communications Coordinator/Downtown Coordinator/Senior Planner; Beverley Lindsey, Assistant to the City Manager; Sue Zius, Assistant to the Mayor; City Attorney John Kimball; Kris Miller, IT Director; Police Chief Mark Gibson; Fire Chief Ron Harrison; Patti Pettit, Parks and Recreation Director; Robert Varnell, Transportation Planner; Hal Taylor and Dawn Robinson with the City Schools; Bethany McCoy; Commissioner Cynthia Slater; Eunice Couch; Tom Cate and Tim Siniard with the *Cleveland Daily Banner*. Following the Pledge of Allegiance to the American Flag and prayer by Vice Mayor Avery Johnson, the following business was then entered into:

WAIVE READING OF MINUTES

Vice Mayor Johnson moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on May 24, 2021 and approve them as written. The motion was seconded by Councilman May; and upon roll call, the motion unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Chief Mark Gibson introduced Assistant Chief Stacy Smith who recently attended Northwestern School of Police Staff and Command. It was a 10-week program to build the command staff and the Police Department. Chief Smith thanked the City Council for recognizing him and the support he was giving during this time. The academics were very good and learned a lot of things from peers across the country. It was reaffirmed to him that we live and work in the best city in the entire country. We work together, the public, City Council and City Manager. He thanked everyone for the opportunity to serve his department and funds for training and continued education to ensure the department is as professional as it can be.

Eunice Couch and Commissioner Cindy Slater addressed the City Council concerning the farm located on 20th Street SE. Ms. Couch stated she has lived at her residence for 54-years and worked hard all her life. Her neighbor has several dogs, chickens and turkeys. The smell and the flies are unbearable. She is asking for help so she can go out and enjoy her yard. Codes Enforcement has been to the property and agrees there is a problem. Councilman Cassada encouraged everyone to drive by and see the area. Ms. Couch then asked if there was a limit to the number of animals can you have on a piece of land in the city. Commissioner Slater asked if there were regulations or ordinances addressing the number of animals on a piece of property in the city limits. Mr. Kimball stated no, the city does not regulate the number of animal's people can have. Swine are the only prohibited animals. Ms. Slater questioned if rabies tags had been verified on all the dogs. Mr. Fivas stated if it is requested, we'd be happy to check. Ms. Slater continued that noisy dogs disturbing the peace and quiet are prohibited and animal enclosures are to be kept clean. The evidence in the number of flies indicates that is not a clean condition next door to Ms. Couch. The City Code states no animal is to become a nuisance because of noise, odor, disease or other reasons. Clearly, Ms. Couch cannot enjoy her property due to the noise, smell and flies. This has been an ongoing situation and there should be something that you, as a body can do to address the issue. Mr. Fivas replied our Code Enforcement Officers have been out their numerous times over the last year and twice in the last month, and just recently as of last Thursday. They have been issued a warning letter as well as a violation. Last Thursday, during a follow-up everything was found within the City Code except for two or three inoperable cars. We are trying to mediate the situation in speaking with both parties. Ms. Slater asked if there was a date when we can expect the issues to be resolved. Mr. Jobe replied we have a process we

have to follow, giving them time to comply but if they become uncooperative then we begin the fining process. Ms. Slater thanked the City Council for their time and encouraged each of them to visit Ms. Couch's property. Mayor Brooks asked Mr. Kimball if he brought options as discussed in the previous meeting. Mr. Kimball responded yes. Mr. Fivas added we were out there today and only saw two dogs and a lot of chickens. Mr. Kimball stated a majority of cities in Tennessee do not regulate the number of animals. Four or five cities do with exceptions for breeders and kennels. Some cities limit certain types of livestock, goats and chickens to agriculturally zoned land or a certain number of acres. Regarding fowl, some cities have distance limitations from residences, like 500 feet but all say unless allowed by the health officer who grants an exception. Some have specific pen or enclosure requirements for domestic fowl and birds. You have an Animal Control Board that could review and make a recommendation, but we are unsure of what you are looking for. Vice Mayor Johnson stated he likes to set the pace and make it right. He appreciates them coming to meeting to share their issue. He has seen the fourteen dogs, chickens and goats. Ms. Couch does keep her property up and this has been reported numerous times. We haven't done anything. We need to do something and work to make the conditions better. We have to step up and do things to protect property values and the citizens. Councilman Estes stated he feels this is something the Animal Control Board should look at this and possibly bring options to us, while looking at our density and size.

Vice Mayor Johnson moved that the Animal Control Board review this issue along with the options presented by Mr. Kimball, as well as the entire policy concerning animals and request they have a called meeting at their earliest convenience. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed. Councilman Webb asked in the meantime our Codes Department continue to monitor the situation.

