



CITY COUNCIL REGULAR MEETING PACKET

March 6, 2023 @ 6:30pm Smith Park Shelter House

1. Call to Order: Mayor Mike Lowrey
2. Roll Call: Clerk of Council
3. Invocation:
4. Pledge of Allegiance:
5. Action on Minutes: 02/21/23 Regular Meeting
6. Communications:
 - Clark County Land Bank, Habitat for Humanity, and City Manager Presentation Regarding Home Builds on a Portion of the Madison Street School Property
 - BZA Hearing for 108 Short Drive
 - Packet Attached.
 - Charter Review Discussions - Continuation of Special Meeting Held on 9/26/22.
7. City Manager's Report: Attached
8. Committee Reports:
9. Comments from Members of the Public: *Comments limited to 5 minutes or less

10. RESOLUTIONS: (1 - Intro & Action*)

***A. Resolution 2023-08R (Introduction, Public Hearing & Action Tonight)**

A RESOLUTION AMENDING THE NEW CARLISLE CITY COUNCIL RULES OF COUNCIL

11. ORDINANCES: (2 - Intro; 4 – Action*)

***A. Ordinance 2023-17 (Introduced on 2/21/23. Public Hearing & Action Tonight)**

AN ORDINANCE AMENDING THE CITY OF NEW CARLISLE'S ESTIMATED RESOURCES AVAILABLE TO APPROPRIATE FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023

***B. Ordinance 2023-18 (Introduced on 2/21/23. Public Hearing & Action Tonight)**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BY AND BETWEEN THE CITY OF NEW CARLISLE AND THE STATE OF OHIO ATTORNEY GENERAL FOR THE COLLECTION OF DELINQUENT INCOME TAX DEBT

***C. Ordinance 2023-19 (Introduced on 2/21/23. Public Hearing & Action Tonight)**

AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF AN AGENCY FUND NAMED "CREDIT MEMO CLEARING FUND" FOR THE PURPOSE OF HOLDING UTILITY BILL OVERPAYMENTS AND APPLYING THOSE CREDITS BACK TO CUSTOMER ACCOUNTS

D. Ordinance 2023-20 (Introduction Tonight. Public Hearing & Action on March 20, 2023)

AN ORDINANCE AUTHORIZING THE EXPENDITURE OF FUNDS IN EXCESS OF THIRTY-FIVE THOUSAND DOLLARS (\$35,000) FOR A WASTEWATER TREATMENT PLANT EXPANSION STUDY

***E. Ordinance 2023-21E (Introduction, Public Hearing & Action Tonight)**

AN ORDINANCE AMENDING SECTION 278.08 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE TO ADDRESS THE MEMBERSHIP OF THE PARKS AND RECREATION BOARD, AND DECLARING AN EMERGENCY

12. OTHER BUSINESS:

- Additional City Business: Open for Discussion

13. Executive Session:

14. Return to Regular Session:

15. Adjournment

RECORD OF PROCEEDING

MINUTES: CITY OF NEW CARLISLE, OHIO REGULAR SESSION MEETING @ Smith Park Shelter HELD: Tuesday, February 21, 2023, @ 6:30 PM

1. **Call to Order:** Mayor Lowrey calls the meeting to order.
2. **Roll Call:** Berner calls the roll- Lowrey, Grimm, Bahun, Cook, Rodewald
Absent: Eggleston, Lindsey Staff present: Bridge, Kitko, Harris, Trusty, Dep. Garman, Dep. Arnold
3. **Invocation:** Chief Trusty
4. **Pledge of Allegiance:** All are Welcome to Participate
5. **Action on Minutes:**
2/6/23 1st Grimm 2nd Bahun YES: 5 Cook, Eggleston, Rodewald, Lowrey, Grimm, Bahun NAY: 0 Accepted 5-0
6. **Communications: none**
7. **City Manager's Report:**
 - A. **DEPARTMENTAL REPORTS-** Given at 2nd meeting of the month.

Police Report:

Patrol Division:

The New Carlisle Deputies were dispatched to 180 calls for service during the month of January.

Calls Taken: 180

Reports: 31

Assists: 26

Criminal Arrest: 3

Felony Arrest: 1

Misdemeanor Arrest: 3

Warrants: 2

Traffic Stops: 49

Traffic Warnings: 17

Moving Citations: 32

Business checks: 465

Code Enforcement Follow-ups: 0

Traffic Crashes: 3

Respectfully,

Sgt. Ronnie E. Lemen

CLARK COUNTY SHERIFF'S OFFICE										
NEW CARLISLE DIVISION 2023										
NEW CARLISLE	CALLS	ASSISTS	REPORTS	TRAFFIC STOP	CITATIONS	WARNINGS	ARREST	CODE ENFO	BUSINESS CHE	CRASH
JANUARY										
Dep. Majercak	37	0	3	22	19	3	0	0	22	0
Dep. Forrest	25	3	4	8	2	6	0	0	112	0
Dep. McDuffie	30	1	3	5	3	2	2	0	20	0
Dep. Garman	58	15	13	6	4	2	0	0	41	3
Dep. Harris	30	7	8	8	4	4	1	0	270	0
Total	180	26	31	49	32	17	3	0	465	3

Bahun asks about the numbers Garmen gave vs. the council packet numbers. Garmen noted his report wasn't added. Bridge will send an updated report via email. Garmen introduces the new New Carlisle deputy, Deputy Arnold, to Council.

Fire/EMS Report:

**City of New Carlisle
City Council Meeting
02-21-2023
Fire-EMS Report**

- In the Month of January, the New Carlisle Fire Division responded to 95 EMS call in the city and 6 in Elizabeth Township.
- The Division responded to 10 Fire related calls in the city and 1 in Elizabeth Township.
- We had 3 EMS calls answered by mutual aid, either by Pike Township or Bethel Clark, due to medic 52 being on a response.
- We answered 2 mutual aid EMS calls for Pike Township and 4 for Bethel Clark.

New Carlisle Fire Division

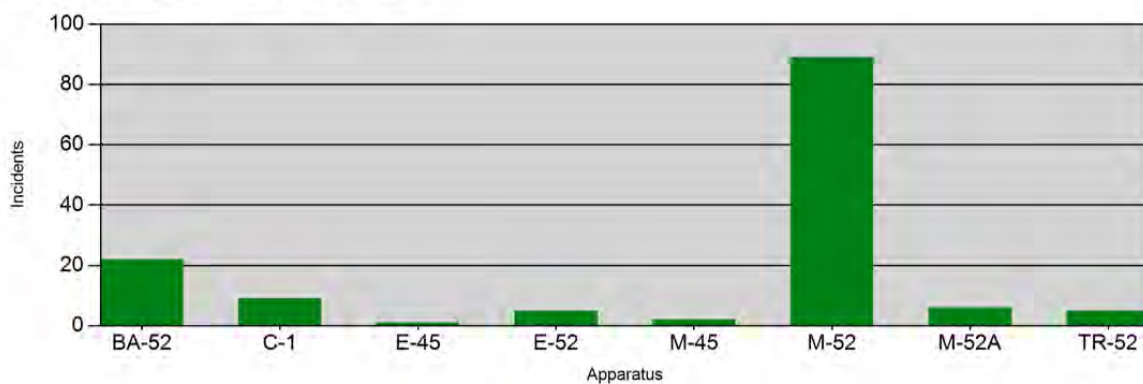
New Carlisle, OH

This report was generated on 2/17/2023 11:08:29 AM



Incident Count per Apparatus for Date Range

Start Date: 01/01/2023 | End Date: 01/31/2023



APPARATUS	# of INCIDENTS
BA-52	22
C-1	9
E-45	1
E-52	5
M-45	2
M-52	89
M-52A	6
TR-52	5

No comments or questions.

Finance Report:

COUNCIL FINANCIAL REPORT SUMMARY – JANUARY 2023

Estimated Revenue	\$ 6,993,589.00
Amended Est. Resources	
Amended Est. Resources	
Amended Est. Resources	\$ -
Amended Est. Resources	\$ -
2023 REVISED TOTAL	
EST. REV.	\$ 6,993,589.00

2023 Original Budget	\$ 9,073,325.00
1st Q. Supplemental	
2nd. Q. Supplemental	
3rd. Q. Supplemental	
4th Q. Supplemental	
2022 REVISED TOTAL BUDGET	\$ 9,073,325.00

Month	Revenue Received
January	\$ 978,586.95
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	
Received To Date	\$ 978,586.95

Month	Expenses Paid
January	\$ 782,712.86
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	
Expenses to Date	\$ 782,712.86

Statement of Cash from Revenue and Expense

From: 1/1/2023 to 1/31/2023

Fund	Description	Beginning Balance	Net Revenue YTD	Net Expense YTD	Unexpended Balance	Encumbrance YTD	Ending Balance
Grand Total:		\$7,510,472.46	\$978,586.95	\$782,712.86	\$7,706,346.55	\$1,372,272.15	\$6,334,074.40

BANK RECONCILIATIONS - JAN. 2023

Bank Accounts	Bank Balance	Outstanding Vendor	Outstanding Employee	Deposits in Transit	NSF Check (s)	Adjustments	Book Balance	Difference
PNC - General	\$ 2,275,056.40	\$ -	\$ -	\$ 3,530.98	\$ -	\$ -	\$ 2,278,587.38	\$ -
PNC - Payroll	\$ 202,181.54	\$ (2,181.54)	\$ -	\$ -	\$ -	\$ -	\$ 200,000.00	\$ -
Star Ohio	\$ 2,131,693.81	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,131,693.81	\$ -
Park Nat. General	\$ 2,320,667.20	\$ (46,424.52)	\$ -	\$ -	\$ -	\$ -	\$ 2,274,242.68	\$ -
Park Nat. - MMA	\$ 745,753.27	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 745,753.27	\$ -
Park Nat. - Mayor's	\$ 200.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 200.00	\$ -
NCF	\$ 526.55	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 526.55	\$ -
NCF - CD's	\$ 74,842.86	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 74,842.86	\$ -
Cash on Hand	\$ 500.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 500.00	\$ -
Grand Totals	\$ 7,751,421.63	\$ (48,606.06)	\$ -	\$ 3,530.98	\$ -	\$ -	\$ 7,706,346.55	\$ -



**MAYOR'S COURT REPORT
FOR JANUARY 2023**

Total Citations: 33 (33 Traffic)

