

**CITY OF MAPLE HEIGHTS
COUNCIL MEETING AGENDA**

Maple Heights Senior Center - 7:00 PM

September 18, 2024

- | | |
|--|---|
| 1. Caucus: 6:30 pm | All Members of Council |
| 2. Call to Order: | Council President Ron Jackson |
| 3. Invocation/Pledge of Allegiance: | Councilman Stafford L. Shenett, District 1 |
| 4. Roll Call: | Council Clerk Leonette Cicirella Johnson |
| 5. Addendum: | |
| 6. Approval of Minutes: | September 4, 2024 Regular Meeting of Council |
| 7. Communications: | |
| 8. Council Committee Reports: | |
| 9. Department Reports: | |
| 10. Comments from City Residents: | Per Council Rule 220.01(c)(9) |
| 11. Legislation: | |

2024-76 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE THE REAL PROPERTY LOCATED AT 5391 LEE ROAD (PPN 781-13-070) FOR A TOTAL AMOUNT NOT TO EXCEED ONE HUNDRED THIRTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$135,000.00), PLUS CLOSING COSTS, AND DECLARING AN EMERGENCY.

Reading 2 (Blackwell)

2024-77 A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE CUYAHOGA COUNTY BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE CUYAHOGA COUNTY FISCAL OFFICER, AND DECLARING AN EMERGENCY.

Reading 1 (Blackwell)

2024-78 AN ORDINANCE PROVIDING FOR AMENDMENT NO. 2 DATED SEPTEMBER 18, 2024 OF THE ANNUAL APPROPRIATIONS FOR THE FISCAL YEAR 2024, AND DECLARING AN EMERGENCY.

Reading 1 (Blackwell)

2024-79 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO PROVIDE FOR THE 2024 CONCRETE ROADWAY REPAIR PROGRAM IN THE CITY OF MAPLE HEIGHTS, AND DECLARING AN EMERGENCY.

Reading 1 (Blackwell)

2024-80 A RESOLUTION AUTHORIZING CHANGE ORDER NO. 3 FOR ECLIPSE CO., LLC, INCREASING THE CONTRACT BY \$20,121.14, FOR THE SCHREIBER ROAD SEWER IMPROVEMENTS & SSO ELIMINATION PROJECT IN THE CITY OF MAPLE HEIGHTS, AND DECLARING AN EMERGENCY.

Reading 1 (Blackwell)

2024-81 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PURCHASE AGREEMENT WITH THE SUTPHEN CORPORATION, THROUGH SOURCEWELL'S COOPERATIVE PURCHASING PROGRAM, FOR THE PURCHASE OF A SUTPHEN HEAVY DUTY CUSTOM PUMPER ON A SUTPHEN MONARCH CHASSIS, TO BE BUILT WITHIN 36-38 MONTHS AFTER AGREEMENT EXECUTION, IN THE TOTAL AMOUNT OF EIGHT HUNDRED SIXTY-NINE THOUSAND, EIGHT HUNDRED SIXTY-ONE DOLLARS AND ZERO CENTS (\$869,861.00), AND DECLARING AN EMERGENCY.

Reading 1 (Blackwell)

2024-82 AN ORDINANCE SETTING THE SALARIES OF COUNCIL MEMBERS EFFECTIVE SEPTEMBER 1, 2024, AND DECLARING AN EMERGENCY.

Reading 1 (Blackwell)

2024-83 AN ORDINANCE FIXING THE SALARY OF THE SAFETY DIRECTOR EFFECTIVE JANUARY 1, 2025, AND DECLARING AN EMERGENCY.

Reading 1 (Finance Committee)

2024-84 A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A QUIT-CLAIM DEED TRANSFERRING A VACANT LOT ON KOHOUT STREET (PPN 784-30-080) FROM THE MAPLE HEIGHTS LAND REUTILIZATION PROGRAM TO U.S. BANK NATIONAL ASSOCIATION, AND DECLARING AN EMERGENCY.

Reading 1 (Blackwell)

2024-85 AN ORDINANCE APPROVING THE PLAN OF OPERATION AND GOVERNANCE FOR THE NOPEC OPT-IN GAS AGGREGATION PROGRAM FOR THE PURPOSE OF JOINTLY ESTABLISHING AND IMPLEMENTING AN OPT-IN GAS AGGREGATION PROGRAM AS A NOPEC MEMBER, AND DECLARING AN EMERGENCY.

Reading 1 (Blackwell)

12. **Expenditures over \$25,000.00:**
13. **Mayor's Report:**
14. **Council/Council President's Reports:**
15. **Adjournment:**

ORDINANCE NO.: 2024-76

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

CO-SPONSORED BY:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE THE REAL PROPERTY LOCATED AT 5391 LEE ROAD (PPN 781-13-070) FOR A TOTAL AMOUNT NOT TO EXCEED ONE HUNDRED THIRTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$135,000.00), PLUS CLOSING COSTS, AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Police Chief have advised Council that the City has been offered the opportunity to purchase the real property located at 5391 Lee Road (PPN 781-13-070), which is adjacent to the Police Department, for an amount not to exceed \$135,000.00; and

WHEREAS, the Mayor and Police Chief have recommended that Council authorize the Mayor to purchase the real property located at 5391 Lee Road to provide additional space to be used by the Police Department and other City Departments for municipal purposes; and

WHEREAS, the Mayor has applied for a grant of ARPA funds from Cuyahoga County in the amount of \$100,000.00 to be used towards the purchase of the real property located at 5391 Lee Road.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio that:

Section 1. The Mayor is hereby authorized to enter into an agreement to purchase the real property located at 5391 Lee Road (PPN 781-13-070) to be used by the Police Department and other City Departments for municipal purposes, for an amount not to exceed \$135,000.00, plus closing costs.

Section 2. In the event that the Mayor's application for a grant of ARPA funds from the County is awarded, Council hereby authorizes the Finance Director to use any ARPA funds awarded towards the purchase price of the real property located at 5391 Lee Road with the balance to be paid out of the City's General Fund.

Section 3. To the extent not already done, the Finance Director is hereby authorized to appropriate a sum sufficient to cover the cost of the amounts set forth in Sections 1 and 2 above.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5. This Ordinance is hereby determined to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Maple Heights and for the further reason that the immediate action is necessary to insure the City's offer is accepted and the real property is taken off of the market, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from the earliest period allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

RESOLUTION NO.: 2024-77

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE CUYAHOGA COUNTY BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE CUYAHOGA COUNTY FISCAL OFFICER, AND DECLARING AN EMERGENCY.

WHEREAS, this Council, in accordance with the provisions of law, has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1, 2025; and

WHEREAS, the Budget Commission of Cuyahoga County has certified its action thereon to this Council together with an estimate by the County Fiscal Officer of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within, the ten-mill tax limitation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio that:

Section 1. The amounts and rates, as determined by the Budget Commission in its certification, be and the same are hereby accepted.

Section 2. There be and is hereby levied on the tax duplicate of the City the rate of each tax necessary to be levied within and without the ten-mill limitation as provided on Schedules "A" and "B" attached hereto.