Councilman Cassada stated he would like to discuss the Pickleball Courts and reports of aggression. He met with groups from both sides to mediate and resolve the situation, but it seems the situation has escalated. Our city parks should be a place citizens' can go, play and exercise without harassment or bullying. Jessa Miller stated she has recently taken up Pickleball at Tinsley Park and has been bullied, harassed, yelled at and has had games interrupted. They've been told to move or leave, not playing how the league wants them to play. We question why this league has so much authority over the courts. We did have a meeting and met with representatives of the league, City Manager and Parks and Recreation and we learned the league is not ran by the city. The city does buy balls and reserves the courts for the league, for multiple times during the week, especially during prime times that other citizens could be playing. The league representatives indicated they weren't aware of harassment or bullying and assured us they would address it. Since that time, nothing has changed. Saturday, we had a confrontation and it made for an unenjoyable experience. She would like to enjoy recreation with friends and family and is asking for help. Dennis Cassada stated she as well has experience harassment at the courts. She is an adult and is respectful of others' times and her playing time. As women by ourselves, with our children there. We go early and have been told, in the middle of our game, we need to move to the farthest court, or that we've been there too long or not following the rules. She called Collegedale and they do not reserve courts. It is open play only. They have had issues with aggressive players and have been banned from the court. It has gotten so bad they will be arrested if they come back. The City of East Ridge is thinking about having a league, but it will be run by their city. She has no issues with competitive play, and we've been told these people don't represent pickleball or in associated with the pickleball league. It's a city park with open play but what does that mean? Is it open for the citizens or is it dictated by this private group? We would like this resolved before it gets worse. Councilman Hughes asked if Patti Pettitt, Parks and Recreation Director would discuss reserving courts. Ms. Pettitt stated the league has four different slots reserved, about 8%-9% of the time. Councilman Cassada stated that statistic can be swayed. The weekend play by itself is 4.5 hours and it is taking away from taxpayers that want to play pickleball. Councilman Estes asked what days are blocked. Ms. Pettitt replied Friday morning, Sunday afternoon, Monday night and Tuesday mornings. We feel this will be resolved when we open the centers back up. They will use the centers for the ladder league, as they have for the last twelve years. We will be glad to look into other cities rules and post additional rules. Mr. Fivas stated we were asked about rules and open play rules. We

basically advised open play was anyone could play as long as they want. We offered both groups that we would put rules together and how to proceed with play and they said no they want to keep it open. Ms. Miller stated the league plays a game and slide down to let other people waiting to play, play. Respectfully, I don't want to play with strangers in their ladder. She plays for a reasonable amount of time and if there is not a court available, she will wait. Collegedale has a sign that asks people to limit playtime to an hour if others are waiting. To implement the slide rule, is what the league is asking for, she just doesn't think it speaks to public courts nor first come first serve. Mayor Brooks asked if the ladder league was ran by Cleveland residents? Ms. Pettitt stated yes. Mayor Brooks then asked if the rules for the City to say their will always ben an open court, at least one, not blocked out. Ms. Pettitt stated they can do that if that is what the Council would like. Councilman Cassada stated now, all courts are reserved. Councilman May stated when the centers are opened, you say this could eliminate some of the problems. Ms. Pettitt stated yes, they've played at the centers for years. Currently, the Community Center is not open, but College Hill is open. Councilman Cassada asked if outside organizations/leagues that use our courts is there a charge for that. Ms. Pettitt stated no, not for leagues. Councilman Cassada continued so any organization or league could request blocks of time. Ms. Pettitt stated leagues are not all ran by the City, like soccer and swimming. We have not had any complaints for other leagues. Mayor Brooks stated his concern is aggression and we've got to do something. Mr. Fivas asked is it the association/league or just a few aggressive people. Councilman Cassada agreed aggressive people during non-league blocked times. Councilman Hughes stated Turner Jackson contacted him about aggressive people at the courts telling them to leave. It was during open play time not during league time. Councilman Cassada they are inconsiderate. Mr. Fivas stated his suggestion is let Ms. Pettitt resolve and come up with better standards before we make decisions. They should have a chance to figure out where we need to go. Councilman Cassada stated there are a lot of good people in the league but a few are very aggressive. Mr. Fivas stated it is open play, people can play as long as they want, follow etiquette or not. There is a communication issue and with some work the issue can be resolved and be more successful. It is outside of the league time, it's just people being aggressive. Councilman Hughes asked if Paul Wyrick was in charge of the league. Ms. Pettitt stated he set up the times. Mr. Fivas suggested we work on a framework. Councilman Cassada stated he didn't feel a block of 3.5 hours was appropriate and should be reviewed. Also, he feels groups should be required to pay. He asked that staff follow-up with Collegedale and East Ridge concerning their courts. Councilman Webb asked if play hours were posted. Councilman Cassada stated league hours are posted and the rest is open play. Mr. Fivas stated it is disconcerting if people are being harassed and we will come up with a definition of open play for additional clarity.

