

CITY OF MIDDLEBURG HEIGHTS, OHIO

Council Agenda

December 14, 2021

7:00 P.M. - 2021 SWEARING-IN OF ELECTED OFFICIALS

REGULAR MEETING will start directly after swearing-in

- CALL TO ORDER
- ROLL CALL
- PLEDGE OF ALLEGIANCE

Minutes of the Regular Meeting of November 23, 2021

Minutes of the Executive Session of November 23, 2021

COMMUNICATIONS

Memorandum from Planning Commission dated December 9, 2021 recommending approval of Ordinance No. 2021-90, Omni Senior Living.

AUDIENCE PARTICIPATION

APPOINTMENTS AND CONFIRMATIONS

ORDINANCES, RESOLUTIONS AND MOTIONS

1. City Parks, Recreation & Services Committee – Mr. Ali, Chairman
2. Finance, Taxation & Assessments Committee – Mr. Bortolotto, Chairman
3. Legislation & Rules Committee – Mr. Ference, Chairman
4. Public Health, Safety & Relief Committee – Mr. McGregor, Chairman
5. Public Improvements Committee – Mr. Sage, Chairman
6. Streets, Utilities & Railroad Committee – Mr. Meany, Chairman
7. Zoning & Building Code Committee – Mr. Grech, Chairman

MAYOR'S REPORT

1. Law Director
2. Finance Director
3. Recreation Director
4. Economic Development Director
5. Service Director
6. Executive Assistant

ADJOURNMENT

CITY OF MIDDLEBURG HEIGHTS, OHIO

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2021 PENDING LEGISLATION

RESOLUTION NO. 2021-69 - INTRODUCED BY COUNCILMAN GRECH

A Resolution rezoning permanent parcel number 371-17-016 from its present zoning classification MS (Motorist Service District) to GB (General Business District) use district classification. (Dakdouk Rezoning, 17791 Sheldon Road)

(First reading and referred to Planning Commission 9/28/21, Second reading 10/12/21, Public Hearing 1/11/22)

RESOLUTION NO. 2021-90 - INTRODUCED BY COUNCILMAN GRECH

An Ordinance rezoning permanent parcel numbers 371-08-012, 371-08-008, 371-08-009, 371-08-010, 371-08-013, 371-08-014 and 371-08-015 from their present zoning classification OB (Office Building District) and 371-08-011 from its present zoning classification R1-A (One-Family A Residential District) to SR/LC (Senior Residence/Life Care District). (Omni Senior Living)

(First reading and referred to Planning Commission 11/9/21, Second reading 11/23/21)

UN-NUMBERED LEGISLATION

INTRODUCED BY COUNCILMAN MEANY

An Ordinance authorizing the mayor to enter into a Memorandum of Understanding with the Cuyahoga County Board of Health (CCBH) for 2022-2025 Phase II Stormwater Services that are part of the NEORSD Regional Stormwater Management Program (RSMP) Service area.

INTRODUCED BY MAYOR CASTELLI

A Resolution authorizing the mayor to file an application with the Cuyahoga County Department of Development for a grant through the 2022 Cuyahoga County Supplemental Grant Program and declaring an emergency.

INTRODUCED BY MAYOR CASTELLI

A Resolution authorizing the mayor to file an application with the Cuyahoga County Department of Development for a Community Development Block Grant (CDBG) through the 2021 Cuyahoga County Municipal Grant Program and declaring an emergency.

INTRODUCED BY MAYOR CASTELLI

An Ordinance authorizing the mayor to sign a First Amendment to Agreement with Mackay Engineering and Surveying Company for professional consulting engineering services.

INTRODUCED BY MAYOR CASTELLI

An Ordinance to make supplemental appropriations for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021 and declaring an emergency.

CITY OF MIDDLEBURG HEIGHTS, OHIO

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INTRODUCED BY MAYOR CASTELLI

An Ordinance to make appropriations for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2022 and declaring an emergency.