Section 3. The Clerk of Council is hereby authorized to certify a copy of this Resolution and the Finance Director is authorized to forward said copy to the Fiscal Officer of Cuyahoga County.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5. This Resolution constitutes an emergency measure necessary for the public peace, safety and general welfare of the City and for the further reason to immediately comply with the mandates of the County Fiscal Officer to file by September 30, 2024, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

SCHEDULE A
SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET
COMMISSION AND COUNTY FISCAL OFFICER'S ESTIMATED TAX RATES

FUND	Amount to Be Derived from Levies Outside 10 M. Limitation	Amount Approved by Budget Com- mission Inside 10 M. Limitation	County Fiscal Officer's Estimate of Tax Rate to be Levied	
			Inside 10 M. Limit	Outside 10 M. Limit
	Column II	Column IV	V	VI
General Fund				10.50
General Bond Retirement Fund			2.60	
Police Pension			0.30	
Park Fund				
Senior Center Fund				1.30
Fire Pension Fund			0.30	
Police Fund				2.00
Fire Fund				2.00
Street Lighting				1.00
TOTAL	\$0	\$0	3.20	16.80

SCHEDULE B

LEVIES OUTSIDE 10 MILL LIMITATION, EXCLUSIVE OF DEBT LEVIES

FUND	Maximum Rate Authorized to Be Levied	Co. Fiscal Officer's Est. of Yield of Levy (Carry to Schedule A, Column II)
GENERAL FUND:		
Current Expense Levy authorized by voters on for not to exceed years. ,20		
Current Expense Levy authorized by voters on for not to exceed years. ,20		
Total General Fund outside 10m. Limitation.		
Park Fund: Levy authorized by voters on for not to exceed years. ,20		
Recreation Fund: Levy authorized by voters on for not to exceed years. ,20		
Fund: Levy authorized by voters on for not to exceed years.		
Fund: Levy authorized by voters on for not to exceed years. ,20		
Fund: Levy authorized by voters on for not to exceed years. ,20		
Fund: Levy authorized by voters on for not to exceed years. ,20		

and be it further

RESOLVED, That the Clerk of this Council be and he is hereby directed to certify a copy of this

Resolution to the Fiscal Officer of said County.

Mr./Mrs. _____ seconded the Resolution and the roll being called

upon its adoption the vote resulted as follows:

Mr./Mrs. _____

Mr./Mrs. _____

Mr./Mrs. _____

Adopted the _____ day of _____, 20 _____.

Attest:

President of Council

Clerk of Council

ORDINANCE NO. 2024-78

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

CO-SPONSORED BY:

AN ORDINANCE PROVIDING FOR AMENDMENT NO. 2 DATED SEPTEMBER 18, 2024 OF THE ANNUAL APPROPRIATIONS FOR THE FISCAL YEAR 2024, AND DECLARING AN EMERGENCY.

WHEREAS, Council adopted a municipal budget pursuant to **Ordinance No. 2023-108** for the fiscal year January 1, 2024 through December 31, 2024 which was first amended by **Ordinance No. 2024-58**, setting forth certain annual appropriations; and

WHEREAS, the Finance Director has recommended to Council that amendments to the annual appropriation ordinance, as set forth in the attached Exhibit A dated September 18, 2024, which is incorporated as if fully rewritten herein, are necessary to account for certain additional expenditures.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, that:

Section 1. The annual appropriations of the City, established by **Ordinance No. 2023-108**, as first amended by **Ordinance No. 2024-58**, shall be further amended by the Council, as recommended by the Finance Director, in accordance with Amendment No. 2 dated September 18, 2024, which is attached hereto as Exhibit A (hereinafter referred to as "Exhibit A-Amendment No. 2 dated September 18, 2024") and incorporated as if fully rewritten herein, and such amended budget is hereby adopted.

Section 2. To provide for operating expenditures during the fiscal year ending December 31, 2024, the amended appropriations, as recommended by the Finance Director in Exhibit A-Amendment No. 2 dated September 18, 2024, are hereby made and the Finance Director is authorized to prepare and submit the amended appropriations set forth in Exhibit A-Amendment No. 2 dated September 18, 2024, to the Cuyahoga County Fiscal Officer.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in open meetings of this Council, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including the City's Charter and Codified Ordinances and Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance is hereby determined to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of the City and for the further reason that the amended appropriations must be immediately made to ensure the financial integrity of the City's budget and presented to the County Fiscal Officer. It

shall therefore become effective upon its passage by the affirmative vote of not less than five (5) members of Council and approval by the Mayor; otherwise, it shall become effective at the earliest time allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

RESOLUTION NO.: 2024-79

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

CO-SPONSORED BY:

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO PROVIDE FOR THE 2024 CONCRETE ROADWAY REPAIR PROGRAM IN THE CITY OF MAPLE HEIGHTS, AND DECLARING AN EMERGENCY.

WHEREAS, the Service Director had informed the Mayor and the Engineer that the pavement conditions on various streets located within the City of Maple Heights makes it necessary to perform repairs, reconstruction and preventative maintenance on various streets within the City; and

WHEREAS, Council deemed it necessary and in the best interests of the health, safety and welfare of all of the City residents to perform routine repairs and preventative maintenance on various streets within the City of Maple Heights; and

WHEREAS, on March 16, 2022, by **Resolution No. 2022-26**, Council authorized the City Engineer to coordinate with the Service Director to update the street inventory which rates pavement conditions for streets based on ODOT's PCR Manual for the Mayor and Council's use in developing and authorizing a road repair program in the City of Maple Heights; and

WHEREAS, on March 6, 2023, the Cuyahoga County Department of Public Works informed the Mayor that the Department will reimburse the City for up to \$92,400.00 in material costs expended on County Routes included under a road repair program in the City of Maple Heights; and

WHEREAS, the City Engineer had updated the street inventory which rates pavement conditions, including preliminary estimate of cost for pavement repairs, and made a recommendation for the streets, which were determined to be in greatest need of repair, for consideration by the Mayor and Council in authorizing a road repair program; and

WHEREAS, on January 31, 2024, the Cuyahoga County Executive informed the Mayor that the Cuyahoga County Department of Public Works will reimburse the City for up to \$141,600.00 in material costs expended on County Routes included under a road repair program in the City of Maple Heights; and

WHEREAS, on May 15, 2024, by **Resolution No. 2024-45**, Council authorized the City Engineer to begin the preparation of plans and specifications and to provide advertising for bids for the 2024 Pavement Repair Program in the City of Maple Heights; and

WHEREAS, on June 27, 2024, the bids for the 2024 Concrete Roadway Repair Program were opened and inspected by the City Engineer to determine the lowest and best bid.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio that:

Section 1. The Council of the City of Maple Heights hereby authorizes the Mayor to enter into a contract with Catts Construction, Inc. for the 2024 Concrete Roadway Repair Program, for a cost not to exceed One Hundred Ninety-Five Thousand Seven Hundred Eighty Dollars and Zero Cents (\$195,780.00), as more fully described in the bid record on file in the Office of the Finance Director in the City of Maple Heights.