FUND RECEIVED	CURRENT MONTH	YEAR-TO-DATE
Fines	\$ 836.00	\$ 836.00
Court Cost	\$ 1,345.00	\$ 1,345.00
Fines- Clark County Municipal (transfer Cases)	\$ -	\$ -
Total Fees Paid (LF, Bounced Cks, BW)	\$ -	\$ -
Other (Bond Forfeiture)	\$ -	\$ -
Misc Fees Paid (Jail Time)	\$ -	\$ -
Bond Collected	\$ -	\$ -
Restitution	\$ -	\$ -
<u>SB 17 Indigent driver interlock & alcohol</u>	\$ -	\$ -
TOTAL FUNDS RECEIVED	\$ 2,181.00	\$ 2,181.00
FUNDS DISBURSED		
Victims of Crime	\$ 108.00	\$ 108.00
Child Safety/Seat Belts	\$ -	\$ -
Indigent Defense Support Fund	\$ 300.00	\$ 300.00
Drug Law Enforcement Fund	\$ 42.00	\$ 42.00
Expungement	\$ -	\$ -
<u>State Bond Surcharge (new as of 2010)</u>	\$ -	\$ -
TOTAL REMITTED TO STATE	\$ 450.00	\$ 450.00
Indigent Drivers Alcohol Treatment (Springfield)	\$ 18.00	\$ 18.00
Remitted to Computer Fund (Clerk)	\$ 110.00	\$ 110.00
Remitted to Computer Fund (Court)	\$ 33.00	\$ 33.00
Remitted to Court Security Fund	\$ 110.00	\$ 110.00
Remitted to Facility Fee	\$ 55.00	\$ 55.00
Remitted to City GF - Fines	\$ 836.00	\$ 836.00
Remitted to City GF - Court Court/Misc	\$ 569.00	\$ 569.00
Remitted to City- Jail Expenses	\$ -	\$ -
Remitted to City- Enforcement & Education	\$ -	\$ -
Remitted to City- Drug Analysis	\$ -	\$ -
<u>SB 17 Indigent Driver Interlock & Alcohol</u>	\$ -	\$ -
TOTAL REMITTED TO CITY	\$ 1,713.00	\$ 1,713.00
Capital Recovery	\$ -	\$ -
Restitution	\$ -	\$ -
Bonds forfeited	\$ -	\$ -
TOTAL DISBURSED	\$ 2,181.00	\$ 2,181.00

Prepared & Submitted By:
Kristy Thome, Clerk of Court

Motion by Grimm 2nd by Bahun to accept the financial report YES:5 Cook, Rodewald, Lowrey, Grimm, Bahun, NAY: 0 Accepted 5-0

Discussions on the mayor's court and Harris notes that it is getting very close to breaking even.

Motion by Rodewald 2nd by Grimm to accept the mayor's court report YES:5 Bahun, Cook, Rodewald, Lowrey, Grimm NAY: 0 Accepted 5-0

Service Report:



To: Randy Bridge, City Manager
From: Howard Kitko, Service Director/Asst. City Manager
Date: February 21, 2023
Subject: Council Update

Public Works Departments:

- City wide tree trimming has started and will be ongoing through the winter.
- Ongoing winter de-icing operations.
- Street light proposal signed 1/6 to install cobra light at Smith Park Shelter House. May be up to 45 days for installation.

Water Department:

- Sanitary Survey: January 19th & 20th, has been completed with No Violations!
- Well #4 pitless adapter has been installed. Awaiting concrete, backfill and testing.
- 2 hydrants replaced with more replacements to begin within the next couple of weeks.

Sewer Department:

- Secondary Clarifier #1 and Primary Clarifier #2: Contract awarded to Peterson Construction. Estimated \$286,500 in American Rescue Plan funds and \$98,500 OPWC funds.
- Plant Expansion Study: Awaiting on scope with agreement from the engineer. Study to be completed in 3-6 months. Study will be utilized for future development needs.

2022 Road Reconstruction/Resurfacing Projects:

- Clark County Resurface Project: Suspended until 2023
- Curb and ADA ramp work this late winter/Spring, prior to resurfacing in 2023. Agreement signed to engineer the project.
- Fenwick Dr. Reconstruction Phase II: Engineering to start asap and bidding to be around March. Construction Cost estimated to be \$452,792, with the city's share to be an estimate \$60,000 (share + Engineering).

Carlisle Park Phase 1 upgrade Project:

- The City of New Carlisle has been awarded a CDBG grant. Project to remove existing basketball court and replace with new full-size court. New ADA accessible swing added to the existing Swing-set. Future phases are to add a parking lot and new ADA accessible sidewalk with picnic table connecting the open shelter and playset. Estimated Cost of \$80,000 with the city's estimated share to be \$20,000. Agreement for engineering under review and to be signed shortly.

NatureWorks Grant:

- The City of New Carlisle has been awarded the ODNR NatureWorks grant. Project to add 3 open shelters and replace concrete pad at the city pool. The grant will reimburse 75% of the construction cost. Agreement signed, moving on the next steps in completing this project.

Cook asks about the parks in the north end and the graffiti. Kitko noted they did get it cleaned off, but it will need to be repainted. Rodewald noted he had some people ask about the train derailment and if our water would be affected. Kitko noted our aquifer has barriers and ran tests. Kitko goes over the various items the city tests for. Residents can visit the CCR report on the city website. Grimm asks about Choice One in town. Kitko notes they are doing the survey work and private work within the town.

Planning and Zoning Report: submitted at a later date.

B. INFORMATIONAL ITEMS

- **Discussion Topics**
 - Mayor's Court Case Report
 - January and February 2023 - Attached
 - Clark County Public Health Update - Attached
 - City Council as Petitioners for Alcohol Ballot Initiative; Motion Requested
 - New Shelter House
 - Current Shelter House Fees and Polices
 - Waste Management Contract
 - Needing Renewal Numbers to Determine Extend Contract or Bid
 - Meet with Rep Last Week; 5%
 - BZA Hearing
 - Monday, March 6th During Regular City Council Meeting
 - Rear yard Setback Variance Due to a Residential Addition on Short Drive
 - Friendly Reminder:
 - City Council Special Meeting
 - ◇ Tuesday, February 28th @ 6:30pm, Smith Park Shelter House
 - ◇ Parks/Recreation Board and the Placement of Residential Trash Cans
 - Traffic Study Presentation
 - ◇ Monday, April 3, 2023, at Regular Council Meeting
 - Habitat for Humanity, Clark County Land Bank, and City Manager Presentation on Land Sell and Madison School Housing
 - ◇ Monday, March 6, 2023, at the Regularly Scheduled City Council Meeting
 - ◇ Non-Binding Letter of Intent Potentially Executed on March 7, 2023

Rodewald motions to have the Council act as a petitioner for alcohol sales with a 2nd by Grimm YES: Bahun, Cook, Rodewald, Lowrey, Grimm NAY: 0 Accepted 5-0

Lowrey asks about the new shelter and rental costs. Bridge will analyze the costs and get Council some information.

Grimm asks about parking on Main St. and when will our parking tickets arrive. Bridge does not have any information at this time.

Lowrey asks about having Council meetings start at 6:00 pm. Bridge will get items to adjust ROC and bring to the council at the next meeting.

8. Comments from Members of the Public: None

9. Committee Reports: None

10. RESOLUTIONS:

Resolution 2023-07R (Introduction, Public Hearing & Action Tonight) A FINAL RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR IMPROVEMENTS TO S.R. 235 (DAYTON-LAKEVIEW ROAD FROM S.L.M 3.95 TO 3.97 AND MAIN STREET FROM S.L.M 3.97 TO 5.09) - PID # 108548 1st Lowrey 2nd Rodewald *Kitko notes 20% will be \$115,*

774 Grimm asks for the record: Galewood to Wot-a-Dog Kitko notes yes. YES: 5
Lowrey, Grimm, Bahun, Cook, Rodewald NAY: 0 Accepted 5-0

11. ORDINANCES:

Ordinance 2023-08 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING THAT AMENDS THE CURRENT COLLECTIVE BARGAINING AGREEMENT REGARDING UNION WAGES 1st Lowrey 2nd Rodewald reopens for \$1.00 not .75 YES: 5 Lowrey, Grimm, Bahun, Cook, Rodewald NAY: 0 Accepted 5-0

Ordinance 2023-09 AN ORDINANCE AMENDING SECTION 238.03 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING THE DIVISION OF FIRE 1st Cook 2nd Rodewald increase fire pay YES:4 Grimm, Bahun, Rodewald, Cook NAY: 0 Abstain: Lowrey Accepted 4-0-1

Ordinance 2023-10 AN ORDINANCE ESTABLISHING COMPENSATION FOR THE TAX ADMINISTRATOR 1st Grimm 2nd Rodewald increase the wage for tax administrator YES: 5 Grimm, Bahun, Rodewald, Lowrey, Cook NAY: 0 Accepted 5-0

Ordinance 2023-11 AN ORDINANCE ESTABLISHING COMPENSATION FOR THE DIRECTOR OF PUBLIC SERVICE / ASSISTANT CITY MANAGER 1st Bahun 2nd Rodewald increase the wage for Director of Public service/Assistant City Manager YES: 3 Grimm, Bahun, Rodewald NAY: 2 Lowrey, Cook Accepted 3-2

Ordinance 2023-12 AN ORDINANCE ESTABLISHING COMPENSATION FOR THE FINANCE DIRECTOR 1st Grimm 2nd Rodewald increase the wage for Finance director YES: 3 Grimm, Bahun, Rodewald NAY: 2 Lowrey, Cook Accepted 3-2

Ordinance 2023-13 AN ORDINANCE ESTABLISHING COMPENSATION FOR THE CITY MANAGER OF THE CITY OF NEW CARLISLE 1st Grimm 2nd Rodewald increase the wage for the City Manager Bahun adds that he thinks the numbers are a little high based on past data. Cook notes he is concerned with citizen feedback. Rodewald expresses his frustrations on these comments, notes the discussions on these wage increases, and notes that you must pay them well to keep good employees. Bahun adds the process is different than what he is used to, and just because he has these concerns, it doesn't mean he is voting no. Lowrey explains his reasoning for not favoring the 5% raise and would feel more comfortable at 2.5%. Bridge notes that the current council is "playing catch up." Continued discussions on raises for admin and hourly employees, Mr. Bridge, and his annual review, must occur at some point, and Lowrey notes it will happen once all council members are back. Grimm adds that he is often asked about the street conditions and notes that they are repairing the streets quickly now that the city has the funds. He adds that past councils have held off on raises, and since the city can afford it, "to say no would be silly." YES: 3 Grimm, Bahun, Rodewald NAY: 2 Lowrey, Cook Accepted 3-2