INTRODUCED BY MAYOR CASTELLI

An Ordinance authorizing the mayor and finance director to enter into a purchase agreement for the purchase of certain real estate in the City of Middleburg Heights to be used for the construction of Abram Creek Detention Basins near Big Creek Parkway Project and declaring an emergency. (7062/7068 Pearl Road)

CITY OF MIDDLEBURG HEIGHTS, OHIO

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ZONING & BUILDING CODE COMMITTEE – Mr. Grech, Chairman

- 9-24-19 Discussion regarding ordinance regulating fences
- 8-10-21 Rezoning application received from Camille Dakdouk to rezone property located at 17791 Sheldon Road
- 11-23-21 Rezoning application received from MVAH Holding LLC to rezone property on Pearl Road for a senior independent living development

FINANCE, TAXATION & ASSESSMENTS COMMITTEE – Mr. Bortolotto, Chairman

CITY PARKS, RECREATION & SERVICES COMMITTEE – Mr. Ali, Chairman

- 2-13-18 Dog Park
- 11-13-18 Ordinance No. 2018-92, Dedicated space for seniors in community center
- 2-26-19 Proposed Charter Amendments – mayor term limits/firing of directors

LEGISLATION & RULES COMMITTEE – Mr. Ference, Chairman

- 2-26-13 Vote Abstention Rule
- 9-10-19 Term Limits

PUBLIC HEALTH, SAFETY & RELIEF COMMITTEE – Mr. McGregor, Chairman

- 9-22-20 Hotel/Motel Security Legislation

PUBLIC IMPROVEMENTS COMMITTEE – Mr. Dan Sage, Chairman

- 6-26-12 Police Department Expansion Project or new facility

STREETS, UTILITIES & RAILROAD COMMITTEE – Mr. Meany, Chairman

- 1-22-19 Letter from Diane Bickett, Executive Director, dated January 7, 2019 regarding ratification of the Cuyahoga County Solid Waste Management Plan update

AD-HOC COMMITTEE

- 12-22-09 Preservation of the Little Red School House

Boards and Commissions

CITY OF MIDDLEBURG HEIGHTS

15700 Bagley Road • Middleburg Heights, Ohio 44130 • 440-239-6252 • Fax 440-234-9092
kearley@middleburgheights.com

Kim Earley
Secretary

Norman H. Herwerden
Building Commissioner



MEMORANDUM

TO: MARY ANN MEOLA, CLERK OF COUNCIL
FROM: KIM EARLEY, PLANNING COMMISSION SECRETARY
DATE: DECEMBER 9, 2021
SUBJECT: ORDINANCE 2021-90

At the regularly scheduled Planning Commission meeting December 8, 2021 members voted to recommend approval of Ordinance 2021-90 rezoning Permanent Parcel Numbers 371-08-012, 371-08-008, 371-08-009, 371-08-010, 371-08-013, 371-08-014, and 371-08-015 from the Office Building (OB) Zoning District and 371-08-011 from the One-Family A Residential (R1-A) Zoning District to the Senior Residence/Life Care (SR/LC) Zoning District for Omni Senior Living, 19170 Bagley Road. I have attached the booklet the applicant presented at the meeting.

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2021-

Introduced By: Mr. Meany. Co-Sponsors: Mr. Ali, Mr. McGregor

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF
UNDERSTANDING WITH THE CUYAHOGA COUNTY BOARD OF HEALTH
(CCBH) FOR 2022-2025 PHASE II STORMWATER SERVICES THAT ARE
PART OF THE NEORSR REGIONAL STORMWATER MANAGEMENT
PROGRAM (RSMP) SERVICE AREA**

WHEREAS, pursuant to an agreement between CCBH and NEORSR, the NEORSR recognizes CCBH as a service provider for the implementation of Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations programming; and

WHEREAS, for CCBH to provide the above-described service to municipalities within the NEORSR jurisdiction, CCBH must contract with those municipalities that are a part of the NEORSR jurisdiction to obtain consent and authority to perform these services; and