Section 2. The Council of the City of Maple Heights hereby authorizes the Finance Director to amend the appropriations as required for the expenditures outlined within this Resolution.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution constitutes an emergency measure necessary for the health and general welfare of the residents of the City, and to complete the project in a timely manner in compliance with the grant requirements, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

RESOLUTION NO.: 2024-80

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

CO-SPONSORED BY:

A RESOLUTION AUTHORIZING CHANGE ORDER NO. 3 FOR ECLIPSE CO., LLC, INCREASING THE CONTRACT BY \$20,121.14, FOR THE SCHREIBER ROAD SEWER IMPROVEMENTS & SSO ELIMINATION PROJECT IN THE CITY OF MAPLE HEIGHTS, AND DECLARING AN EMERGENCY.

WHEREAS, on October 16, 2019, by **Resolution No. 2019-90**, Council authorized the Mayor to enter into a 2020 Member Community Infrastructure Program (MCIP) Agreement with the Northeast Ohio Regional Sewer District (NEORS) for the Maple Heights Southwest Quadrant Sewer Repairs Phase 1 Project in the City of Maple Heights which included the repair of storm and sanitary sewers on various streets including Schreiber Road; and

WHEREAS, the City of Maple Heights has been awarded One Million One Hundred Thirty-Five Thousand One Hundred Eighty Dollars and Zero Cents (\$1,135,180.00) by the Northeast Ohio Regional Sewer District (NEORS) for the Maple Heights Southwest Quadrant Sewer Repairs Phase 1 Project in the City of Maple Heights which included the repair of storm and sanitary sewers on various streets including Schreiber Road; and

WHEREAS, the terms of the Member Community Infrastructure Program (MCIP) Agreement for the Maple Heights Southwest Quadrant Sewer Repairs Phase 1 Project required the City Engineer to begin the preparation of plans and specifications and to provide advertising for bids for the storm and sanitary sewer improvement project on various streets including Schreiber Road; and

WHEREAS, the Ohio Department of Public Works has committed to directly disburse 70% of the project construction costs for both labor and materials, up to Four Hundred Twenty Thousand Four Hundred Twelve Dollars and Zero Cents (\$420,412.00), as required to complete storm and sanitary sewer improvements on various streets including Schreiber Road; and

WHEREAS, the City of Maple Heights has entered into an agreement with the Cuyahoga County Department of Public Works to maintain and operate the entire City of Maple Heights-owned storm and sanitary sewer systems, also designated as County Sewer District No.9; and

WHEREAS, the Cuyahoga County Department of Public Works has established a schedule of just and equitable rates to be collected from the owners of all parcels within the City that have accessibility to storm and sanitary sewers; and

WHEREAS, upon collection by the County Treasurer, such storm and sanitary sewer system monies have been placed in a distinct fund to the credit of Sewer District No. 9; and

WHEREAS, the Cuyahoga County Department of Public Works has committed to utilize Maple Heights Sewer District 9 funds to supplement Northeast Ohio Regional Sewer District (NEORS), Ohio Public Works Commission (OPWC) and local sewer funds for the Maple Heights Southwest Quadrant Sewer Repairs Phase 1

Project which include the repair of storm and sanitary sewers on various streets including Schreiber Road as required to complete the project; and

WHEREAS, on February 15, 2023, by **Resolution No. 2023-15**, Council authorized the Mayor to make application, sign and file all necessary contracts and documents with the Ohio EPA's Division of Environmental and Financial Assistance (DEFA) for funding through the 2023 WPCLF Principal Forgiveness Loan Program for the Schreiber Road Sewer Improvements & SSO Elimination Project; and

WHEREAS, on March 30, 2023, the bids for the Schreiber Road Sewer Improvements & SSO Elimination Project were opened and inspected by the City Engineer to determine the lowest and best bid; and

WHEREAS, on April 5, 2023, by **Resolution No. 2023-23**, Council authorized the Mayor to enter into a contract with Eclipse Co., LLC for the Schreiber Road Sewer Improvements & SSO Elimination Project, for a cost not to exceed Three Hundred Fifty Thousand Two Hundred Seventy Dollars and Zero Cents (\$350,270.00); and

WHEREAS, on June 5, 2024, by **Resolution No. 2024-50**, Council authorized Change Order No. 1 and Change Order No. 2 for Eclipse Co., LLC, to increase the contract for the Schreiber Road Sewer Improvements & SSO Elimination Project in the amount of Twenty-Seven Thousand Six Hundred Sixty-Six Dollars and Zero Cents (\$27,666.00) as recommended by the City Engineer; and

WHEREAS, in completing the project close out documentation, including retainer release, the City Engineer has determined that the cost of some additional work items required to complete the project had not been included within Change Order No. 1 and Change Order No. 2 and will require Council approval of Change Order No. 3 for Eclipse Co., LLC to increase the contract for the Schreiber Road Sewer Improvements & SSO Elimination Project in the amount of Twenty Thousand One Hundred Twenty-One Dollars and Fourteen Cents (20,121.14).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio that:

Section 1. The Council of the City of Maple Heights hereby authorizes Change Order No. 3 for Eclipse Co., LLC, to increase the contract for the Schreiber Road Sewer Improvements & SSO Elimination Project in the amount of Twenty Thousand One Hundred Twenty-One Dollars and Fourteen Cents (20,121.14) as recommended by the City Engineer.

Section 2. The Council of the City of Maple Heights hereby authorizes the Finance Director to amend the appropriations as required for the expenditures outlined within this Resolution.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution constitutes an emergency measure necessary for the health and general welfare of the residents of the City, and to begin the project in a timely manner so that it can be completed prior to the end of the 2024 construction season, and provided it receives the affirmative vote of two-thirds (2/3) of the members

elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

ORDINANCE NO. 2024-81

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

CO-SPONSORED BY:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PURCHASE AGREEMENT WITH THE SUTPHEN CORPORATION, THROUGH SOURCEWELL'S COOPERATIVE PURCHASING PROGRAM, FOR THE PURCHASE OF A SUTPHEN HEAVY DUTY CUSTOM PUMPER ON A SUTPHEN MONARCH CHASSIS, TO BE BUILT WITHIN 36-38 MONTHS AFTER AGREEMENT EXECUTION, IN THE TOTAL AMOUNT OF EIGHT HUNDRED SIXTY-NINE THOUSAND, EIGHT HUNDRED SIXTY-ONE DOLLARS AND ZERO CENTS (\$869,861.00), AND DECLARING AN EMERGENCY.

WHEREAS, Sourcewell is a service cooperative established by Minn. Stat. § 123A.21 as a local unit of government pursuant to the Minn. Const. art. XII, sec. 3 and is authorized to provide a Cooperative Purchasing Program by Minn. Stat. §123A.21, subd. 7(23) to participating entities; and

WHEREAS, participation in Sourcewell's Cooperative Purchasing Program is open to eligible participating entities registering with Sourcewell, including: a state, city, county, town, village, school district, or political subdivision of any state of the United States; and

WHEREAS, the City is a member of, and participating entity in, Sourcewell's Cooperative Purchasing Program (Member No. 105385); and

WHEREAS, Sourcewell's Cooperative Purchasing Program provides purchasing that is "Procurement conducted by, or on behalf of, one or more Public Procurement Units" as defined by the American Bar Association Model Procurement Code for State and Local Governments and Sourcewell's analysts streamline the procurement process by developing requests for proposal (RFPs) and invitations for bids (IFBs) for national, competitive solicitations that meet or exceed local requirements; and