Elise Goldston presented photos of her neighbor's goats to show him using cars as a containment. She asked if the health department had been contacted regarding the smell. She asked if something could be done to help the residents. Mr. Fivas stated Codes Enforcement has been to the site and warning letters have been issued to reduce any odor. Staff has not smelled any odor. Mayor Brooks stated the Animal Control Board will review this area as well.

Michelle Goldston stated the concern is getting real. Sometimes you realize some neighbors are not the neighbors you need to have because they don't live the way some citizens do. The animals are kept on a rented lot. Mr. Fivas stated we visit the area regularly and have only noticed one goat. Ms. Goldston stated yes, they are more goats that are typically walking down the street. Mr. Fivas stated a warning letter has gone out about issues and concerns. Councilman Estes encouraged them to attend the Animal Control Board.

HEARING PETITIONS AND COMMUNICATIONS

Mayor Brooks stated he is appointing Clark Taylor to the vacant position on the Shade Tree Board.

CONSENT AGENDA

Vice Mayor Johnson left the meeting at 4:24.

Councilman Hughes moved to approve the following items from the Consent Agenda. The motion was seconded by Councilman Estes; and upon roll call, the consent agenda unanimously passed.

- **Final Passage - Ordinance 2021-18** – heretofore passed on first reading May 24, 2021 and found in Minute Book 30, Page 253; amending the FY2021 Budget.
- **Resolution 2021-42** – Approving the FY2022 Appropriations.

RESOLUTION 2021-42

**CITY OF CLEVELAND
APPROPRIATION RESOLUTION**

WHEREAS, the City of Cleveland recognizes that its citizens have various needs which must be addressed; and

WHEREAS, the municipal government has neither the expertise or manpower to assist its citizens with all their special needs; and

WHEREAS, several not-for-profit organizations have been established over the years to help the citizens with their special needs; and

WHEREAS, the enclosed organizations have demonstrated, through their financial statements and by reputation, to be of service in enhancing the quality of life in this area;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee that these contributions be made for FY 2021-2022:

Adopted this 14th day of June, 2021.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-43** – Directing the payment by the Cleveland Utilities Board to the City of Cleveland Tax Equivalent Payment for the Cleveland Utilities Board’s Electric, Water and Wastewater Systems.

RESOLUTION 2021-43

A RESOLUTION DIRECTING THE PAYMENTS BY THE CLEVELAND UTILITIES BOARD TO THE CITY OF CLEVELAND TAX EQUIVALENT PAYMENTS FOR THE CLEVELAND UTILITIES BOARD’S ELECTRIC, WATER AND WASTEWATER SYSTEMS.

WHEREAS, section 7-52-304 of the Tennessee Code annotated empowers a municipality’s governing body, after consultation with the supervisory body of an electric system, to determine the amounts of tax equivalents to be paid to the taxing jurisdiction (municipality) in the service area of the electric system; and

WHEREAS, section 7-34-115 of the Tennessee Code annotated empowers a municipality’s governing body, after consultation with the supervisory body of a water system, to determine the amounts of tax equivalents to be paid to the taxing jurisdiction (municipality) in the service area of the water and wastewater system; and

WHEREAS, the City Council of the City of Cleveland, through its City Manager and Assistant City Manager/CFO, has held such consultation with the supervisory body of the electric, water and wastewater systems of the City of Cleveland; and

WHEREAS, the necessary calculations of tax equivalents payable have been made in accordance with the provisions of Tennessee Code annotated Sections 7-52-304 and 7-34-115;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND;

Section 1. The Cleveland Utilities Board electric system is hereby directed to pay to the City of Cleveland \$2,548,407 in tax equivalents for FY2022.

Section 2. The Cleveland Utilities Board water system is hereby directed to pay to the City of Cleveland \$251,016 in tax equivalents for FY2022.

Section 3. The Cleveland Utilities Board wastewater system is hereby directed to pay to the City of Cleveland \$235,334 in tax equivalents for FY2022.

Section 4. This resolution shall become effective July 1, 2021 the public welfare requiring it.

Adopted this 14th day of June, 2021.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-44** – Regarding the Cleveland City Schools Federal Project Fund.

RESOLUTION 2021-44

**A RESOLUTION REGARDING THE CLEVELAND CITY SCHOOLS
FEDERAL PROJECT FUND**

THAT WHEREAS, the Cleveland City Schools receive monies from the federal government to assist with the educational programs of the local school system; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee in regular session assembled this 24th day of May, 2021, as follows:

Section 1. That the Cleveland City Schools General Fund is hereby approved, and the budget for the Cleveland City Schools Federal Project Fund shall be the budget for the separate projects approved within the fund by the Tennessee Department of Education and for the *No Child Left Behind* projects as approved by the Cleveland Board of Education.