WHEREAS, the City has authority to grant consent and authority to CCBH for the purposes of performing the services outlined in the memorandum of understanding.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Mayor is hereby authorized to enter into a Memorandum of Understanding with the Cuyahoga County Board of Health (CCBH), a copy of which is attached hereto and marked "Exhibit A", in which there will be no exchange of funds for services performed.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: _____

Attest: _____

Clerk of Council

Presented to Mayor: _____

President of Council

Approved On: _____

Mayor

Yea Nay

Bortolotto

Ali

Sage

Meany

McGregor

Ference

Grech

MEMORANDUM OF UNDERSTANDING

CUYAHOGA COUNTY BOARD OF HEALTH AND THE CITY OF MIDDLEBURG HEIGHTS AUTHORITY AND CONSENT TO PROVIDE PHASE II STORMWATER SERVICES IN 2022 - 2025

This Memorandum of Understanding ("MOU") is entered into by and between The Cuyahoga County Board of Health ("CCBH") and The City of Middleburg Heights ("City"), both separate political subdivisions of the State of Ohio.

WHEREAS: The Cuyahoga County Board of Health is committed to improving the water quality in Cuyahoga County and protecting the health of the residents within its jurisdiction; and

WHEREAS: In response to the implementation of the US EPA's Phase II Stormwater Regulations on March 10, 2003, CCBH developed its Stormwater Management Program to assist municipalities in Cuyahoga County and Northeast Ohio in creating their stormwater management plans and meeting their required stormwater management goals; and

WHEREAS: Each municipality within Northeast Ohio has been issued an MS4 permit by the Ohio EPA which requires each municipality to perform specific functions related to inspecting and monitoring stormwater within the municipality; and

WHEREAS: The Northeast Ohio Regional Sewer District ("The District"), pursuant to the authority of Ohio Revised Code Chapter 6119 adopted Title V - Stormwater Management Code as part of the District's Code of Regulations ("Title V") and is authorized to provide and contract for overall Stormwater Management of the Regional Stormwater System within the jurisdiction of NEORS; and

WHEREAS: Title V requires NEORS, on behalf of the municipalities within its jurisdiction to provide planning, financing, design, improvement, construction, inspection, monitoring, maintenance, operation, and regulation for the proper handling of stormwater runoff and the development and provision of technical support information and services to member municipalities; and

WHEREAS: Section 5.0502 of Title V requires the District to provide Phase II stormwater regulation support services to member communities of the District with Ohio EPA's NPDES General Permit for Municipal Separate Storm Sewer Systems for Minimum Control Measures (MCMs) #1, #2, #3, and #6; and

WHEREAS: Recently, the District passed resolution 332-21 authorizing an agreement with the CCBH for services in support of NEORS member communities' compliance with the Ohio EPA's NPDES General Permit for Municipal Separate Storm Sewer Systems; and

WHEREAS: Pursuant to the agreement between CCBH and NEORS, the District recognizes CCBH as a service provider for the implementation of Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) programming and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations; and

WHEREAS: In order for CCBH to provide the above described services to municipalities within the NEORSJ jurisdiction, CCBH must contract with those municipalities that are part of the NEORSJ jurisdiction in order to obtain consent and authority to perform these services; and

WHEREAS: City has authority to grant consent and authority to CCBH for the purposes of performing the services outlined herein; and

WHEREAS: Both parties desire to enter this MOU agreement for the purposes outlined herein.

Now therefore, in consideration of the mutual promises and conditions set forth herein, BOARD and the CITY (each, a "Party" and collectively, the "Parties") agree as follows:

A. PROJECT DESCRIPTION

CCBH and the City have identified the need for the following described project:

- The implementation of Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations programming;

B. SCOPE OF WORK

1. The Board will monitor the City's designated Municipal Separate Stormwater System (MS4) outfall locations during a dry weather period (a minimum of 72 hours with no rain event) and sample all flowing outfall locations that are within the District's RSMP area for E. coli, during the 2022, 2023, 2024, and 2025 report periods.
2. The Board will provide an annual training presentation related to Good Housekeeping/Pollution Prevention for Municipal Operations for the community's employees on various best management practices. This will be coordinated with the community during the 2022, 2023, 2024, and 2025 report periods.
3. The Board will conduct an annual site inspection of the community's municipal operation facilities in 2022, 2023, 2024, and 2025 and provide a completed report.
4. The Board will provide the City an annual summary of the work that was performed as it relates to Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination and MCM #6: Good Housekeeping/Pollution Prevention for Municipal Operations to be included in the City's Phase II Stormwater Annual report to the Ohio EPA.
5. The City will provide aid in opening storm sewer manholes where and when deemed necessary for the purpose of sample collections.