WHEREAS, Sourcewell, on October 12, 2021, advertised for RFPs (RFP No. 113021) for Firefighting Apparatus and Fire Service Vehicles to result in a contracting solution for use by its participating entities and on February 15, 2022 (Resolution No. 2022-06) awarded a contract to The Sutphen Corporation to provide Firefighting Apparatus and Fire Service Vehicles for purchase through Sourcewell's Cooperative Purchasing Program (Contract No. 113021-SUT); and

WHEREAS, R.C. 9.48(B)(2) and (C) permits the City to participate in a joint purchasing program like Sourcewell's Cooperating Purchase Program and is exempt from Ohio's competitive bidding requirements because Contract No. 113021-SUT was awarded pursuant to a publicly solicited request for a proposal by Sourcewell, a political subdivision of another state; and

WHEREAS, the Mayor and Fire Chief have advised Council that the City is in need of a new Fire Apparatus to replace its 2002 Fire Apparatus and have recommended a Sutphen Heavy Duty Custom Pumper on a Sutphen Monarch Chassis, to be built within 36-38 months after

agreement execution, in the total amount of Eight Hundred Sixty-Nine Thousand, Eight Hundred Sixty-One Dollars and Zero Cents (\$869,861.00), per Sutphen's Proposal Dated September 3, 2024 and Purchase Agreement, copies of which are on file in the Finance Department; and

WHEREAS, Council desires to follow the recommendation of the Mayor and Fire Chief and authorize the purchase of a Sutphen Heavy Duty Custom Pumper on a Sutphen Monarch Chassis, to be built within 36-38 months after agreement execution, in the total amount of Eight Hundred Sixty-Nine Thousand, Eight Hundred Sixty-One Dollars and Zero Cents (\$869,861.00), per Sutphen's Proposal Dated September 3, 2024 and Purchase Agreement, copies of which are on file in the Finance Department.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, that:

Section 1. The Mayor is hereby authorized to accept Sutphen's Proposal Dated September 3, 2024 and to execute Sutphen's Purchase Agreement, copies of which are on file in the Finance Department, for the purchase of a Sutphen Heavy Duty Custom Pumper on a Sutphen Monarch Chassis, to be built within 36-38 months after agreement execution, in the total amount of Eight Hundred Sixty-Nine Thousand, Eight Hundred Sixty-One Dollars and Zero Cents (\$869,861.00).

Section 2. The Finance Director is hereby authorized to appropriate to a proper account a sum sufficient to cover the cost of said purchase referred to in Section 1 above, in the total amount of Eight Hundred Sixty-Nine Thousand, Eight Hundred Sixty-One Dollars and Zero Cents (\$869,861.00) or secure financing options for the total amount of Eight Hundred Sixty-Nine Thousand, Eight Hundred Sixty-One Dollars and Zero Cents (\$869,861.00), subject to approval by Council through a subsequent ordinance.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in open meetings of this Council, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including the City's Charter and Codified Ordinances and Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance is hereby determined to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City and for the further reason that time is of the essence because of the build time necessary for the fire apparatus. It shall therefore become effective upon its passage by the affirmative vote of not less than five (5) members of Council and approval by the Mayor; otherwise, it shall become effective at the earliest time allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

ORDINANCE NO.: 2024-82

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

CO-SPONSORED BY:

**AN ORDINANCE SETTING THE SALARIES OF COUNCIL MEMBERS
EFFECTIVE SEPTEMBER 1, 2024, AND DECLARING AN EMERGENCY.**

WHEREAS, the Charter Review Commission (CRC) at its April 22, 2021 meeting recommended revising and amending Article IV of the Charter to remove the requirements that the salary of all elected officials be fixed at least one hundred twenty (120) days prior to the date set for the municipal election for the terms beginning on the next succeeding first day of January and that such salary cannot be changed during such term; and

WHEREAS, pursuant to Article XX, Section 2 of the Charter, Council was required to submit the CRC's recommended revisions and amendments to the qualified electors of the City; and

WHEREAS, pursuant to **Ordinance No. 2021-61**, the Council directed the Cuyahoga County Board of Elections to submit to a vote of the qualified electors of the City, at the general election to be held on Tuesday, the 2nd day of November, 2021, as prescribed by general law, the question of the amendment of the Charter of the City of Maple Heights at Article IV, so that, as amended, it shall read as follows, with the deletions struck through:

“ARTICLE IV – SALARIES”

The Council shall have the power to fix the salaries of all employees of the Municipality whether elected or appointed. ~~The salaries of all elected officials shall be fixed at least one hundred twenty (120) days prior to the date set for the Municipal election for the terms beginning on the next succeeding first day of January, and shall not thereafter be changed in respect to any such term or terms or any part thereof.~~ The Council may authorize the payment or reimbursement of expenses incurred by any official, employee, or member of any department, board or commission of the Municipality for travel or expenses incidental thereto incurred in the furtherance of the interests of the Municipality.”; and

WHEREAS, the Cuyahoga County Board of Elections provided for the voting upon said Amendment and the ballots for said election shall, at the top thereof, were entitled “Proposed Charter Amendment City of Maple Heights”, and the question to be submitted on said ballot was:

“Shall Article IV, of the Maple Heights Charter be amended in order to eliminate the requirements that the salary of all elected officials be fixed at least one hundred twenty (120) days prior to the date set for the municipal election for the terms beginning on the next succeeding first day of January and that such salary cannot be changed during such term?”; and

WHEREAS, said Amendment was placed on the ballot as Issue 42 and at the election held on November 2, 2021, a majority of the votes cast were in favor of the amendment to

eliminate the requirements that the salary of all elected officials be fixed at least one hundred twenty (120) days prior to the date set for the municipal election for the terms beginning on the next succeeding first day of January and that such salary cannot be changed during such term, which result was certified by the Board of Elections on November 22, 2021; and

WHEREAS, the Council has requested and has relied on in considering this Ordinance, the December 17, 2021 Memorandum of its Director of Law, a copy of which is attached hereto and incorporated as if fully rewritten herein, for an opinion as to whether Council may increase the pay for the Council President and all Councilpersons, regardless of whether such pay increase occurs before or during their term of office, without violating the laws of the State of Ohio, including Ohio Ethics laws and R.C. 102.03; and

WHEREAS, the Director of Law, in his December 17, 2021 Memorandum, opined that pursuant to the recently voter approved amendment to Charter Article IV, Council may increase the pay for the Council President and all Councilpersons, regardless of whether such pay increase occurs before or during their term of office, without violating the laws of the State of Ohio, including R.C. 731.07 and Ohio Ethics laws as set forth in R.C. 102.03, citing the decision of the Fifth Appellate District Court in *Coleman v. City of Canton*, Case No. 1997CA00303, 1998 Ohio App. LEXIS 2503, at *8 (5th App. Dist. 1998) which held that “the act of voting a pay raise, even for the benefit of oneself, cannot be considered the acceptance of something of value that will influence one's public actions, substantially, improperly or otherwise. It is the act of a pay raise and the potentially self-serving nature of it that may be found to be offensive but not pursuant to [R.C. 102.03]. The voters will have the ultimate say as to the propriety of the timing of the pay raise” and the decision of the Third Appellate District Court in *Hubbard v. City of Defiance*, 2013-Ohio-2144, ¶¶ 75-77 (3rd App. Dist. 2013) which held that determining the salaries of municipal officers is a matter within the powers of local self-government and if a portion of a municipal charter expressly conflicts with parallel state law, such as R.C. 731.07, in a matter of local self-government, the charter provision prevails; and