Ordinance 2023-14 AN ORDINANCE AMENDING SECTION 452.03 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE THAT ADDRESSES PROHIBITED STANDING OR PARKING PLACES 1st Cook 2nd Rodewald addresses abandoned vehicles Bahun asks about the previous and Bridge notes it adds to include curb and lawn parking YES: Lowrey, Grimm, Bahun, Cook, Rodewald NAY: 0 Accepted 5-0

Ordinance 2023-15 AN ORDINANCE AMENDING SECTION 452.08 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE THAT ADDRESSES SELLING, WASHING OR REPAIRING A VEHICLE UPON A ROADWAY 1st Lowrey 2nd Rodewald amends current code quick discussion, no washing/repairing cars in the street YES: 5 Lowrey, Grimm, Bahun, Cook, Rodewald NAY: 0 Accepted 5-0

Ordinance 2023-16 AN ORDINANCE AMENDING ORDINANCE 2021-36 THAT ESTABLISHED A SCHEDULE OF FINES AND COSTS, AND A BAIL BOND SCHEDULE FOR THE CITY'S MAYOR'S COURT 1st Cook 2nd Bahun adds to the bond schedule YES: Cook, Rodewald, Lowrey, Grimm, Bahun NAY: 0 Accepted 5-0

Ordinance 2023-17 (Introduction Tonight. Public Hearing & Action on March 6, 2023) AN ORDINANCE AMENDING THE CITY OF NEW CARLISLE'S ESTIMATED

RESOURCES AVAILABLE TO APPROPRIATE FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023

Ordinance 2023-18 (Introduction Tonight. Public Hearing & Action on March 6, 2023) AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BY AND BETWEEN THE CITY OF NEW CARLISLE AND THE STATE OF OHIO ATTORNEY GENERAL FOR THE COLLECTION OF DELINQUENT INCOME TAX DEBT

Ordinance 2023-19 (Introduction Tonight. Public Hearing & Action on March 6, 2023) AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF AN AGENCY FUND NAMED "CREDIT MEMO CLEARING FUND" FOR THE PURPOSE OF HOLDING UTILITY BILL OVERPAYMENTS AND APPLYING THOSE CREDITS BACK TO CUSTOMER ACCOUNTS

12. OTHER BUSINESS:

Coffee and Donuts w/ City Council: March 4, 2023, from 9:00 am - 12:00 pm @ Fire Station

Additional City Business: Open for Discussion

Motion to excuse Eggleston by Bahun with a 2nd by Rodewald YES: Lowrey, Grimm, Bahun, Cook, Rodewald NAY: 0 Accepted 5-0

Motion to excuse Lindsey by Bahun with 2nd by Rodewald YES: Lowrey, Grimm, Bahun, Cook, Rodewald NAY: 0 Accepted 5-0

Bridge suggests a "salary range" to the council, so admin employees have a set range amount. This would be a safeguarding measure for the city.

Grimm notes the Charter Review has worked on the new possible charter, and Council needs to review it. Grimm suggests a discussion at the next special meeting/work session. The legal ad has been placed, and they will discuss parts of the charter during the next few council meetings.

Grimm notes that the council has not received increased pay for 10-15 years. Bahun adds he thinks Council is well compensated—discussions on various council wages and how the pay increase would work. Bridge likes the idea of members of the Council being on various boards within the city. He feels this would warrant a wage increase for Council.

13. Executive Session: To Consider the Sale or Donation of City Property

Motion by Cook with 2nd by Grimm to move to executive session. YES: Bahun, Cook, Eggleston, Lowrey, Grimm NAY: 0 Accepted 5-0

Motion by Grimm second by Cook to move into regular session. YES: 5 Rodewald, Lowrey, Grimm, Bahun, Cook NAY: 0 Accepted 5-0

14. Adjournment: 1st Grimm 2nd Rodewald 8:53 pm Yes: 5 Rodewald, Lowrey, Bahun, Eggleston, Lindsey NAY: 0 Accepted 5-0

Mayor Mike Lowrey



City of New Carlisle
 Planning Department
 331 S. Church Street
 New Carlisle, Ohio 45344
 937.845.9492
 planning@newcarlisle.net

**APPLICATION
 BOARD OF ZONING APPEALS
 VARIANCE REQUEST**

PAID
 Received Stamp
FEB 17 2023

BY:

Office Use Only

**\$125
 Application Fee**

Please read before completing this application.

RECEIVED
 FEB 16 2023
 BY:

- **Required -**
 - Submission of a completed Variance Request Application, including all of the items listed in the application checklist. Variance Request Application fee of \$125.
 - *Note: Fee is not refundable if Variance is denied.*
 - Submission of a completed Zoning Application. Application Fee for Zoning Permit does not requirement payment until after the Variance is granted.
- Submitted applications and all checklist items shall be reviewed by City Staff for completeness. Submittals found to be incomplete will be rejected and the application will not be placed on the Board agenda. If an application is found to be incomplete, the applicant may submit the missing materials to complete application requirements.
- The Board of Zoning Appeals shall hold a public hearing within **thirty (30) days** after the receipt of a **completed** application. **The Applicant or a Representative must be present at hearing.**
- All property owners and interested parties within 500 feet of the proposed variance will be notified of Public Hearing.

Applicant Information

Name: Tasha Paul Phone: 937 301 0710

Address: 108 Short Dr New Carlisle, OH 45344

Email: tasha.aveyard@gmail.com

Property Information

Address for Variance Request: 108 Short Dr New Carlisle, OH 45344

Zoning District: R2 Parcel Lot Number: 0300500034222008

Owner of Record according to the Clark County Auditor's Office: DANAN D PAUL JR

Owners Mailing Address: 108 Short Dr New Carlisle, OH 45344

Owners Phone: 937 626 5815 Email: tasha.aveyard@gmail.com

Variance Requested

Description of the nature of the Variance requested:

Depth size is a strange layout, and we would like to expand back of house.

Application Requirements Checklist



Required Items

Verbal Statement by City Manager 2 meetings

Staff Use

	Narrative Statement demonstrating that the requested variance conforms to the following standards;	
	a) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;	
	b) That a literal interpretation of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under this Zoning Code;	
	c) That special conditions and circumstances do not result from the actions of the applicant; and	
	d) That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures or buildings in the same district.	
	Site Plan that includes parcel shape and size, primary structure location and dimensions, any accessory structures that exist on the property, driveway and sidewalk locations.	
	Proposed Site Plan that includes all of the items listed in above Site Plan and the Proposed structure. Include all dimensions of proposed structure and the setback dimensions of all sides of the proposed structure.	
	Zoning Permit Application submitted along with this application for the proposed structure.	
	Photos of the area where the variance is being requested.	

I hereby attest to the truth and exactness of all information supplied on and with this application.

Applicant's Signature: *Joshua Powell* Date: 2/15/23

Property Owner's Signature: *Donna Powell* Date: 2-16-23
 (If different than Applicant)

Office Use Only

Fee \$125 Paid Date: _____

This application has been reviewed and is found to be complete.

City Staff: _____ Position: _____ Date: _____

Decision of the Board of Zoning Appeals

Date Decision Ruled on: _____ Action Taken: Approved / Denied

Conditions for Approval: _____



Board of Zoning Appeals Staff Report

Case Name: 108 Short Drive March 2023

Hearing Date: March 6, 2023

Hearing Location: Smith Park Shelter House

Hearing Time: Hearing will be held during a regularly scheduled City Council meeting.
Meeting begins at 6:30PM.

I. General Information and Case Description

<i>Case Type:</i>	Residential Addition Rear Setback Variance	
<i>Applicant:</i>	Tasha Paul	
<i>Property Location:</i>	108 Short Drive	
<i>Owner:</i>	Darren Paul Jr.	
<i>Parcel Number:</i>	0300500034222008	
<i>Adjacent Properties:</i>	Zoning	Use
<i>North:</i>	R2 – Low Density Residential	Single-Family Residential
<i>South:</i>	R2 – Low Density Residential	Single-Family Residential
<i>East:</i>	R2 – Low Density Residential	Single-Family Residential
<i>West:</i>	R2 – Low Density Residential	Single-Family Residential
<i>Parcel Size:</i>	11,336 Square Foot	
<i>Current Zoning:</i>	R2 – Low Density Residential	
<i>Planning Board:</i>	No Planning Board Involvement	

II. Exhibits and Attachments

Item	Purpose
BZA Application	Application to for Board of Zoning Appeals (BZA) Hearing
Aerial Photo	Denotes Property Lines (Yellow) and Setback Measurements (Red)
Site Plan Drawing	Measurements of Proposed Addition & Impact on Setback Distances
City Code 1252.08(c)	Code Governing R-2 Setback Requirements
Zoning District Standards	Overview of District Standards
Legal Advertisement	Required by City Code
Mailing Address	Of Property Owners Within 500ft. of Application Address

III. Variances Requested

Variance Requested	Code
Principal Structure Rear Yard Setback Variance of 28ft.	1252.08(c)