Section 2. That a certified copy of this Resolution shall be furnished to the Director of Schools to forward to the Tennessee Department of Education as proof of compliance with its regulations regarding federal project funds.

Section 3. That this Resolution shall be and remain in full force and effect from and after its date of adoption.

Passed and adopted this 14th day of June, 2021.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-45** - Annual Review of the City’s Debt Management Policy.

RESOLUTION 2021-45

A RESOLUTION APPROVING THE DEBT MANAGEMENT POLICY FOR THE CITY OF CLEVELAND

WHEREAS, the Tennessee Comptroller of the Treasury issued provisions regarding the establishment of a debt management policy; and

WHEREAS, the Comptroller’s provisions require that cities annually review its debt management policy; and

WHEREAS, the City of Cleveland adopted its Debt Management Policy on November 14, 2011.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager and Assistant City Manager/CFO have reviewed the City of Cleveland Debt Management Policy and do not recommend any changes to the policy at this time. The City’s Debt Management Policy will be reviewed annually during the budget process, which process allows public input.

Approved the 14th day of June, 2020.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-46** – Authorizing the Mayor to sign a letter of engagement and contract with Wedgewood Accounting, LLC to audit the accounts of the City of Cleveland for the period July 1, 2020 through June 30, 2021.

RESOLUTION 2021-46

A RESOLUTION AUTHORIZING AN ENGAGEMENT LETTER AND A CONTRACT WITH WEDGEWOOD ACCOUNTING, PLLC TO AUDIT THE ACCOUNTS OF THE CITY OF CLEVELAND, TENNESSEE

WHEREAS, the City of Cleveland has received a proposal from the Certified Public Accounting firm of Wedgewood Accounting, PLLC, to audit the accounts for the period from July 1, 2020, through June 30, 2021, with a fee of \$51,000.00; and

WHEREAS, the City Council desires to enter into an engagement letter and a contract with Wedgewood Accounting, PLLC, and to further authorize the Mayor to execute the required engagement letter and the attached contract on behalf of the City of Cleveland.

BE IT THEREFORE RESOLVED by the City Council of the City of Cleveland, Tennessee that the Mayor be, and hereby is, authorized to sign the engagement letter and contract and all other necessary forms for said audit on behalf of the City of Cleveland for the above referenced contract.

Adopted this 14th day of June, 2020.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-47** – Approving the Cleveland Board of Education to purchase Lot 10 adjacent to Candy’s Creek Cherokee Elementary School located on Georgetown Road.

RESOLUTION 2021-47

WHEREAS, the Cleveland Board of Education has recently voted to purchase a parcel of land adjacent to Candy’s Creek Cherokee Elementary School located on Georgetown Road; and

WHEREAS, the parcel is generally identified as Tax Map 033 004.11; and

WHEREAS, the Board of Education has approved the attached Purchase and Sale Agreement, which is contingent upon the approval of the City Council; and

WHEREAS, the referenced property will be titled in the name of the City of Cleveland for the use and benefit of the City of Cleveland Board of Education the property will be under the day-to-day control of the Cleveland Board of Education; and

WHEREAS, the Cleveland Board of Education is now requesting and recommending that the City Council approve of the agreement; and

WHEREAS, the City Council desires to accept the recommendation of the Cleveland Board of Education and approve of this agreement and to authorize the Mayor to execute the agreement on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached Purchase and Sale Agreement for the purchase of the parcel is generally identified as Tax Map 033 004.11.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute this agreement on behalf of the City of Cleveland.

This 14th day of June, 2021

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-48** – Authorizing the Mayor to sign a grant application for the Tennessee Agriculture Enhancement Program Grant for Community Tree Planting.

RESOLUTION 2021-48

A RESOLUTION AUTHORIZING THE CITY OF CLEVELAND TO PARTICIPATE IN THE TENNESSEE AGRICULTURAL ENHANCEMENT PROGRAM (TAEP) GRANT FUND FOR THE “COMMUNITY TREE PLANTING”

WHEREAS, the Tennessee Agricultural Enhancement Program (TAEP) grant fund for community tree planting is provided by 2008 state legislature to the Tennessee Department of Agriculture;

WHEREAS, the community tree planting component of Tennessee Agricultural Enhancement Program (TAEP) is a 50% matching grant and will be administered by the Department of Agriculture, Division of Forestry;

WHEREAS, trees are a valuable resource base in cities across the state of Tennessee, providing shade, stormwater mitigation, rain interception, air quality improvement through filtration and absorption;

WHEREAS, urban trees provide a multitude of benefits including but not limited to providing cooler temperatures, cleaner air, reduced flooding and erosion, improves human health and provides food and shelter for wildlife;

WHEREAS, trees purchased through this grant in collaboration with funding by the Tennessee Agricultural Enhancement Program as provided by the Tennessee Department of Agriculture, Division of Forestry will be planted (1) along Parker Street between 20th Street NE and 25th Street NE; (2) along the Greenway between 20th Street NE and 25th Street NE; (3) and between 18th Street SE and 20th Street NE.