WHEREAS, it would be inequitable for one set of Councilpersons to be paid a different salary than another set of Councilpersons just because their terms of office begin at different times even though they are all performing the same work and services for the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, that:

Section 1. Pursuant to Charter Article IV, effective September 1, 2024, the salaries for all Council members shall be fixed at Eighteen Thousand Dollars and Zero Cents (\$18,000.00) per annum and the salary of the Council President shall be fixed at Twenty-One Thousand Seventy Hundred Fifty Dollars and No Cents (\$21,750.00) per annum.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that

resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code

Section 3. This Ordinance constitutes an emergency measure necessary for the public peace, safety and general welfare of the City and for the further reason that the changes in the salaries are effective September 1, 2024, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

Annette M. Blackwell
Mayor



Frank Consolo
Law Director

MEMORANDUM

To: Council President and Councilpersons
From: Frank Consolo, Law Director *FC*
Copy: Mayor Blackwell, Clerk Cicirella Johnson
Date: December 17, 2021
Re: Increase In Salaries Of Councilpersons and Council President

Per your request, the following is my opinion as to whether Council can pass an Ordinance at the December 20, 2021 Special Council meeting to increase the salaries of Councilpersons and the Council President, effective January 1, 2022, without violating Ohio law, including Ethics laws, even though such change in pay will come after the elections for Districts 1, 3, 5 and 7 and Council President, but before their term begins, and such change will be during the terms for District 2, 4 and 6.

As you know, the Charter Review Commission (CRC) at its April 22, 2021 meeting recommended revising and amending Article IV of the Charter to remove the requirements that the salary of all elected officials be fixed at least one hundred twenty (120) days prior to the date set for the municipal election for the terms beginning on the next succeeding first day of January and that such salary cannot be changed during such term.

Pursuant to Article XX, Section 2 of the Charter, Council was required to submit the CRC's recommended revisions and amendments to the qualified electors of the City. Pursuant to Ordinance No. 2021-61, the Council directed the Cuyahoga County Board of Elections to submit to a vote of the qualified electors of the City, at the general election to be held on Tuesday, the 2nd day of November 2021, as prescribed by general law, the question of the amendment of the Charter of the City of Maple Heights at Article IV, so that, as amended, it shall read as follows, with the deletions struck through:

"ARTICLE IV – SALARIES

The Council shall have the power to fix the salaries of all employees of the Municipality whether elected or appointed. ~~The salaries of all elected officials shall be fixed at least one hundred twenty (120) days prior to the date set for the Municipal election for the terms beginning on the next succeeding first day of January, and shall not thereafter be changed in respect to any such~~



~~term or terms or any part thereof.~~ The Council may authorize the payment or reimbursement of expenses incurred by any official, employee, or member of any department, board or commission of the Municipality for travel or expenses incidental thereto incurred in the furtherance of the interests of the Municipality.”

The Cuyahoga County Board of Elections provided for the voting upon said Amendment and the ballots for said election read, at the top thereof, were entitled “Proposed Charter Amendment City of Maple Heights”, and the question to be submitted on said ballot was:

“Shall Article IV, of the Maple Heights Charter be amended in order to eliminate the requirements that the salary of all elected officials be fixed at least one hundred twenty (120) days prior to the date set for the municipal election for the terms beginning on the next succeeding first day of January and that such salary cannot be changed during such term?”.

Said Amendment was placed on the ballot as Issue 42 and at the election held on November 2, 2021, a majority of the votes cast were in favor of the amendment to eliminate the requirements that the salary of all elected officials be fixed at least one hundred twenty (120) days prior to the date set for the municipal election for the terms beginning on the next succeeding first day of January and that such salary cannot be changed during such term, which result was certified by the Board of Elections on November 22, 2021.

It is my opinion that pursuant to the recently voter approved amendment to Charter Article IV, Council may increase the pay for the Council President and all Councilpersons, regardless of whether such pay increase occurs before or during their term of office, without violating the laws of the State of Ohio, including R.C. 731.07 and Ohio Ethics laws as set forth in R.C. 102.03, citing the decision of the Fifth Appellate District Court in *Coleman v. City of Canton, Case No. 1997CA00303, 1998 Ohio App. LEXIS 2503, at *8 (5th App. Dist. 1998)* which held that “the act of voting a pay raise, even for the benefit of oneself, cannot be considered the acceptance of something of value that will influence one's public actions, substantially, improperly or otherwise. It is the act of a pay raise and the potentially self-serving nature of it that may be found to be offensive but not pursuant to [R.C. 102.03]. The voters will have the ultimate say as to the propriety of the timing of the pay raise” and the decision of the Third Appellate District Court in *Hubbard v. City of Defiance, 2013-Ohio-2144, ¶¶ 75-77 (3rd App. Dist. 2013)* which held that determining the salaries of municipal officers is a matter within the powers of local self-government and if a portion of a municipal charter expressly conflicts with parallel state law, such as R.C. 731.07, in a matter of local self-government, the charter provision prevails.

In *Coleman v. City of Canton, Case No. 1997CA00303, 1998 Ohio App. LEXIS 2503, at *8 (5th App. Dist. 1998)*, the Ohio Ethics Commission raised three major concerns all revolving around the concept of whether a city council member can vote for a pay raise which he or she will receive if they have been elected to hold the position but have not yet begun to serve their new term - a post-election, pre-term salary increase. This is the situation with current Councilpersons for Districts 1, 5 and 7, who were all elected on November 2, 2021 for a term to begin January 1, 2022 and will be voting for a pay increase at the December 20, 2021 Special Council meeting.

The Ethics Commission argued to the Court of Appeals that voting for a pay increase post-election but before the beginning of their new term would be invalid for two reasons. First, it violates the Ohio Ethics Laws set forth in R.C. 102.03(D) and (E). Second, any official who votes for such a pay increase is subject to the conflict of interest provisions of R.C. 102.03(D) and (E).

The Ethics Commission focused its position upon a reading of R.C. 102.03(D) and (E) which provides, in pertinent part:

* * *

(D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to that person's duties.

(E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to that person's duties.

The Ethics Commission contended the above sections of R.C. 102.03 apply. The Court disagreed, explaining:

First, the statute sets forth the covered categories. They include: bribery, honorariums, travel expenses and memberships in organizations. None of these categories appear to refer to an open public vote for a pay raise. Next, a review of the statutory provisions alleged to have been violated does not specifically, nor in broad terms, refer to the facts at hand. The substance of the statute, by its own language, applies to issues of substantial and improper influence upon the public official or employee with respect to that person's duties.

There are no allegations, in this case, that the pay raise would be a substantial and improper influence with respect to the performance of their duties as city council members. The language of the statute refers to actions that result in personal gain to the council member by the act of accepting a gift or something of value that may affect or influence the council member's votes or actions for the benefit of the donor rather the general good of the residence of the city. The most blatant example would be bribery as set forth in this section of the statute. However, such conduct could include the acceptance of a gift or something of value without the intent required for bribery.