IV. Staff Notes

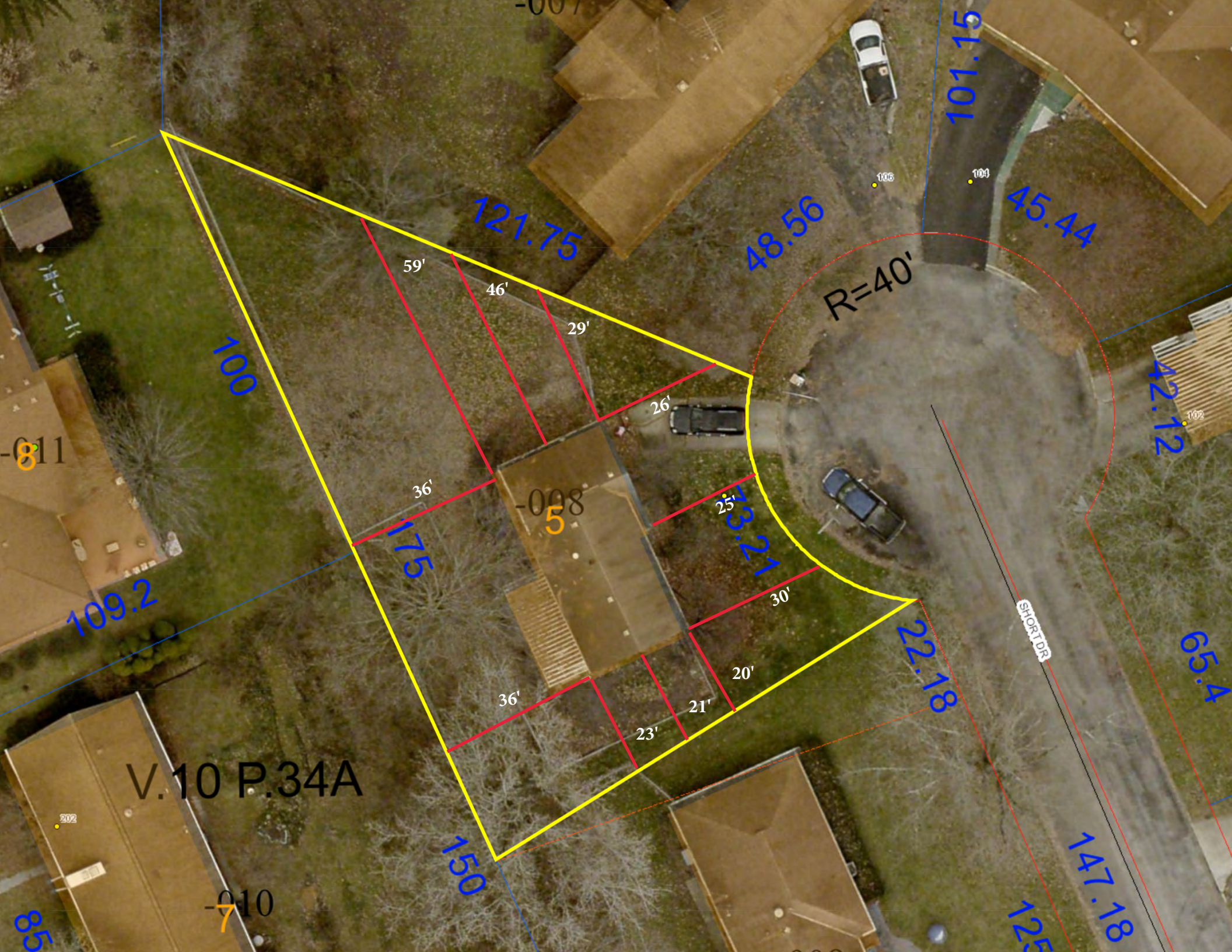
- Current R-2 zoning is not an appropriate zone classification for this, and other immediate surrounding parcels.
 - Staff comments on this matter at the Hearing
- The applicant is proposing a 14'x44' (616sf.) addition to the rear of their small house for a new living room and additional space.
- Lot Coverage
 - Max is 20% of lot size which is 11,336 sf.
 - House and Garage is 1,129 (House 829; Garage 300)
 - Proposed Addition is 616 sf.
 - Remaining Allowable Coverage is 522 sf.
- The rear setback requirements for R-2 zones in the city is 50ft and is measured from the edge of house to the property line.
- The property owner is requesting a 28 ft. rear setback variance.

V. Narrative Section on Variance Application

- A.) The lot layout is of triangular shape and not rectangular or square like most of the plotted land in the city
- B.) The zoning classification is not an appropriate classification for this and surrounding parcels. If this lot were a true R-2, then a variance, more than likely, would not be needed.
- C.) The city of New Carlisle zoned the land R-2 not the property owner.
- D.) The city is not aware of other similar variance denials in R-2 zones of the city.

VI. Staff Recommendation

- The Board of Zoning Appeals should grant the rear setback variance as the current zoning is not an appropriate classification which the applicant had no control over. City Council should consider all aspects of the application and any other public comments on this matter.



V.10 P.34A

R=40'

100

121.75

48.56

101.15

45.44

59'

46'

29'

26'

36'

25'

30'

42.12

-008
5

175

132.21

109.2

SHORTDR

65.4

22.18

36'

20'

21'

23'

150

147.18

125

-010
7

85

-011
8

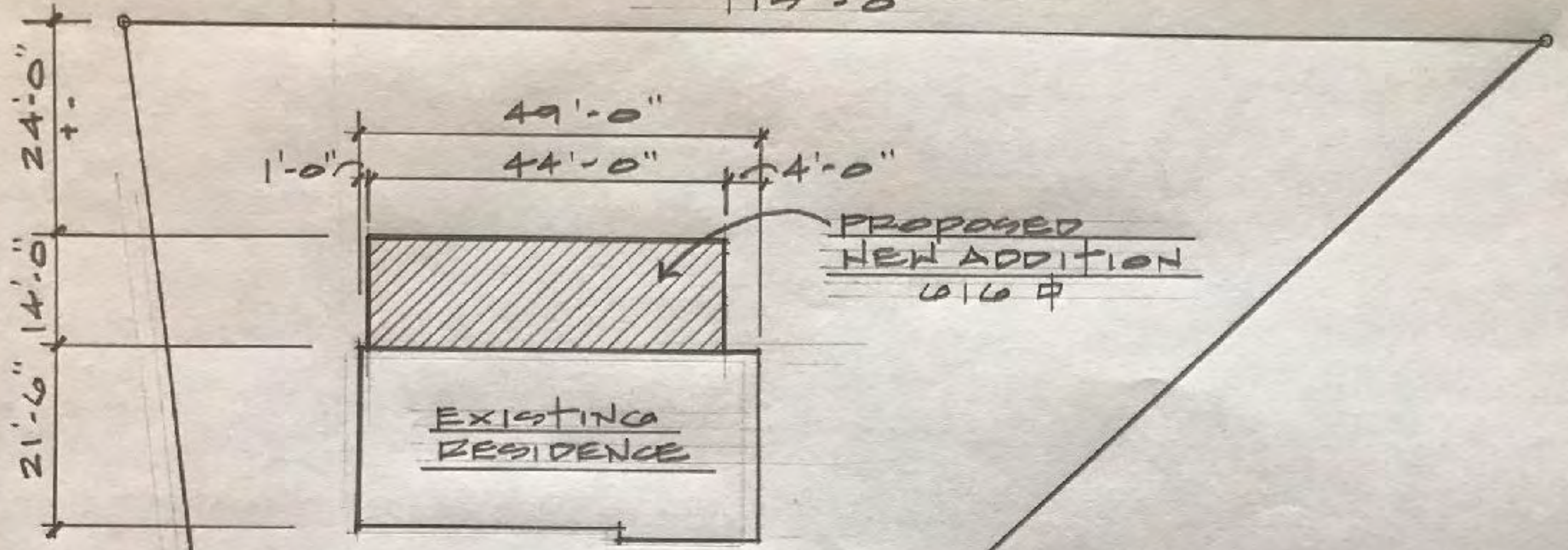
202

106

104

102

175'-0"



PROPOSED
NEW ADDITION
 616 #

EXISTING
RESIDENCE

PROPOSED ADDITION FOR:
DARREN & TASHA PAUL
108 SHORT DR. NEW CARLISLE, OHIO

SHORT DR.

R=40'
SITE PLAN

SCALE: 1" = 20'-0"

CHAPTER 1252

R-2 Low Density Residential Districts

1252.08 YARDS.

Yard requirements for an R-2 Low Density Residential District are as follows:

- (a) Front. There shall be a minimum depth of forty feet.
- (b) Side. There shall be a minimum width of fifteen feet, with the combined width of both side yards not less than thirty-five feet.

(c) Rear. There shall be a minimum depth of fifty feet.
(Ord. 82-38. Passed 9-20-82.)

Zoning District Standards

Zoning District	Zoning District Expanded	Minimum Zoning Acres	Minimum Lot Size (Sq. Ft.)	Lot Size Converted to Acres	Minimum Lot Width (Feet)	Minimum Front Setback (Feet)	Minimum Side Setback (Feet) One-Side	Minimum Side Setback (Feet) Total	Minimum Rear Setback (Feet)	Minimum Floor Area (Sq. Ft.)	Maximum Lot Coverage	Maximum Building Height (Feet)
SER	Suburban Estate Residential	25	43,560	1	150	50	25	50	75	1,500	15%	40
R-2	Low Density Residential	20	21,780	1/2	100	40	15	35	50	1,500	20%	40
R-4	1 and 2 Family Residential	10	10,000		70	25	5	15	40	1,000	30%	30
R-5	Medium Density Residential	8	8,000		70	25	5	15	40	1,000	30%	30
R-7	High Density Residential	8	6,000		60	25	3	10	30	1,000	33%	24
R-12	Multi-Family Residential	2	3,600		80	25	10	25	20	750	40%	36
A	Agriculture	5	87,120	2	3 to 1	50	25	50	25	N/A	15%	36
OA	Office-Apartment	3.5	8,000*		60	15	5	15	5	600**	40%	35
GB	General Business	6	20,000		3 to 1	100	50	100	50	N/A	25%	35
CB	Central Business	30	1,000		3 to 1	N/A	N/A	N/A	5	N/A	50%	125
I-1	Light Industrial	10	43,560	1	3 to 1	50	25	75	25	N/A	50%	N/A
R-PUD	Residential - Planned Unit Dev.	<i>Dependent on Application</i>										

* 2,000 Square Feet per unit for each additional dwelling unit over three dwelling units

** This refers to a one-bedroom dwelling, 600 Sq. Ft.
 ** Two-Bedroom dwelling, minimum 800 Sq. Ft.

Accessory Buildings

Zoning District	Zoning District Expanded	Side Setback (Feet)	Rear Setback (Feet)	Building Height (Feet)
SER	Suburban Estate Residential	25	10	24
R-2	Low Density Residential	15	10	24
R-4	1 and 2 Family Residential	5	10	18
R-5	Medium Density Residential	5	10	18
R-7	High Density Residential	3**	5	18
R-12	Multi-Family Residential	10	10	18
OA	Office-Apartment	5	5	18
R-PUD	Residential - Planned Unit Dev.	5	10	18*

* Cannot exceed height of principal building

** Cannot be closer than 10 feet to the nearest structure



Notice is hereby given that the City of New Carlisle Board of Zoning Appeals will hold a public hearing on Monday, March 6, 2023, to review, here comments, and vote on rear setback variance for a proposed addition to a residential house on Short Drive. The public hearing will take place during a City Council meeting that will begin at 6:30PM. This meeting will be held at the Smith Park Shelter House, 801 West Jefferson Street, New Carlisle, Ohio 45344 and open to the public.