WHEREAS, the City of Cleveland seeks to participate in this important program.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, the following:

SECTION 1: The City of Cleveland is hereby authorized to submit an application for the Tennessee Agricultural Enhancement Program (TAEP) through the Tennessee Department of Agriculture, Forestry Division.

SECTION 2: The City of Cleveland is further authorized to provide a 50% sum to serve as a match for any monies provided by this grant.

Adopted this 14th day of June, 2021.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-49** – Authorizing the Mayor to sign an agreement with Southeast Tennessee Development District for environmental review for property located at Foster Lane/20th Street.

RESOLUTION 2021-49

WHEREAS, the City’s redevelopment coordinator has determined that it is necessary to obtain a contractor to perform certain technical or professional administrative services, specifically NEPA Environmental Review Requirements, for the site preparation of property located on Foster Lane/20th Street for homes to be constructed by Habitat; and

WHEREAS, in connection with said project, the City's development and engineering department is recommending that the City enter into the attached agreement with the Southeast Tennessee Development District for these services; and

WHEREAS, the City Council now desires to approve of the attached agreement with Southeast Tennessee Development District for the referenced project, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with Southeast Tennessee Development District for the referenced project described herein, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 14th day of June, 2021.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-50** – Authorizing the Mayor to sign an interlocal agreement with Bradley County for records management access through their TAC.10 software.

RESOLUTION 2021-50

WHEREAS, the Cleveland Police Department has requested that Bradley County Sheriff’s Office provide read only access to its TAC.10 Records Management Software, use of a facial recognition feature contained within the software, and use of a tracking and warning feature contained within the software on a limited basis for use by the Cleveland Police Department; and

WHEREAS, the Bradley County Sheriff’s department has agreed to provide read only access to its TAC.10 Records Management Software, use of a facial recognition feature contained within the software, and use of a tracking and warning feature contained within the software on a limited basis for use by the Cleveland Police Department; and

WHEREAS, the attached inter-local agreement has been prepared by the County Attorney to accomplish this purpose; and

WHEREAS, the City Council desires to enter into the attached inter-local agreement with Bradley County, Tennessee and to further authorize the Mayor to execute the agreement on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached inter-local agreement with Bradley County, Tennessee, and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Resolution 2021-51** - Authorizing the Mayor to sign a Right of Way Dedication and Construction Agreement-Phase 2 with LeConte Development, LLC.

RESOLUTION 2021-51

WHEREAS, the City Manager has presented the City Council with a memorandum outlining the recommendation that the City Council approve of the attached Right of Way Dedication and Construction Agreement-Phase 2 with LeConte Development LLC; and

WHEREAS, the City Council has reviewed the proposed agreement with LeConte Development LLC and now desires to accept the proposed agreement and to enter into the attached agreement with LeConte Development LLC, and to further authorize the Mayor to execute the same on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached agreement with LeConte Development LLC and it further authorizes the Mayor to execute the agreement on behalf of the City of Cleveland.

This 14th day of June 2021.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- **Bid Update** – Pedestrian Improvements (Treasury Dr. to 20th St. SE and 15th St. to 9th St.)

**AGENDA ITEM
MEMORANDUM**

TO: Mayor and City Council
FROM: Kristi Powers, Budget/Purchasing Coordinator
DATE: June 14, 2021
RE: Bid Summary – Pedestrian Improvements (Treasury Dr to 20th St SE and 14th St to 9th St)

SUMMARY:

Sealed bids were received on June 1, 2021, for the Pedestrian Improvements at Treasury Dr. to 20th St. SE and 14th St. to 9th St. Bids are listed below:

- B&W Contractors
dba Cherokee Construction \$1,564,636.76
- Wright Brothers Contracting, Inc. \$6,709,139.03

COMMITTEE FINDINGS:

No Board or Committee findings.

FISCAL ANALYSIS:

This is an MPO funded project.

RECOMMENDATION:

Staff recommends award to Cherokee Construction contingent upon TDOT approval.

- **Motion** – Designating Depositories for the City of Cleveland.