We do not find, through a plain reading of the statute, that voting on a pay raise pre-term, post-term, or in-term is covered by the statute in question. The act of voting a pay raise, even for the benefit of oneself, cannot be considered the acceptance of something of value that will influence one's public actions, substantially, improperly or otherwise. It is

the act of a pay raise and the potentially self-serving nature of it that may be found to be offensive but not pursuant to this statute. ***The voters will have the ultimate say as to the propriety of the timing of the pay raise.***

Accordingly, it is my opinion that voting on pay increases by Councilpersons for Districts 1, 5 and 7, post their election, and prior to their new terms beginning January 1, 2022, is clearly allowed per the *City of Canton* decision. And, per the *City of Canton* decision's rationale, Councilpersons for Districts 2, 4, and 6, who are still in-term, can also vote for their pay increases because such voting for pay increases does not violate Ohio Ethics Laws. As the Court clearly stated: ***The voters will have the ultimate say as to the propriety of the timing of the pay raise.*** Here, the voters on November 2, 2021 clearly stated their approval of removal from the Charter the prohibition on in-term pay increases.

The next issue to consider for District 2, 4 and 6 Councilpersons is whether R.C. 731.07, which provides: "The salary of any officer of a city shall not be increased or diminished during the term for which he was elected or appointed", can prohibit those Councilpersons for voting for pay increases since they are still in-term. Again, the *City of Canton* decision clearly left it to the voters to determine the propriety of making in-term pay increases, which they did by amending Charter Article IV which removed the prohibition on in-term changes to the pay for elected officials.

Charter Article IV, which removed the prohibition on in-term changes to the pay for elected officials, is now in conflict with R.C. 731.07. In *Hubbard v. City of Defiance, 2013-Ohio-2144, ¶¶ 75-77 (3rd App. Dist. 2013)*, the Third District Court of Appeals found that determining the salaries of municipal officers is a matter within the powers of local self-government and where there is a conflict between a Charter provision and R.C. 731.07, the Charter provision prevails and need not be harmonized with R.C. 731.07.

Finally, if District 2, 4 and 6 Councilpersons were prohibited from receiving an increase in pay at the same time Councilpersons for Districts 1, 3, 5 and 7 receive an increase in pay an inequitable situation would occur since all Councilpersons will be performing the same work and services for the City but be paid differently. Preventing such an inequity was also why the voters passed the amendment to Charter Article IV at the November 2, 2021 election. Indeed, a summary of the proposed amendment (Issue 42) and what a change would mean, which was placed on the City's website prior to the election (attached hereto), and distributed at District meetings discussing the proposed Charter amendment, stated:

"ISSUE 42 – Shall Article IV, of the Maple Heights Charter be amended in order to eliminate the requirements that the salary of all elected officials be fixed at least one hundred twenty (120) days prior to the date set for the municipal election for the terms beginning on the next succeeding first day of January and that such salary cannot be changed during such term?"

ARTICLE IV – SALARIES

The Council shall have the power to fix the salaries of all employees of the Municipality whether elected or appointed. ~~The salaries of all elected officials shall be fixed at least one hundred twenty (120) days prior to the date set for the Municipal election for the terms beginning on the next succeeding first day of January, and shall not thereafter be changed in respect to any such term or terms or any part thereof.~~ The Council may authorize the payment or reimbursement of expenses incurred by any official, employee, or member of any department, board or commission of the Municipality for travel or expenses incidental thereto incurred in the furtherance of the interests of the Municipality.

What does this proposed change mean? As currently written, the Charter requires that the salaries for elected officials (Mayor and Council) be set by the Council at least 120 days before their election to office for a new term and cannot be changed during their term. The term of office for the Mayor and Council is four years. However, the terms are staggered. For example, the terms for Council districts 1, 3, 5 and 7 expire on December 31, 2021 and districts 2, 4 and 6 expire on December 31, 2023. So, districts 1, 3, 5 and 7 are up for election on November 2, 2021 for a new term from January 1, 2022 to December 31, 2025. Any change in in the pay for Council districts 1, 3, 5 and 7 would have had to been set by July 2, 2021 (120 days before the November 2 election). But if Council decided to change the pay for districts 1, 3, 5 and 7, the pay for Council districts 2, 4 and 6 could not be changed until their new term begins after the 2023 election. So ,the result would be different pay for different Council districts. This change will allow the pay for the elected officials to be set at any time and eliminates the possibility of differing pay among the Council districts.”

Therefore, based on all the foregoing, it is my opinion that all Councilmembers can vote at the December 20, 2021 Special Council meeting to increase the pay for all Councilpersons and the Council President effective January 1, 2022, regardless that such pay increase will occur in-term for Councilpersons in Districts 2, 4 and 6 and regardless that such pay increase will occur post-election for the Councilpersons in Districts 1, 3, 5 and 7 and the Council President. (Since the Council President does not have a vote in Council, absent a tie, the ethical concerns, overruled by the *City of Canton* decision, are not at issue for him).

CITY OF MAPLE HEIGHTS PROPOSED CHARTER AMENDMENTS

Dear Maple Heights Residents,

The Charter of the City of Maple Heights has been in effect since 1931. It acts as the Constitution for how City government shall be organized and operated. It contains 21 Articles on topics ranging from the Mayor, City Council, Boards and Commissions to a Charter Review Commission (CRC). The CRC is comprised of 9 members, 7 of which are appointed by each Council person, and 2 appointed by the Mayor. The CRC meets every 5 years to review the Charter and recommend changes if necessary. The CRC members were appointed in February 2021 and met monthly through August 2021. After a thorough review of the Charter, the CRC recommended 6 amendments to appear on the November 2nd ballot for voter approval. The amendments were placed into ordinance form and, after approval by Council, were submitted to the Cuyahoga County Board of Elections where they were assigned issue numbers 42-47 and questions to be answered Yes or No were prepared to be placed on the ballot. A YES vote means you are in favor of the proposed change to the Charter. A NO vote means you do not want the Charter language to change.

The full text of the Charter provisions if they are amended by the passage of Issues 42-47 will read as follows. (Proposed additions are underlined and proposed deletions struck through with a line.) After the text of each proposed change is a summary of what the change means.

ISSUE 42 – Shall Article IV, of the Maple Heights Charter be amended in order to eliminate the requirements that the salary of all elected officials be fixed at least one hundred twenty (120) days prior to the date set for the municipal election for the terms beginning on the next succeeding first day of January and that such salary cannot be changed during such term?

ARTICLE IV – SALARIES

The Council shall have the power to fix the salaries of all employees of the Municipality whether elected or appointed. ~~The salaries of all elected officials shall be fixed at least one hundred twenty (120) days prior to the date set for the Municipal election for the terms beginning on the next succeeding first day of January, and shall not thereafter be changed in respect to any such term or terms or any part thereof.~~ The Council may authorize the payment or reimbursement of expenses incurred by any official, employee, or member of any department, board or commission of the Municipality for travel or expenses incidental thereto incurred in the furtherance of the interests of the Municipality.