C. CONSENT STATEMENT

Being in the public interest, The City of Middleburg Heights hereby gives consent to CCBH to complete the above described project.

D. COOPERATION STATEMENT

The City of Middleburg Heights shall cooperate with CCBH in the above described project as follows:

1. Provide maps, assistance and/or direction for CCBH to obtain access and/or samples for testing purposes;
2. The City will provide aid in opening storm sewer manholes where and when needed.

E. COMPENSATION.

The City shall have no obligation to pay the Board for the Scope of Work or services performed identified in Section B.

F. INDEPENDENT CONTRACTOR.

The Board is performing its duties and obligations under this Agreement as an independent contractor and is not an agent or employee of the City. The Board shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowable by law. The entire cost and expense of these services will be provided by NEORS to CCBH. No financial participation will be required by The City of Middleburg Heights.

G. EFFECT OF ELECTRONIC SIGNATURE

By entering into this Agreement, the parties agree that this transaction may be conducted by electronic means, including, without limitation, that all documents requiring signatures by the parties may be executed by electronic means, and that the electronic signatures affixed by the authorized representatives of the parties shall have the same legal effect as if the signatures were manually affixed to a paper version of the documents. The parties also agree to be bound by the provisions of Chapter 1306 of the Ohio Revised Code as it pertains to electronic transactions.

H. TERM AND TERMINATION

The term of this Agreement shall begin on _____ and shall end on December 31, 2025, unless extended by the parties by agreement in writing. Either party may cancel this Agreement, for cause, with sixty (60) days written notice to the other party of such intent, when either the progress or results achieved under this Agreement is unacceptable to either party. Prior to cancellation of this Agreement, a meeting will be held by the parties to discuss issues of concern and seek resolution. If this Agreement is canceled by the parties prior to completion, the Board, within twenty (20) days, shall submit a certified final progress report if a percentage of work is completed by the date of cancellation. The City will pay the Board for the work completed as certified in this statement, subject to the provisions of this Agreement.

I. MISCELLANEOUS TERMS

a. Waivers and Amendments. The waiver by either Party of any provision of this MOU on any occasion and upon any particular circumstance shall not operate as a waiver of such provision of this MOU on any other occasion or upon any other circumstance. This MOU may be modified or amended only via a writing signed by both Parties.

b. Assignment. Neither Party shall have the right to assign this MOU to any third party. Any such attempted assignment will be null and void.

c. Complete Agreement; Integration. This MOU contains the complete understanding of the Parties with respect to the subject matter hereof and supersedes all other agreements, understandings, communications and promises of any kind, whether oral or written, between the Parties with respect to such subject matter.

d. Compliance with Laws. The Parties will comply with all applicable laws and regulations in performing their obligations hereunder. When taking actions (or failing to act) in any way relating to this MOU, neither Party shall unlawfully discriminate on the basis of race, sex, pregnancy, religion, disability, age, national origin, or color.

e. No Third Party Beneficiaries. This MOU does not and is not intended to confer any rights or remedies upon any party other than the City and CCBH.

f. Notices. All notices required or permitted under this MOU shall be given in writing by courier or reputable overnight delivery services, or by certified mail, return receipt requested, at the Party's address first set forth above, on behalf of the City, an additional copy shall be forwarded to the District. Such notices shall be effective when received.

IN WITNESS WHEREOF, authorized representatives of the parties to this CONTRACT, indicating their party's approval of the terms herein, have signed as of the dates set forth below.

FOR THE BOARD:

Approved as to form.