ANDREW JOHNSON BANK
 CAPSTAR BANK (ATHENS FEDERAL COMMUNITY BANK)
 BANK OF CLEVELAND
 BB&T BANK
 BOWATER CREDIT UNION
 CLEVELAND BRADLEY TEACHERS CREDIT UNION
 FIRST CITIZENS NATIONAL BANK (SOUTHERN HERITAGE BANK)
 FIRST HORIZON (FIRST TENNESSEE BANK)
 SMART BANK (FSG BANK)
 PINNACLE BANK
 REGIONS BANK
 SOUTHEAST BANK AND TRUST
 SUNTRUST BANK
 TENNESSEE VALLEY FEDERAL CREDIT UNION
 UNITED COMMUNITY BANK

- **Reappointment** – *Industrial Development Board* - George McCain for an additional 6-year term to expire March 2027 (p. 77).
- **Reappointment** – *Animal Control Board* - Tom Cassada for an additional 3-year term to expire April 2024.
- **Reappointment** - *Vacant Property Review Board* – Dustin Tommey for an additional 2-year term to expire May 2023.
- **Reappointment** - *Vacant Property Review Board* – Heath Grisham for an additional 2-year term to expire May 2023.
- **Reappointment** - *Beer Board* – Donald Humes for an additional 2-year term to expire July 2023.
- **Reappointment** - *Beer Board* – Ellie St. Pierre for an additional 2-year term to expire July 2023.
- **Reappointment** – *Utility Board* – Aubrey Ector for an additional 4-year term to expire July 2025.

Vice Mayor Johnson reentered the meeting at 4:26.

UNFINISHED BUSINESS

The following Zoning Ordinance was presented in full:

- **Zoning Ordinance 2021-10** – Rezoning 1.87 acres, more or less, located on Hiwassee Ave NE (Tax Map 42G Group B Parcels 18.00,19.00 & 20.00 and Tax Map 42G Group C Parcel 9.00 & 11.00) from R1 Single Family Residential Zoning District to R2 Low Density Single and Multi-family Residential Zoning District (Planning Commission: Approved 5-1; 3 absent).

ZONING ORDINANCE 2021-10

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the property described herein be, and the same is hereby, re-zoned from R1 Single Family Residential Zoning District to R2 Low Density Single and Multi-family Residential Zoning District.

Approximately 1.87 acres, more or less, located at 200, 204, 205, and 215 Hiwassee Ave NE as shown on the attached map.

For reference, same property is being shown Tax Map 42G Group B Parcel 18.00, 19.00 & 20.00 and Tax Map 42G Group C Parcels 9.00 & 11.00, in the Assessor's Office for Bradley County, Tennessee

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

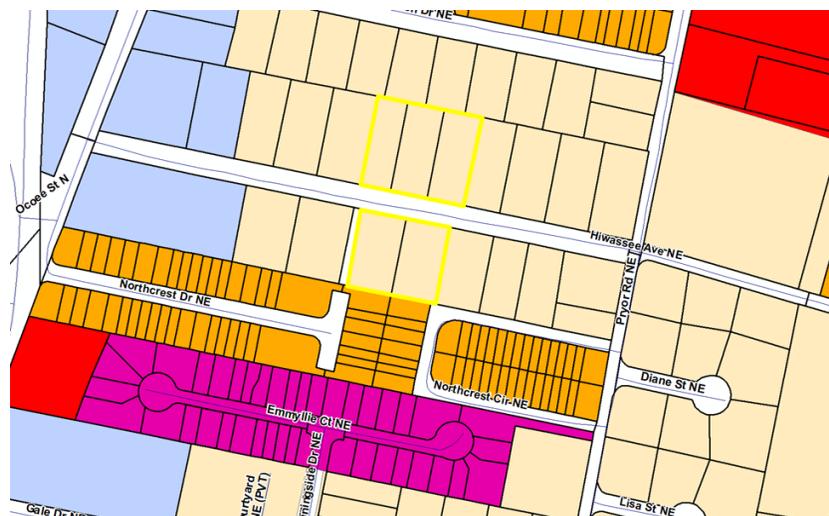
APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Exhibit A



Councilman Hughes asked Councilman Estes for his thoughts on this rezoning due to the fact he is on the Planning Commission. Councilman Estes stated when this came up, his first question was to City Attorney John Kimball if this spot zoning. Mr. Kimball didn't feel there could be a case for this to be considered spot zoning. The neighborhood itself, does not have clean lines of development of single-family homes. He was moved somewhat by the neighbors, but it is fuzzy. They are neither not opposed or actually for it. He only received one call against it but many for it. He feels new townhomes could potentially make the neighborhood and property values better, but it is a gray area for him. Mr. Fivas stated staff opposed rezoning, primarily because the previous year the Council unanimously voted against a similar proposal. Councilman Estes stated it was different than the previous request. Councilman Hughes stated it is a positive statement that this could enhance the neighborhood and property values could increase. Councilman Estes moved to approve Zoning Ordinance 2021-10 be voted for passage on first reading, as he feels it should be rezoned not because of potential legal issues. The motion was seconded by Councilman Hughes. Upon roll call, Councilmen Estes, Hughes, Webb, Cassada, Vice Mayor Johnson and Councilwoman McKenzie voted aye. Councilman May voted no. The motion carries 6:1.

REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman Hughes stated he would like to name the Cleveland Fire Department Training Tower in honor of Chief Ron Harrison and asked for a motion to be added under new business.

Councilwoman McKenzie thanked Chief Harrison for his service to the City and for being a friend to Charlie.

Councilman Estes inquired about the status of 585 Gaut Street. Mr. Jobe stated another case has been opened and it will have to go back through the process as no repairs have been made. Councilman Estes asked if the one-year period applied in this case to take it back before the Board of Appeals and Condemnation. Mr. Kimball stated no, but you have to have lack of improvement and continue to deteriorate. Mr. Jobe stated yes, the roof has started collapsing and we have started the process again.

Councilman Cassada also thanked Chief Harrison for his service to the City and helping us grow. He then thanked Patti Petitt and staff for the \$500,000 grant award for another park. Having another park will benefit all the citizens, most likely the 3rd District will get a new park.

Mayor Brooks echoed the comments for Chief Harrison and thanked him for his service and for being a friend. Mr. Fivas stated we will have a retirement-festivities on June 28 after the Council meeting. Councilman Hughes stated we should celebrate after he retires and will speak to him after the meeting.

NEW BUSINESS AND ORDINANCES

The following Resolution was then presented in full:

- **Resolution 2021-52** – Authorizing a commitment letter to partner with TDOT to fast-track the project at North Ocoee/25th Street Intersection.

RESOLUTION 2021-52

WHEREAS, the city of Cleveland staff met with TDOT engineers and staff to discuss the Cleveland SR-60 @ SR-74 Intersection or known locally as the North Ocoee Street and 25th Street Intersection; and

WHEREAS, both of these streets are state maintained highways and TDOT has been reviewing potential improvements for this intersection and potential funding options; and

WHEREAS, the City has rated this intersection as one of our communities most congested intersection. This intersection collects traffic from southern Bradley County and Polk County, and is in close proximity to major job providers within our community, such as Tennova Hospital and multiple Fortune 500 manufacturing facilities.

WHEREAS, the County has a middle school located in this area, and the new 300,000 square foot County PIE Educational Center also being constructed in this area. Within a quarter mile of this location, we also have 5,500 students and over 1,000 employees visiting and working at Lee University; and

WHEREAS, this is a major thoroughfare for Bradley County and the current infrastructure does not meet the traffic or safety demand for this area; and

WHEREAS, the City has volunteered to partner with TDOT on this project to assist in moving the timeline forward for construction. The City Council previously passed a Resolution indicating a desire to financially partner with TDOT on this project; and

WHEREAS, this is the highest priority for the Mayor and City Council, the City is prepared to partner with up to \$2 million to have this project fast-tracked through the TDOT construction process; and

WHEREAS, the City would be able to contribute these funds up-front to assist TDOT in the environmental review, design and ROW purchasing. In discussions with TDOT staff, this up-front contribution could expedite the timeline for this project and could fill finance gaps for successful fast-tracking; and

WHEREAS, the Mayor, City Council, and City staff appreciates TDOT and the support for the many good transportation amenities we have in the city of Cleveland. This project would substantially benefit the citizens of the State of Tennessee, area local and regional residents, and job providers. It is an essential improvement for traffic congestion management and traffic safety of this important transportation network and commercial development area.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby agree to partner with TDOT, with up to \$2 million to have this project fast-tracked through the TDOT construction process.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to send a letter of commitment to TDOT on behalf of the City of Cleveland.

This 14th day of June, 2021

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Councilman May moved that Resolution 2021-52 be accepted as presented. The motion was seconded by Councilman Webb; and upon roll, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2021-14** – Amending Title 17, Section 17-107 of the Municipal Code pertaining to the sanitation user fees for Solid Waste and Refuse Collection.

ORDINANCE 2021-14

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, AMENDING THE VARIOUS RATES FOR SOLID WASTE AND REFUSE COLLECTION WITH THE NEW RATES TO BECOME EFFECTIVE AUGUST 1, 2021

WHEREAS, the City’s sanitation user fee, the commercial fee for commercial establishments, and the commercial recycling user fee are established in Title 17 of the Cleveland Municipal Code relating to refuse and trash disposal; and

WHEREAS, Section 17-105 of the Cleveland Municipal Code provides that the sanitation user fee shall be set by an ordinance of the City Council; and

WHEREAS, Section 17-107 of the Cleveland Municipal Code provides that the commercial fee charged for commercial establishments shall also be established by ordinance after the City Council receives the recommendation of the Public Works Director; and

WHEREAS, Section 17-107 of the Cleveland Municipal Code further provides that the commercial recycling user fee shall be set by an ordinance adopted by the City Council; and

WHEREAS, the current rates previously established by ordinance are:

Residential	\$7.95 monthly per unit
Commercial	\$2.09 per cubic yard
Commercial Recycle	\$1.83 per cubic yard
Commercial Residential Accounts (small business, picked up like a residence)	\$7.95 monthly per unit; and

WHEREAS, after considering the input and recommendation of the City Manager and the Public Works Director, the City Council desires to revise the rates as described herein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee:

Section 1.