What does this proposed change mean? As currently written, the Charter requires that the salaries for elected officials (Mayor and Council) be set by the Council at least 120 days before their election to office for a new term and cannot be changed during their term. The term of office for the Mayor and Council is four years. However, the terms are staggered. For example, the terms for Council districts 1, 3, 5 and 7 expire on December 31, 2021 and districts 2, 4 and 6 expire on December 31, 2023. So, districts 1, 3, 5 and 7 are up for election on November 2, 2021 for a new term from January 1, 2022 to December 31, 2025. Any change in the pay for Council districts 1, 3, 5 and 7 would have had to been set by July 2, 2021 (120 days before the November 2 election). But if Council decided to change the pay for districts 1, 3, 5 and 7, the pay for Council districts 2, 4 and 6 could not be changed until their new term begins after the 2023 election. So, the result would be different pay for different Council districts. This change will allow the pay for the elected officials to be set at any time and eliminates the possibility of differing pay among the Council districts.

ISSUE 43 – Shall Article V, Section 8 and Article III, Section 4, of the Maple Heights Charter be amended in order to allow the Mayor to hold private employment so long as such employment does not conflict with the duties of Mayor?

ARTICLE III, SECTION 4. ACTIVITIES RESTRICTED; CONFLICT OF INTEREST.

The Mayor and the President of Council shall be allowed to serve on any federal, state, regional or metropolitan board or committees thereof.

The Mayor shall hold no other public employment. The Mayor may hold private employment which does not conflict with the duties of Mayor. Councilpersons may hold non-elected public employment outside the City of Maple Heights which does not conflict with Council duties. No elective officer shall be interested in the profits or emoluments of any contract, work or service for the Municipality.

ARTICLE V, SECTION 8. LOCATION OF OFFICE.

The Mayor shall have an office at the City Hall. ~~and, effective the first day in January of the new term, shall hold no other public or private employment.~~

What does the proposed change mean? As currently written, the Charter states that the Mayor is not allowed to hold any other job other than Mayor. If the proposed change is passed, the Mayor would be allowed to hold a job in the private sector as long as it does not interfere with the duties of the office of Mayor.

ISSUE 44 – Shall Article VII, Section 3, of the Maple Heights Charter be amended in order to provide an alternate meeting date for the swearing-in of newly elected officials if the original date is a legal holiday and to provide notice of special meeting dates by electronic transmission?

ARTICLE VII, SECTION 3. MEETINGS.

At seven (7) o'clock p.m. on the first Wednesday of the new term following a regular Municipal election and certification of the newly elected officials by the Board of Elections of Cuyahoga County, or as soon as practicable thereafter if the first Wednesday is a legal holiday, the Council shall meet at the usual place of holding Council meetings, at which time the newly elected members of Council shall be officially sworn in and assume the duties of their office. Thereafter the Council shall meet at such times and places as may be prescribed by ordinance or resolution. The Mayor, President of Council, or any three (3) members thereof may call special meetings of the Council upon written notice served by electronic transmission or personally upon each member at his or her usual place of residence, at least twenty-four (24) hours previous to the time fixed for such meetings, except in cases of public emergency. Any such request for special meetings shall state the specific subjects to be considered at the meeting and no other shall be there considered.

What does the proposed change mean? As currently written, the Charter states that newly elected officials must be sworn in on the first Wednesday in January, even if that first Wednesday is a legal holiday, such as New Year's Day. It also limits notice of special meetings to being given in person only. If the proposed change is passed, then newly elected officials would not have to be sworn in on the first Wednesday in January if it is a legal holiday, such as New Years Day, but as soon as practical thereafter. It also will allow for notice of special Council meetings to be given by email.

ISSUE 45 – Shall Article VII, Section 17, of the Maple Heights Charter be amended by deleting it in its entirety because the Service Director and Service Department are no longer solely responsible for determining the manner of making public improvements, and reserving Section 17 for future Charter provisions?

~~SECTION 17. MANNER OF MAKING PUBLIC IMPROVEMENTS.~~ Section 17 shall be reserved for future Charter provisions

~~Public improvements, works and repairs of all kinds shall be made by the Department of Service, either by direct employment of labor, and the purchase of the necessary supplies and material, with separate accounting as to each improvement so made, or by contract. The Council shall by ordinance determine by which method any improvement shall be made. All contracts shall be executed in the name of the City by the Director of Service only after approval by Council, and shall be entered into only with the lowest and best bidder after public competitive bidding. The Director of Service may enter into a contract without competitive bidding in the manner provided by the statutes of the State of Ohio.~~

What does the proposed change mean? Currently as written, any kind of public improvement, such as a road repair or installation of a sanitary sewer can only be done under the direction of the Service Department and Service Director. In reality, most public improvements over the last several decades have been made at the direction and supervision of the City Engineer. If the proposed change is passed it will eliminate the requirement that public improvements be made only under the direction of Service.

ISSUE 46 – Shall Article VII, Section 18, of the Maple Heights Charter be amended in order to allow the Mayor to designate a representative to sign contracts?

~~SECTION 18. CONTRACT SIGNATURE.~~

All contracts shall bear the signature of the Mayor, or the Mayor's designee, in addition to such other signature as may be required by this Charter or by ordinance."

What does the proposed change mean? Currently as written, the Charter states that the Mayor must personally sign every contract involving the City. If the proposed change is passed then the Mayor will be allowed to designate someone else to sign a contract, such as the Finance Director or Fire Chief.

ISSUE 47 – Shall Article XIX, Section 5, of the Maple Heights Charter be amended by deleting it in its entirety to remove its prohibition on the use of photo monitoring devices for the enforcement of traffic laws?

~~SECTION 5. LIMITING THE USE OF PHOTO MONITORING DEVICES.~~

~~The City shall not use any traffic law photo monitoring device for the enforcement of a qualified traffic law violation, unless a law enforcement officer is present at the location of the device and personally issues the ticket to the alleged violator at the time and location of the violation; and that the City shall not enter into, renew, amend, modify, or make any payment under a contract with a vendor for traffic law photo monitoring devices or services if the contract involves payment to the vendor that is contingent upon the number of tickets issued or the amount of fines levied or; and that qualified traffic violations shall be tried only before a judge in either a municipal or common pleas court, and the accused will be afforded all rights then generally afforded to defendants in criminal cases under the constitutions and laws of the United States and the State of Ohio."~~

What does the proposed change mean? Currently as written, the Charter prohibits the City from using photo monitoring devices to enforce traffic laws within the City, such as speeding. If the proposed change is passed, it will allow the City to use photo monitoring devices to enforce traffic laws such as speeding within the City.

ORDINANCE NO. 2024-83
INTRODUCED BY: Finance Committee
MOTION FOR ADOPTION BY:
CO-SPONSORED BY:

**AN ORDINANCE FIXING THE SALARY OF THE SAFETY DIRECTOR
EFFECTIVE JANUARY 1, 2025, AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Article IV of the City Charter the Council shall have the power to fix the salaries of all employees of the Municipality whether elected or appointed; and

WHEREAS, the Finance Committee has recommended that, effective January 1, 2025, the salary of the Safety Director shall be fixed at Thirty Thousand Dollars and Zero Cents (\$30,000.00).

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, that:

Section 1. Effective January 1, 2025, the salary of the Safety Director shall be fixed at Thirty Thousand Dollars and Zero Cents (\$30,000.00).