WOTADOG LLC	6721 EVERGREEN WOODS DR	DAYTON, OH 45434
KRUGH WILLIAM R	521 LAKE FOREST DR	DAYTON OH 45449
WRIGHT KATHY L & RONALD D	323 S SCOTT ST	NEW CARLISLE, OH 45344
COOMER JOSHUA A & MEGAN L	300 LINDEN AVE	NEW CARLISLE, OH 45344
HOFFMAN ASHLEY & STUART MCKITRICK	250 LINDEN AVE	NEW CARLISLE, OH 45344
SCHLERETH EDWARD G	200 LINDEN AVE	NEW CARLISLE, OH 45344
WRIGHT KATHY L & RONALD D	323 S SCOTT ST	NEW CARLISLE, OH 45344
COX EMERSON H	413 S MAIN ST	NEW CARLISLE, OH 45344
SAYRE KALEB & SIERRA STEWART	100 SHORT DR	NEW CARLISLE, OH 45344
MEYER KELI	102 SHORT DR	NEW CARLISLE, OH 45344
WISECUP DONALD	104 SHORT DR	NEW CARLISLE, OH 45344
FARLOW JEFFREY	106 SHORT DR	NEW CARLISLE, OH 45344
PAUL DARREN D JR	108 SHORT DR	NEW CARLISLE, OH 45344
HAGLER ROBERT K JR & VICKI L	110 SHORT DR	NEW CARLISLE, OH 45344
CONN MICHAEL P	202 TAL SHROYER DR	NEW CARLISLE, OH 45344
MOKRYCKI DAVID LUKE & VALERIE	204 TAL SHROYER DR	NEW CARLISLE, OH 45344
BALDWIN TIMOTHY W	206 TAL SHROYER DR	NEW CARLISLE, OH 45344
SNIDER WILLIAM J & CARRIE A	208 TAL SHROYER DR	NEW CARLISLE, OH 45344
SLOANE JENNIFER J & ADAM	210 TAL SHROYER DR	NEW CARLISLE, OH 45344
LOUDIN PATRICK N TRUSTEE	212 TAL SHROYER DR	NEW CARLISLE, OH 45344
BRUMMITT ALLYSON L & MATTHEW P	214 TAL SHROYER DR	NEW CARLISLE, OH 45344
ESTEP CHAD ANTHONY & MELISSA APRIL DAVIS	501 S MAIN ST	NEW CARLISLE, OH 45344
SANFORD S DENNIS & LINDA	503 S MAIN ST	NEW CARLISLE, OH 45344
FULLER TRENT	100 HILLCREST AVE	NEW CARLISLE, OH 45344
FETT PHILLIP & ANN KAUP	102 HILLCREST AVE	NEW CARLISLE, OH 45344
FULTZ GEORGE W	104 HILLCREST AVE	NEW CARLISLE, OH 45344
MASSIE SCOTT	106 HILLCREST AVE	NEW CARLISLE, OH 45344
ROBB ROSS P	108 HILLCREST AVE	NEW CARLISLE, OH 45344
JONES JOHN & STEPHANIE TRUSTEES	110 HILLCREST AVE	NEW CARLISLE, OH 45344
MONHART LEAH B	112 HILLCREST AVE	NEW CARLISLE, OH 45344
KRUGH WILLIAM R	427-429 S MAIN ST	NEW CARLISLE, OH 45344
COLLINS RANDY W & TERESA ARLENE	417-419 S MAIN ST	NEW CARLISLE, OH 45344
JACKSON CREEK LLC	415 S MAIN ST	NEW CARLISLE, OH 45344
JONES LAWRENCE E & JOY I	421 S MAIN ST	NEW CARLISLE, OH 45344

City Manager Report

March 6, 2023

A. DEPARTMENTAL REPORTS

- The Following Departmental Reports will be given at the next City Council meeting that will be held on Monday, March 20, 2023
 - Finance, Public Service, Fire/EMS, and Police

B. INFORMATIONAL ITEMS

- Discussion Topics
 - 2023 Levy Information
 - Both Health Levy and Fire/EMS Levy Ballot Language Approved
 - D.R.Horton Development
 - In Early TIF Estimates Discussions
 - 2-Hour Parking Limitations Downtown
 - Friendly Reminder:
 - Traffic Study Presentation
 - ◇ Monday, April 3, 2023, at Regular Council Meeting
 - ORD 2022-59 Residential Trash Can Placement - Tabled for 30 Days. Revisit at the April 3, 2023 Meeting.

Attachment Summary:

None

Motion Summary:

None

RESOLUTION 2023-08R

A RESOLUTION AMENDING THE NEW CARLISLE CITY COUNCIL RULES OF COUNCIL

WHEREAS, the Rules of Council establish guidelines for the Council of the City of New Carlisle to conduct its business; and

WHEREAS, said rules require that they be reviewed and adopted by Council in January after Council elections; and

WHEREAS, the Rules of Council were last amended and adopted on January 17, 2023 via Resolution 2023-06R; and

WHEREAS, the Rules of Council may be amended by a two-thirds vote of the Council members present at a regular meeting; and

WHEREAS, City Council would like to amend Paragraph A of Section I of the current Rules of Council for the purpose of changing the start time of regular meetings from 6:30 P.M. to 6:00 P.M.

NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY RESOLVES that Paragraph A of Section I of the New Carlisle City Council Rules of Council be amended as follows:

SECTION I: MEETINGS

A. Regular Meetings

Regular Meetings shall be held every first and third Monday of each month at ~~6:30~~ **6:00** P.M. When the date of a regular meeting is determined to create a conflict, or falls on a holiday observed by the City, Council may, by majority vote, change the date and/or hour and issue proper notices thereof.

Passed this _____ day of _____, 2023.

Mike Lowrey, MAYOR

Emily Berner, Clerk of Council

APPROVED AS TO FORM:

Jacob M. Jeffries, DIRECTOR OF LAW

1st _____

2nd: _____

Eggleston	Y	N
Bahun	Y	N
Lindsey	Y	N
Mayor Lowrey	Y	N
Vice Mayor Grimm	Y	N
Rodewald	Y	N
Cook	Y	N

Totals:

Pass

Fail

Intro: 03/06/23

Action: 03/06/23

Effective: 03/21/23

ORDINANCE 2023-17

AN ORDINANCE AMENDING THE CITY OF NEW CARLISLE’S ESTIMATED RESOURCES AVAILABLE TO APPROPRIATE FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023

WHEREAS, Ordinance 2022-62 adopted the annual appropriations for the City of New Carlisle for the fiscal year beginning January 1, 2023; and

WHEREAS, Resolution 2022-14R, which was certified to the County Auditor, accepted the Official Certificate of Estimated Resources for 2023 and the Tax Year 2023 Rates and Amounts Certification from the Clark County Budget Commission, and authorized the necessary tax levies; and

WHEREAS, on January 24, 2023, the City of New Carlisle received an Amended Certificate of Estimated Resources for 2023 that set forth certain changes to the estimated resources from the real and personal property tax and other revenue sources available to appropriate for the fiscal year beginning January 1, 2023; and

WHEREAS, it is necessary to make adjustments to certain revenue estimates pursuant to subsections (a) and (c) of Section 7.09 of the Municipal Charter.

NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS, that:

Section 1. In accordance with the Amended Certificate of Estimated Resources for 2023, as revised by the Clark County Budget Commission, the estimated resources for the following fund/fund types are hereby increased or decreased by the amounts indicated. These amendments are due to the anticipated and unanticipated changes to the resources available to appropriate for the fiscal year beginning January 1, 2023.

Fund #	Fund Name	Increase/ (Decrease) Other Sources	Increase/ (Decrease) Transfers	DESCRIPTION
101	General Fund	\$ 50,000.00		INCREASE INTEREST INCOME
202	State Highway	\$ -	\$ 217,500.00	TRANSFER IN FROM ARF FOR CURBS AND ADA RAMPS
235	American Rescue Plan	\$ (291,627.00)		REDUCE AMOUNT - NO ADDITIONAL ARF MONIES TO BE RECEIVED
301	General Bond Retirement		\$ (70,000.00)	REDUCE AMOUNT OF GENERAL FUNDS NEEDED
501	Water Revenue Fund		\$ 89,161.00	TRANSFER IN FROM AMERICAN RESCUE FUND
502	Sewer Revenue Fund		\$ (90,000.00)	REDUCE AMOUNT OF AMERICAN RESCUE FUND
510	Cemetery Fund		\$ 10,000.00	TRANSFER IN FROM GENERAL FUND NEEDED
550	Waterworks Cap Imp Fund	\$ (10,000.00)	\$ 5,000.00	REDUCE TRANSFER IN FROM WTP, INCREASE WATER TAP IN FEES
	TOTALS	\$ (251,627.00)	\$ 161,661.00	

Section 2. The Finance Director is hereby authorized and directed to enter the foregoing transactions upon the books and accounts of the City of New Carlisle.

SIGNATURE PAGE TO FOLLOW

Passed this _____ day of _____, 2023.

Mike Lowrey, MAYOR

Emily Berner, CLERK

Approved as to form:

Jake Jeffries, DIRECTOR OF LAW

1st _____

2nd: _____

Eggleston	Y	N
Bahun	Y	N
Lindsey	Y	N
Mayor Lowrey	Y	N
Vice Mayor Grimm	Y	N
Rodewald	Y	N
Cook	Y	N
Totals:		

Pass

Fail

Intro: 02/21/2023

Action: 03/06/2023

Effective: 03/21/2023

ORDINANCE 2023-18

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BY AND BETWEEN THE CITY OF NEW CARLISLE AND THE STATE OF OHIO ATTORNEY GENERAL FOR THE COLLECTION OF DELINQUENT INCOME TAX DEBT

WHEREAS, it has been determined that the Ohio Attorney General’s office can assist with collecting delinquent income tax debt owed to the City; and

WHEREAS, Section 131.02 of the Revised Code permits the City to enter into an agreement with the Ohio Attorney General for the collection of certain debts; and

WHEREAS, pursuant to the terms of the proposed agreement, the Ohio Attorney General’s collection fees and costs will be paid from the amounts collected and assumed by the Ohio Attorney General; and

WHEREAS, utilization of the Ohio Attorney General’s office for the collection of delinquent income tax debt will provide a significant cost savings to the City.

NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS that:

SECTION 1. The City Manager be, and hereby is, authorized and empowered to enter into the attached agreement with the Ohio Attorney General for the collection of delinquent income tax debt.

Passed this _____ day of _____, 2023.

Mike Lowrey, MAYOR

Emily Berner, Clerk of Council

APPROVED AS TO FORM:

Jacob M. Jeffries, DIRECTOR OF LAW

1st _____

2nd: _____

Eggleston	Y	N
Bahun	Y	N
Lindsey	Y	N
Mayor Lowrey	Y	N
Vice Mayor Grimm	Y	N
Rodewald	Y	N
Cook	Y	N

Totals: _____

Intro: 02/21/23
Action: 03/06/23
Effective: 03/21/23

Pass Fail



**DELINQUENT DEBT COLLECTION AGREEMENT
BETWEEN THE
OHIO ATTORNEY GENERAL
AND
CITY OF NEW CARLISLE**

I. PARTIES

1.1. THIS DELINQUENT DEBT COLLECTION AGREEMENT (this “Agreement”) is between the Ohio Attorney General (hereinafter “Attorney General”) and **City of New Carlisle** (Political Subdivision”), collectively referenced herein as the “Parties.”

II. PURPOSE

2.1. The Political Subdivision has requested that the Attorney General undertake, and the Attorney General agrees to undertake, the collection of delinquent debt owed to the Political Subdivision, pursuant to Ohio Revised Code (“O.R.C.”) § 131.02. This Agreement sets forth the rights, duties and obligations of the Parties and the amounts to be charged, collected and allocated between the Political Subdivision and Attorney General. This Agreement will become effective in ten business days once fully executed (“Effective Date”).

III. CERTIFICATION OF DEBT

3.1. The Parties agree that this Agreement shall apply to amounts owed to Political Subdivision that meet the criteria specified on the attached Exhibit “A” (hereinafter the “Debt”). The Parties may, from time to time, change the categories of debt to be certified to the Attorney General by amending Exhibit “A” pursuant to the discretion of the Section Chief of the Collections Enforcement Section of the Attorney General and of the Political Subdivision. Such changes to the categories of debt identified on Exhibit “A” shall not be construed as an amendment or termination of this Agreement.

3.2. Political Subdivision hereby warrants that all Debts certified to the Attorney General for collection pursuant to this Agreement are or will be legally due and owing to Political Subdivision at the time of certification.

3.3. Political Subdivision hereby warrants that it has complied or will comply with all conditions precedent to the legality of certifying the Debt for collection prior to certifying the Debt to Attorney General pursuant to this Agreement.

3.4. Political Subdivision hereby warrants that it has obtained the approval of any person or entity whose approval is required as a condition to entering into this Agreement. True and correct copies of any such approvals shall be attached hereto as Exhibit "B."

3.5. Political Subdivision shall identify and itemize the amounts owed in any bills or mailings issued to the debtors prior to certifying the Debt pursuant to this Agreement. Such itemization shall separately identify penalties, fees, costs and interest, if any, added to the principal balance of the amounts owed. For all Debt certified under this Agreement, Political Subdivision shall maintain account records documenting the principal balance of the amounts owed, as well as any penalties, fees, costs and interest, from the date such debt becomes due and owing to Political Subdivision until the debt is paid in full, resolved or written off as specified herein.

3.5.1 In regards to income tax Debt, Political Subdivision hereby warrants that procedures outlined in R.C. 718.18 were complied with, and that notice to such income tax debtors was provided by certified mail. Within this notice, there must be an indication that this debt will be referred for collection by federal and state tax refund offset.

3.6. Political Subdivision shall make all account records related to the Debt fully available to specified Attorney General personnel in order for the Attorney General to actively identify and pursue collection activities. Political Subdivision shall retain account records related to the Debt so long as the Debt remains outstanding, or until the Debt is resolved or written off as specified herein.

3.7. Political Subdivision agrees and shall forward all payments received on certified Debt to the Attorney General. In the event that Political Subdivision accepts a debtor's payment on Debt certified to the Attorney General, Political Subdivision agrees to promptly notify the Attorney General of the details of the payment, including date, amount, remitter, check or instrument number and forward the payment to the Attorney General.

3.8. In the event that any debtor owing Debt certified to the Attorney General files bankruptcy or other insolvency proceeding, Political Subdivision shall immediately notify the Attorney General of such filing. The Attorney General may cease all collection efforts with regard to such Debt. Political Subdivision remains exclusively and solely responsible for protecting its interest in bankruptcy & other insolvency proceedings. Upon notice that Debt certified to the Attorney General is subject to bankruptcy or other insolvency proceeding, the Attorney General may close the affected accounts and such accounts shall no longer be considered to be certified to the Attorney General. Other insolvency proceeding may include but is not limited to receivership or foreclosure.

IV. ALLOCATION OF FEES AND COLLECTION COSTS

4.1 The client may choose for each account certified to the Attorney General to bear interest (hereinafter "AGI") at the annual rate established by the Tax Commissioner under O.R.C. § 5703.47. Upon recovery AGI is paid to Political Subdivision, not to Attorney General. AGI may be waived, either by Political Subdivision or the Attorney General. Political Subdivision also has discretion to request that AGI not be assessed as an additional obligation of debtors. If this request is indicated, the cost of AGI will not be added to the Debt. The AGI is in place of any separate accruing interest of the Political Subdivision on the Debt once certified to the Attorney General.

4.2 Pursuant to O.R.C. § 131.02, the Attorney General is authorized to deduct the

Attorney General's collection cost from all amounts collected, calculated upon all certified amounts recovered, plus interest and fees accruing from the date of certification to Attorney General. Attorney General collection costs may be waived, either by the Attorney General or jointly by the Political Subdivision and the Attorney General. The Parties agree that the Attorney General will pass all Attorney General collection costs on to the debtor as an additional obligation of debtor. The Attorney General collection cost is 10% pursuant to O.R.C. § 109.08.

4.3 The Attorney General may also hire third party vendors to collect claims for Political Subdivision and to pay such third party vendors for their services ("TPV Fees") from funds collected by them. The Attorney General will assign debt to TPVs in accordance with an established assignment strategy. TPV fees shall be paid at rates set by the Attorney General. The Parties agree that the Attorney General will pass all TPV Fees on to debtors as an additional obligation of the debtors.

4.4 The Attorney General may appoint special counsel to collect claims for Political Subdivision and to pay such special counsel for their services ("Special Counsel Fees") from funds collected by them. The Attorney General will assign Debt to Special Counsel in accordance with an established assignment strategy. Special Counsel Fees shall be paid at rates set by the Attorney General. The Parties agree that the Attorney General will pass all Special Counsel Fees on to debtors as an additional obligation of the debtors.

4.5 Political Subdivision may execute a different Service Level Agreement for each category of debt certified pursuant to this Agreement, and each Service Level Agreement shall be attached as additional pages of Exhibit "C."

4.6 Political Subdivision may change or terminate the Service Level Agreement(s) attached hereto as Exhibit "C" upon appropriate written notice as specified therein, and any change or termination of the Service Level Agreement(s) shall not be construed as an amendment or termination of this Agreement.

V. DISBURSEMENT PROCESS/PAYMENT OF COLLECTION COSTS

5.1 On a weekly basis the Attorney General shall disburse to the Political Subdivision the full amounts collected on the Debt minus any applicable collection costs or fees as outlined herein. The Political Subdivision and Attorney General shall have the authority to settle or compromise any account in the Debt which is agreed upon by the Political Subdivision and Attorney General as payment in full based on the best interests of the Parties. At the time of the Attorney General's disbursement to the Political Subdivision, the Political Subdivision will receive the amount collected minus the Attorney General's collection costs and any applicable TPV Fees or Special Counsel Fees pursuant to this Agreement.

5.2 The Parties agree that court cases and judgment liens shall not be dismissed or deemed satisfied without the Political Subdivision's consent that all the fees have been paid by the debtor liable for costs under the court case and/or judgment lien.

5.3 Disbursements to the Political Subdivision of amounts due hereunder may be made via state check or by Automated Clearing House ("ACH") deposit, at the Attorney General's discretion. Political Subdivision acknowledges that the Attorney General prefers to remit all payments by ACH deposit, and Political Subdivision agrees to execute an ACH payment authorization in accordance with the form attached hereto as Exhibit "D" within thirty (30) days after the Effective Date of this Agreement.

VI. CERTIFICATION AND CANCELLATION OF DEBT

6.1. Political Subdivision will certify only Debt to the Attorney General which is past due and final, in accordance with O.R.C. § 131.02(A). O.R.C. § 131.02 provides that the Attorney General and Political Subdivision may determine an appropriate time beyond the regular 45-day requirement to certify delinquent debt. Such exceptions may be made as the Attorney General and the Political Subdivision mutually agree are appropriate.

6.2. The Parties acknowledge and agree that O.R.C. §131.02 empowers the Attorney General to, with the consent of the chief officer of an entity reporting a debt, cancel the debt or cause the same to be canceled. O.R.C. § 131.02(F)(2) provides a general statute of limitations of forty (40) years from the date of certification to collect claims. O.R.C. § 131.02(F)(1) allows the Attorney General to cancel uncollectible claims earlier, with the approval of the Political Subdivision. Political Subdivision may execute the Service Level Agreement attached hereto as Exhibit "C" to designate the preference of Political Subdivision. If no preference is indicated, the write off period will be ten (10) years after the date of certification. Exceptions revising the write off period for specified claims or categories of debt may be agreed to by the Attorney General and the Political Subdivision as amendments to the Service Level Agreement, and such amendments shall not be construed as an amendment or termination of this Agreement.

VII. CONFIDENTIALITY

7.1. Any confidential debtor information made available to Attorney General in the course of performance of this Agreement shall be used only for the purpose of carrying out the provisions of this Agreement pursuant to the Attorney General's statutory obligations. Additionally, the Attorney General shall not sell any debtor information to any third parties.

VIII. LIABILITY

8.1. Each Party shall be responsible for its own acts and omissions and those of its officers, employees and agents.

IX. CHOICE OF LAW

9.1. This Agreement is made and entered into in the State of Ohio and shall be governed and construed in accordance with the laws of Ohio. Any legal action or proceeding related to this Agreement shall be brought in Franklin County, Ohio, and the Parties irrevocably consent to jurisdiction and venue in Franklin County, Ohio.