- A. The sanitation user fee referenced in Section 17-105 of the Cleveland Municipal Code is hereby set at \$8.95 monthly per unit effective August 1, 2021.
- B. The commercial rate referenced in Section 17-107 of the Cleveland Municipal Code is hereby set at \$2.35 per cubic yard effective August 1, 2021.
- C. The commercial recycling rate referenced in Section 17-107 of the Cleveland Municipal Code is hereby set at \$2.06 per cubic yard effective August 1, 2021.
- D. The commercial/residential rate for small businesses which are picked up like a residence is hereby set at \$8.95 monthly per unit effective August 1, 2021.

Section 2. That this Ordinance shall become effective upon final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Councilman May moved that Ordinance 2021-14 be approved on first reading. The motion was seconded by Councilman Cassada; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2021-15** – Amending Title 16, Chapter 2, Section 16-203(1) of the Municipal Code pertaining to street cut fees (p. 87-88).

ORDINANCE 2021-15

AN ORDINANCE OF THE CITY OF CLEVELAND AMENDING TITLE 16, CHAPTER 2, SECTION 16-203(1) OF THE CLEVELAND MUNICIPAL CODE PERTAINING TO STREET CUT FEES

WHEREAS, the City Council has been presented with a recommendation from the City Manager to raise the cost of a street cut permit fee from \$300 to \$350.00 so that the fee will cover the actual costs of installing the patch; and

WHEREAS, based on the recommendation of City Manager and City staff, the City Council now desires to amend Section 16-203 (1) of the Cleveland Municipal Code to raise this street cut fee.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled:

Section 1: Title 16, Chapter 2, Section 16-203 (1) of the Cleveland Municipal Code is amended by changing the first sentence under Section 16-203(1) to now read as follows:

"The fee for such permits shall be three hundred and fifty dollars (\$350.00).

Section 2: BE IT FURTHER ORDAINED that this ordinance shall become effective upon passage on final reading, the public welfare requiring it, however the increase in the street cut fee will not take effect until July 1, 2021.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Councilman Webb moved that Ordinance 2021-15 be approved on first reading. The motion was seconded by Vice Mayor Johnson; and upon roll call, unanimously passed.

The following Ordinance was then presented in full:

- **Ordinance 2021-16** – Amending Title 12, Chapter 1, Section 12-104 of the Municipal Code relating to the Building Permit Fee Schedule.

ORDINANCE 2021-16

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, AMENDING TITLE 12, CHAPTER 1, SECTION 12-104 OF THE CLEVELAND MUNICIPAL CODE RELATING TO THE BUILDING PERMIT FEE SCHEDULE

WHEREAS, the City Council desires to amend a portion of section 12-104 of the Cleveland Municipal Code entitled Permit Fee Schedule.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled:

Section 1. That Title 12, Chapter 1, Section 12-104 of the Cleveland Municipal Code be amended as follows:

Under the heading Building Permit Fees, the following words are hereby deleted:

”One and two-family dwelling permit fees for new construction are calculated based on heated square footage. A multiplier of eighty-five dollars (\$85.00) per square foot will be used to assess building valuation. The permit fee will be calculated with this valuation using the table below.”

and in place of the deleted words, the following words are hereby inserted:

“For all new construction and addition projects, building valuation used to determine permit fees is to be calculated using the value as determined by the latest published ICC Building Valuation Data Table at a multiplier of 0.9”.

Section 2. That this Ordinance shall become effective from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Vice Mayor Johnson moved that Ordinance 2021-16 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

Councilman Estes moved that Ordinance 2021-17; Adopting the FY2022 Budget; heretofore passed on first reading, May 24, 2021 and found in Minute Book 30, Page 249, be approved on final reading. The motion was seconded by Councilman Cassada. Councilman Webb disclosed he is a member of Life Bridges and a Cleveland Utilities retiree, which does not affect his vote. Councilman Estes disclosed he is a member of City Fields, which does not affect his vote. Upon roll call, the motion was unanimously passed.

Councilman Hughes moved to name the Cleveland Fire Department Training Center in honor of Chief Ron Harrison. The motion was seconded by Councilwoman McKenzie; and upon roll call, unanimously passed.

ANNOUNCEMENTS

Mayor Brooks announced the following:

- The next City Council meeting will be held on Monday, June 28, 2021.
- The Council meeting scheduled for Monday, July 26 will be cancelled.

There being no future business the meeting was adjourned at 4:43 p.m.

Mayor

City Clerk