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance constitutes an emergency measure necessary for the public safety, health and welfare and for the further reason that the new pay rates take effect January 1, 2025, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga and State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

RESOLUTION NO.: 2024-84

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

CO-SPONSORED BY:

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A QUIT-CLAIM DEED TRANSFERRING A VACANT LOT ON KOHOUT STREET (PPN #784-30-080) FROM THE MAPLE HEIGHTS LAND REUTILIZATION PROGRAM TO U.S. BANK NATIONAL ASSOCIATION, AND DECLARING AN EMERGENCY.

WHEREAS, the Law Director was contacted on August 2, 2024 by Albertelli Law Partners Ohio, LLC (ALAW), the representatives of U.S. Bank National Association (U.S. Bank), in connection with the following described mortgage and foreclosure transaction involving two lots on Kohout Street, **PPN #784-30-080** and **PPN #784-30-081**:

On November 27, 2019, a Foreclosure action was filed in Cuyahoga County Court of Common Pleas by ALAW on behalf of U.S. Bank to foreclose a mortgage encumbering **PPN #784-30-081**, whose titled owner is Gloria L. Small. *U.S. Bank National Association vs. Gloria L. Small, et al., Case No. CV-19-925954*. After obtaining judgment, **Parcel #784-30-081** was sold at Sheriff's Sale on 2/22/2022, with U.S. Bank being the winning bidder. The Sheriff's Deed conveying **PPN #784-30-081** to U.S. Bank was recorded on 6/1/2022.

Subsequently, U.S. Bank attempted to sell **Parcel #784-30-081** to a third party. However, the Title Agency handling the closing identified a title issue. The Title Agency advised that the property intended to be sold/purchased consists of two parcels, being **Parcel #784-30-081** and appurtenant parcel **PPN# 784-30-080**. The Title Agency indicated that appurtenant parcel **PPN# 784-30-080** must be included in the sale, and that the garage servicing the dwelling is partially situated upon appurtenant parcel **PPN# 784-30-080**.

After receiving this information, U.S. Bank and ALAW reviewed the origination file for U.S. Bank's mortgage loan to Gloria L. Small. In reviewing the origination file, it was determined that the intent of the parties was for the mortgage to encumber both **Parcel #784-30-081 and appurtenant Parcel #784-30-080**. The Survey likewise includes both Parcels and clearly shows that the garage structure is astride both parcels, and the Title Commitment lists the tax information for both Parcels.

After making this discovery, ALAW filed a motion in *Case No. CV-19-925954* to Vacate the Sheriff's Sale and Strike the Sheriff's Deed. ALAW then filed an Amended Complaint for Foreclosure on 1/23/2023 seeking to foreclosure both **Parcel #784-30-081 and Parcel #784-30-080**. After obtaining judgment on the Amended Complaint, **Parcel #784-30-081 and Parcel #784-30-080** were sold at Sheriff's Sale on 1/22/2024, with U.S. Bank once again being the winning bidder.

After Confirmation of Sale was entered, ALAW prepared a Sheriff's Deed conveying **PPN #784-30-081 and Parcel #784-30-080** to U.S. Bank and delivered the Deed to the County Sheriff for recording. However, the Sheriff's Department advised that when they attempted to record the Sheriff's Deed, the Recorder's Office advised that the Sheriff's Deed could not be recorded because **PPN #784-30-080** had already conveyed to Maple Heights Land Reutilization Program via a Sheriff's Deed recorded 11/09/2023 as a result of a tax foreclosure case having been filed against Small. *Treasurer of Cuyahoga County, Ohio vs. Gloria L. Small, et al, Case No. CV-22-962576.*

After reviewing the Sheriff's Deed conveying **PPN #784-30-080** to Maple Heights Land Reutilization Program, U.S. Bank and ALAW learned for the first time of the existence of the Tax Foreclosure Case (*Case No. CV-22-962576*) that was filed as to **PPN #784-30-080** on 4/27/2022, which resulted in the Sheriff's Deed conveying **PPN #784-30-080** to Maple Heights Land Reutilization Program.

Accordingly, in order to be able to convey marketable title to the dwelling and garage structure, both **PPN #784-30-081 and appurtenant PPN #784-30-080** must be sold together. To that end, ALAW contacted the Law Director to explore potential options for resolution of this title issue.

WHEREAS, the Law Director has recommended that the title issue be resolved by the City transferring **PPN #784-30-080** from the City's Land Reutilization Program to U.S. Bank through a Quit-Claim Deed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio that:

Section 1. The Mayor is hereby authorized to execute a Quit-Claim Deed, approved by the Law Director, transferring the vacant lot located on Kohout Street, **PPN #784-30-080**, from the City's Land Reutilization Program to U.S. Bank. The Law Director is authorized to prepare, sign and file with the County Recorder and Fiscal Officer any and all documents necessary to effect the transfer of **PPN #784-30-080** from the City's Land Reutilization Program to U.S. Bank.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This Resolution constitutes an emergency measure necessary for the public peace, safety and general welfare of the City and for the further reason to allow the property to be placed on the real estate market as quickly as possible to attract a new home owner in the City, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

ORDINANCE NO.: 2024-85

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

CO-SPONSORED BY:

AN ORDINANCE APPROVING THE PLAN OF OPERATION AND GOVERNANCE FOR THE NOPEC OPT-IN GAS AGGREGATION PROGRAM FOR THE PURPOSE OF JOINTLY ESTABLISHING AND IMPLEMENTING AN OPT-IN GAS AGGREGATION PROGRAM AS A NOPEC MEMBER, AND DECLARING AN EMERGENCY

WHEREAS, this Council previously enacted legislation authorizing the City of Maple Heights (the “City”) to establish an “opt-out” Gas Aggregation Program pursuant to Section 4929.26, Ohio Revised Code (the “Opt-Out Gas Aggregation Program”), for the eligible residents, businesses and other gas consumers in the City, and for that purpose, to act jointly with any other municipal corporation, city, county or other political subdivision of the State of Ohio, as permitted by law; and

WHEREAS, this Council previously enacted legislation authorizing the City to join the Northeast Ohio Public Energy Council (NOPEC), to execute a Natural Gas Program Agreement and adopt the NOPEC Gas Aggregation Program Plan of Operation and Governance, so that the City would be able to act jointly with other member political subdivisions and thereby maximize the potential benefits of gas deregulation through group purchasing efforts; and

WHEREAS, this Council has enacted legislation establishing an “opt-in” natural gas aggregation program pursuant to Section 4927(A)(1), Ohio Revised Code, (the “Opt-In Natural Gas Aggregation Program”) for the eligible residents, business and other consumers located within the City, and to conduct the Opt-In Natural Gas Aggregation Program jointly through NOPEC as a NOPEC member; and

WHEREAS, on behalf of this Council pursuant to Section 4929.27(B), Ohio Revised Code, two (2) public hearings have been held on the Plan of Operation and Governance for the NOPEC Opt-In Natural Gas Aggregation Program.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, that:

Section 1. This Council finds and determines that it is in the best interest of the City, including the gas consumers located within the City, to adopt the Plan of Operation and Governance of the NOPEC Opt-In Natural Gas Aggregation Program, for the purpose of establishing and implementing the NOPEC Opt-In Natural Gas Aggregation Program in the City.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that

resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City, and for the further reason to maximize the potential benefits of gas deregulation through the NOPEC Opt-In Natural Gas Aggregation Program of NOPEC, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2024

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

Ordinance No. 2024-85
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