X. COMPLIANCE WITH LAW

10.1. The Parties, in the execution of their respective duties and obligations under this Agreement, agree to comply with all applicable federal, Ohio and local laws, rules, regulations and ordinances.

XI. RELATIONSHIP OF THE PARTIES

11.1. It is fully understood and agreed that a Party's personnel shall not at any time, or for any purpose, be considered as agents, servants, or employees of the other Party.

11.2. Except as expressly provided herein, neither Party shall have the right to bind or obligate the other Party in any manner without the other Party's prior written consent.

XII. MODIFICATION

12.1. This Agreement constitutes the entire agreement between the Parties, and any changes or modifications to this Agreement shall be made and agreed to by the Parties in writing.

XIII. TERMINATION/EXPIRATION

13.1. Either party may terminate this Agreement for any reason by giving written notice, at least forty-five (45) days in advance of the date of termination, to the other Party via e-mail, facsimile transmission, mail, certified mail or personal delivery to the other Party's signatory to this Agreement.

13.2. If there is pending litigation in connection with any Debt, termination shall not be effective until the Attorney General terminates the legal representation in the litigation matter. The Attorney General shall be compensated for Debt collected and received prior to termination. The Parties agree to cooperate so as to effectuate a speedy and efficient transfer of the work to Political Subdivision.

XIV. SIGNATURES

14.1. The Parties may submit their signatures to the Agreement in counterparts, which taken together will constitute a valid enforceable Agreement. Facsimile or copied signatures shall be considered valid and enforceable.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed, as of the day and year last written below.

ACCEPTED AND APPROVED:

CITY OF NEW CARLISLE

_____ Date _____

OHIO ATTORNEY GENERAL
DAVE YOST

By: _____ ,

Lucas Ward Date _____
Section Chief

**DELINQUENT DEBT COLLECTION AGREEMENT
BETWEEN THE
OHIO ATTORNEY GENERAL
AND
CITY OF NEW CARLISLE**

EXHIBIT "A"

The Parties agree that the following categories of debt may be certified to the Attorney General. All debt must be final with a minimum principal amount of \$100.00.

Examples of Categories of Debt to be certified:

- (a) Statutory fees as assessed by a Political Subdivision;
- (b) Civil court costs; and
- (c) Criminal court costs so long as the defendant is not incarcerated on the date the debt is certified.
- (d) Debt must be declared final with no chance of appeal or no future changes to the amount of the debt sent to the Attorney General for collection purposes.
- (e) Debt from a school system must be as a result of a contractual agreement.

Examples of Categories of Debt NOT to be certified:

- (a) Debt that is against a juvenile.
- (b) Debt against a presently incarcerated individual.
- (c) Debt that is involved in a bankruptcy, rental or foreclosure action.
- (d) Debt from any type of utility.
- (e) Debt resulting from code enforcement violations.
- (f) Debt that results from a red light camera violation/citation.

PLEASE NOTE: THE ATTORNEY GENERAL'S OFFICE RESERVES THE RIGHT TO DECLINE ACCEPTANCE OF ACCOUNTS BASED ON QUANTITY, VALUE, OR DEBT TYPE

**PLEASE LIST THE TYPE OF DEBTS YOU WILL BE CERTIFYING TO THE
ATTORNEY GENERAL'S OFFICE:**

Delinquent Municipal Income Taxes

**DELINQUENT DEBT COLLECTION AGREEMENT
BETWEEN THE
OHIO ATTORNEY GENERAL
AND
CITY OF NEW CARLISLE**

EXHIBIT "B"

The Delinquent Debt Collection Agreement Between the Ohio Attorney General and

City of New Carlisle , executed by _____ ,

, on _____, is hereby ratified and approved.

POLITICAL SUBDIVISION AUTHORITY (I.E. COUNTY COMMISSIONERS, COUNCIL)

_____, _____,
Date

_____, _____,
Date

_____, _____,
Date

POLITICAL SUBDIVISION LEGAL AUTHORITY (I.E. PROSECUTOR, LAW DIRECTOR)

_____, _____,
Date

**DELINQUENT DEBT COLLECTION AGREEMENT
BETWEEN THE
OHIO ATTORNEY GENERAL
AND**

CITY OF NEW CARLISLE

**EXHIBIT “C”
SERVICE LEVEL AGREEMENT**

The following Service Level Agreement is made between the Attorney General of Ohio, Collections Enforcement Section (“AGO”) and **City of New Carlisle** (“CLIENT”), collectively referenced herein as the “Parties”. CLIENT authorizes and the Parties to this Service Level Agreement agree to the following **(if no line is checked, the Parties’ agreement is indicated by asterisk, which is the default agreement)**:

Attorney General Interest _____ AGO is granted the authority to add AGI to the
(AGI) amount owed by the debtor to be paid to the client (see section
IV (4.1) of the Debt Collection Agreement.

AGI X AGO is NOT granted the authority to add AGI to the
amount owed by the debtor to be paid to the client.

Write Off Period: X 10 years*
 _____ Years (insert number of years less than 10)

Either Party may terminate this Service Level Agreement for any reason by giving written notice, at least forty-five (45) days in advance of the date of termination to the other Party, via e-mail, facsimile transmission, regular U.S. mail, certified mail or personal delivery to the other Party’s signatory to this Agreement. Regardless of the termination of this agreement, CLIENT is still legally obligated to certify its outstanding Debt pursuant to the Delinquent Debt Collection Agreement between the Parties, until that Agreement is separately terminated. This Service Level Agreement shall remain and continue in full force and effect unless modified or terminated in writing.

IN WITNESS WHEREOF, the Parties hereto have caused this Service Level Agreement to be executed, as of the day and year last written below.

ACCEPTED AND APPROVED:

CITY OF NEW CARLISLE

_____ ,
Date

OHIO ATTORNEY GENERAL
DAVE YOST

By: _____ ,
Lucas Ward
Section Chief
Date

ORDINANCE 2023-19

AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF AN AGENCY FUND NAMED "CREDIT MEMO CLEARING FUND" FOR THE PURPOSE OF HOLDING UTILITY BILL OVERPAYMENTS AND APPLYING THOSE CREDITS BACK TO CUSTOMER ACCOUNTS

WHEREAS, the City of New Carlisle is in the process of upgrading its utility billing system to a system that will treat any overpayment as a credit memo instead of as utility revenue; and

WHEREAS, to maintain the financial integrity of the City's various funds when utility customers overpay, the City of New Carlisle must have a method of processing overpayments; and

WHEREAS, this type of fund is authorized pursuant to Section 5705.12 of the Revised Code.

NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS, that:

SECTION 1. In accordance with Section 5705.12 of the Revised Code, the Director of Finance is authorized to establish a fund named "Credit Memo Clearing Fund."

SECTION 2. The purpose of this fund is to serve as a clearing account for utility account overpayments and to allow any overpayment to be credited back to the applicable customer's account when a new utility bill is established.

SECTION 3. No interest earned may be credited to this fund.

SECTION 4. A copy of this Ordinance shall be forwarded to the Auditor of State.

Passed this _____ day of _____, 2023

Mike Lowrey, MAYOR

Emily Berner, CLERK

Approved as to form:

Jake Jeffries, DIRECTOR OF LAW

1st _____

2nd: _____

Eggleston	Y	N
Bahun	Y	N
Lindsey	Y	N
Mayor Lowrey	Y	N
Vice Mayor Grimm	Y	N
Rodewald	Y	N
Cook	Y	N

Totals:		
	Pass	Fail

Intro: 02/21/2023
Action: 03/06/2023
Effective: 03/21/2023

ORDINANCE 2023-20

AN ORDINANCE AUTHORIZING THE EXPENDITURE OF FUNDS IN EXCESS OF THIRTY-FIVE THOUSAND DOLLARS (\$35,000) FOR A WASTEWATER TREATMENT PLANT EXPANSION STUDY

WHEREAS, the City of New Carlisle is currently receiving heightened interest regarding future residential developments; and

WHEREAS, it is paramount that the City take the necessary steps to ensure that the impact of additional wastewater flows from future residential developments will not be detrimental to the City, and be informed about its options for expanding the wastewater treatment plant; and

WHEREAS, the City approached Burgess & Niple, Inc. regarding a wastewater treatment plant expansion study; and

WHEREAS, because of the proposed residential developments, a wastewater treatment plant expansion study is warranted; and

WHEREAS, pursuant to the attached contract, the total price of the wastewater treatment plant expansion study will not exceed \$44,000; and

WHEREAS, this matter is before City Council due to the cost of the study exceeding the City Manager’s monetary threshold.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW CARLISLE, OHIO that:

Section 1: The City Manager, or the Director of Public Service/Assistant City Manager as the City Manager’s designee, be, and he hereby is, authorized to sign the attached agreement with Burgess & Niple, Inc. for a wastewater treatment plant expansion study.

Passed this _____ day of _____, 2023.

Mike Lowrey, MAYOR

Emily Berner, CLERK

APPROVED AS TO FORM:

Jacob M. Jeffries, DIRECTOR OF LAW

1st _____

2nd: _____

Eggleston	Y	N
Bahun	Y	N
Lindsey	Y	N
Mayor Lowrey	Y	N
Vice Mayor Grimm	Y	N
Rodewald	Y	N
Cook	Y	N

Totals:

Pass

Fail

Intro: 03/06/2023
Action: 03/20/2023
Effective: 04/04/2023

Mr. Howard Kitko
Utilities Director
City of New Carlisle
331 South Church Street
New Carlisle, OH 45344

Re: Professional Engineering Services Proposal
New Carlisle WWTP Expansion Plan

February 20, 2023

Dear Mr. Kitko:

Burgess & Niple, Inc. (B&N) is pleased to submit this proposal to provide engineering services for the above referenced project. The following describes our understanding of the scope of work and anticipated schedule to provide these services and presents our proposed method and amount of compensation to provide the services.

SCOPE OF SERVICES

Based on our recent scoping discussion and our August 25, 2021 site visit to your wastewater treatment plant (WWTP), B&N understands this project generally consists of developing an expansion plan to identify improvements necessary to upgrade capacity the primary, secondary, and tertiary liquid treatment train facilities, along with upgrading the solids handling facilities, including aerobic digester and sludge dewatering.

The basis for this plan will be future build-out flows anticipated from currently proposed development over a 10-year period. The goal of the project is to develop a plan the City can follow over a decade-long period to upgrade the WWTP, in providing long term flexibility, reliability, and redundancy to effectively treat build-out flows and meeting anticipated future permit limit changes. Phasing of improvements will be identified and recommended based on projected construction cost, constructability, and treatment capacity considerations.

B&N is proposing to provide the following professional services to the City for this project.

1. **Review operating data, record drawings, and City development plans.** The City shall provide WWTP operating and process control data from 2022. The City shall also provide to total number of equivalent dwelling units (EDUs) anticipated to be added to the collection system to estimate future build-out wastewater flows to the WWTP. Along with this, the City shall provide any other economic development or associated planning materials to document the future build-out flow projections.
2. **Develop hydraulic profiles.** Verify the existing hydraulic profile through the WWTP to define the head available for modifications to the treatment processes. Develop a revised hydraulic profile showing the proposed treatment process modifications are viable hydraulically.
3. **Develop treatment alternatives.** Verify volumes and develop activated sludge treatment train alternatives (replacing RBCs and upgrading secondary clarifier flow split and settled return/waste sludge management) and

costs. Perform process calculations, alternative analysis, and cost estimating to develop and evaluate alternatives. Document alternatives with redline markups showing proposed modifications on WWTP record drawings.

4. **Develop sequential expansion plan.** Coupled with recommended secondary treatment approach, develop plan for primary clarifiers, tricking filters, intermediate clarifier, and tertiary treatment (filters and disinfection) for stepwise modifications as development progresses. Develop a feasible sequence of construction to complete the conversion of the secondary treatment system and document it in the report.
5. **Size digester aeration system and develop costs.** Determine the blower and aeration piping sizing required to provide dedicated, local air service to the existing aerobic digester with a pair of positive displacement blowers pad mounted near the aerobic digester.
6. **Conduct meetings to review WWTP alternatives, recommended approach, and final plan.** Meetings will correspond with 30-, 60-, and 90-percent complete levels of the project. The final planning document shall consist of a brief write up summarizing alternatives evaluated and recommended alternatives. Plan sheets and costs estimates defining the recommended alternatives will be included.

OWNER'S RESPONSIBILITIES

The owner shall be responsible for the following:

- A. *Providing developer materials documenting initial and buildout levels of proposed construction projects.*
- B. *Providing WWTP operating and process control data and other requested WWTP information as needed.*

SCHEDULE

B&N shall complete its services within a six month period, following approval of this letter proposal and notice to proceed on the project tasks.

COMPENSATION FOR SERVICES

This project will be managed and led by Sam Swanson and technical support will be provided by Jeff Eilers and others within B&N. We have estimated the hours required to conduct the work and produce the deliverables defined above. B&N is proposing to provide professional services to the City of New Carlisle on an hourly rate basis plus reimbursable expenses, not-to-exceed fee of \$44,000. Invoices will be issued monthly. Payment to B&N is due upon receipt of invoice.

PROPOSAL VALIDITY

This proposal is valid provided we receive your authorization to proceed with 60 days from the date of this proposal.

TERMS AND CONDITIONS

Terms and Conditions are given in Attachment A, which shall be incorporated into this proposal as if written herein and will become part of this Proposal when fully executed.

If you are in agreement with the above stated terms, please sign below and return an electronic copy which will serve as our notice-to-proceed.

Thank you for the opportunity to respond to your engineering needs. If you have any questions, please do not hesitate to contact us.

Very truly yours,

BURGESS & NIPLÉ, INC.

CITY OF NEW CARLISLE

Printed Name
Project Manager

Signature

Signature
Project Manager

Printed Name

Vice President Signature

Date



ATTACHMENT A
TERMS AND CONDITIONS

1. These Terms and Conditions are attached to and are part of this Proposal, and is considered to be the Agreement between the Owner and B&N upon signature by both parties.
2. **Changes to Agreement.** Services beyond those stated herein can be provided by B&N upon written authorization of an addition fee and associated scope of additional services.
3. **Independent Contractor.** It is expressly understood and agreed that in the performance of their services under this Agreement, B&N shall not be considered an agent, i.e., an employee of the Owner, but shall be considered an independent contractor.
4. **Standard of Care.** The standard of care for all professional and related services performed or furnished by B&N under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. B&N makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by B&N.
5. **Insurance.** B&N will maintain insurance coverage for workers compensation, employer's liability, general liability, automobile liability, and professional liability throughout the time of this agreement. Certificates of insurance will be provided upon request.
6. **Indemnification.** To the fullest extent permitted by law, B&N agrees to indemnify the Owner and the Owner's officers, directors, employees, and representatives, from and against all losses, damages, and judgements arising from claims by third parties, including reasonable attorney's fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error, or omission of the indemnifying party or any of the indemnifying party's officers, directors, members, partners, agents, employees, or subconsultants in the performance of services under this agreement. If claims, losses, damages, and judgements are found to be caused by the joint or concurrent negligence of Owner and B&N, they shall be borne by each party in proportion to its negligence.
7. **Limitation of Liability.** To the fullest extent permitted by laws and regulations, and notwithstanding any other provision of this Agreement, Owner agrees that the total liability, in the aggregate, of B&N and B&N's officers, directors, members, partners, agents, employees, and subconsultants, to the Owner, its subsidiary and/or affiliated companies and their respective officers, directors, employees, agents, and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, damages whatsoever arising out of, resulting from or in any way relating to B&N's services, this Agreement or any Addenda, from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of B&N or B&N's officers, directors, members, partners, agents, employees, or subconsultants, shall be limited to the total amount of compensation received by B&N or \$50,000, whichever is greater.
8. **Suspension of Services.** If Owner fails to make any payment due to B&N for services and/or expenses within 60 days after receipt of B&N's invoice, B&N may, after giving seven days written notice to Owner, suspend services under this Agreement until B&N has been paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against B&N for any such suspension.
9. **Termination.**
 - a. The obligation to continue performance under this Agreement may be terminated:
 - i. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay B&N for its services is a substantial failure to perform and a basis for termination.
 - b. By B&N:
 - i. Upon seven days written notice if owner demands that B&N furnish or perform services contrary to B&N's responsibilities as a licensed professional; or
 - ii. Upon seven days written notice if B&N's services for the Project are delayed for more than 90 days for reasons beyond B&N's control.
 - iii. B&N shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Item 9.a.i.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the

same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

- ii. For convenience, by Owner effective upon B&N's receipt of written notice from Owner.
- b. The terminating party may set the effective date of termination at a time up to 30 days later than otherwise provided to allow B&N to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- c. In the event of any termination, B&N will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

10. **The Parties Further Agree:**

- a. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement that is not contained herein shall be valid or binding.
- b. Neither this Agreement nor any duties or obligations hereunder shall be assignable by a party without the prior written consent of the other party. In the event of an assignment by B&N to which New Carlisle has consented, the assignee or a legal representative shall agree in writing with the New Carlisle to personally assume, perform, and be bound by the covenants, obligations, and agreements contained herein.
- c. Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, legal representatives, successors, and assigns of the respective parties.
- d. The validity of this Agreement and of any of its terms or provisions as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Ohio.
- e. This Agreement may only be amended by the mutual agreement of the parties hereto in writing.
- f. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.
- g. That, in the hiring of employees for the performance of work under the contract or in any subcontract, no contractor or subcontractor, by reason or race, color, religion, sex, age, disability, or military status as defined in section 4112.01 of the Ohio Revised Code, national origin or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and able to perform the work to which the agreement relates; and

That no contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the agreement on account of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Ohio Revised Code, national origin, or ancestry.

- h. By signing this Agreement, both parties certify that they are currently in compliance with and will continue to adhere to the requirements of the Ohio Ethics Law as provided by Ohio Revised Code Sections 102.03 and 102.04.
- i. Both parties agree that in the performance of this agreement there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, or any other factor specified in the Civil Rights Act of 1964 and subsequent amendments. Also included is the Americans with Disabilities Act. It is further agreed that both parties will fully comply with all applicable Federal and State laws regarding such discrimination and the right to and method of appeal will be made available to all persons served pursuant to the terms of this agreement.
- j. This Agreement shall not be construed as creating a partnership between the parties hereto.

ORDINANCE 2023-21E

AN ORDINANCE AMENDING SECTION 278.08 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE TO ADDRESS THE MEMBERSHIP OF THE PARKS AND RECREATION BOARD, AND DECLARING AN EMERGENCY

WHEREAS, Chapter 278 of the Codified Ordinances of the City of New Carlisle sets forth the bylaws of the Parks and Recreation Board; and

WHEREAS, the City of New Carlisle is having difficulties with finding citizens to volunteer for various City boards, including the Parks and Recreation Board; and

WHEREAS, not having quorums on these boards presents operational challenges for the City, its residents and its business owners; and

WHEREAS, due to the issues described above, the City of New Carlisle desires to amend Paragraph (a) of Section 278.08 for the purpose of reducing the number of members of the Parks and Recreation Board.

NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS that:

Section 1. Paragraph (a) of Section 278.08 of the Codified Ordinances of the City of New Carlisle be amended as follows:

278.08 MEMBERSHIP.

(a) The Board shall be comprised of ~~five~~ **three** members appointed by the City Council. Board members will be selected based on the following factors:

- (1) Residency: must be a legal resident of the City of New Carlisle;
- (2) Age: must be at least 18 years of age;
- (3) Qualifications: must demonstrate qualifications through a resume and interview;
- (4) Willingness to serve: must have adequate time to donate to Board service.

Section 2. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the health and property of the City, and for the further reason that the Parks and Recreation Board cannot currently operate due to its lack of members, and this ordinance shall be deemed effective immediately upon the affirmative vote of at least six (6) City Council members.

SIGNATURE PAGE TO FOLLOW

Passed this _____ day of _____, 2023.

Mike Lowrey, MAYOR

Emily Berner, CLERK

APPROVED AS TO FORM:

Jacob M. Jeffries, DIRECTOR OF LAW

1st _____

2nd: _____

Eggleston	Y	N
Bahun	Y	N
Lindsey	Y	N
Mayor Lowrey	Y	N
Vice Mayor Grimm	Y	N
Rodewald	Y	N
Cook	Y	N

Totals:

Pass

Fail

Intro: 03/06/2023

Action: 03/06/2023

Effective: 03/06/2023