Terrence Allan
Health Commissioner

Thomas P. O'Donnell
CCBH General Counsel

Date: _____

Date: _____

**FOR THE CITY OF MIDDLEBURG
HEIGHTS:**

Approved as to form.

Date: _____

, Esq.
Law Director

Date: _____

DELIVERED DEC 09 2021

CITY OF MIDDLEBURG HEIGHTS, OHIO

Resolution No. 2021-

Introduced By: Mayor Matthew J. Castelli

A RESOLUTION

AUTHORIZING THE MAYOR TO FILE AN APPLICATION WITH THE CUYAHOGA COUNTY DEPARTMENT OF DEVELOPMENT FOR A GRANT THROUGH THE 2022 CUYAHOGA COUNTY SUPPLEMENTAL GRANT PROGRAM AND DECLARING AN EMERGENCY

WHEREAS, grant funds are now available through the Cuyahoga County Department of Development, and the City of Middleburg Heights desires to make application for such funding for the resurfacing of pavement on Packard Avenue for the maintenance of health, safety, and welfare; and

WHEREAS, the residents of Middleburg Heights, at a public meeting, have been given an opportunity to express their views on the aforesaid project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Council of the City of Middleburg Heights, hereby authorizes the Mayor to file an application for a Cuyahoga County Supplemental Grant in the amount of up to \$50,000 for the resurfacing of pavement on Packard Avenue.

Section 2: The Mayor and Director of Finance are hereby authorized and directed to enter such agreements with Cuyahoga County as may be necessary for the application for and receipt of Cuyahoga County Supplemental Grant funds and related funding, as provided by law. Said agreements shall be in substantially the form as approved by the Director of Law.

Section 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Section 4: This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, and welfare of said City, and for further reason to authorize the Mayor to file an application with the Cuyahoga County Department of Development for a Cuyahoga County Supplemental Grant; therefore, this Resolution shall take effect and be in force immediately from and after its passage and approval by the Mayor.

Passed: _____

President of Council

Attest: _____

Clerk of Council

Approved On: _____

Presented to Mayor: _____

Mayor

	Yea	Nay
Bortolotto	_____	_____
Ali	_____	_____
Sage	_____	_____
Meany	_____	_____
McGregor	_____	_____
Ference	_____	_____
Grech	_____	_____

DELIVERED DEC 09 2021

CITY OF MIDDLEBURG HEIGHTS, OHIO

Resolution No. 2021-

Introduced By: Mayor Matthew J. Castelli

A RESOLUTION

AUTHORIZING THE MAYOR TO FILE AN APPLICATION WITH THE CUYAHOGA COUNTY DEPARTMENT OF DEVELOPMENT FOR A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) THROUGH THE 2021 CUYAHOGA COUNTY MUNICIPAL GRANT PROGRAM AND DECLARING AN EMERGENCY

WHEREAS, CDBG funds are now available through the Cuyahoga County Department of Development, and the City of Middleburg Heights desires to make application for such funding for the resurfacing of pavement on Glenridge Avenue from Brookside Parkway to Grant Boulevard, which is within a designated Improvement Target Area, for the maintenance of health, safety, and welfare; and

WHEREAS, the residents of Middleburg Heights, at a public meeting, have been given an opportunity to express their views on the aforesaid project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Council of the City of Middleburg Heights, hereby authorizes the Mayor to file an application for a Community Development Block Grant in the amount of \$150,000 for the resurfacing of pavement on Glenridge Avenue from Brookside Parkway to Grant Boulevard.

Section 2: The Mayor and Director of Finance are hereby authorized and directed to enter such agreements with Cuyahoga County as may be necessary for the application for and receipt of Community Development Block Grant funds and related funding, as provided by law. Said agreements shall be in substantially the form as approved by the Director of Law.

Section 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Section 4: This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, and welfare of said City, and for further reason to authorize the Mayor to file an application with the Cuyahoga County Department of Development for a Community Development Block Grant; therefore, this Resolution shall take effect and be in force immediately from and after its passage and approval by the Mayor.

Passed: _____

President of Council

Attest: _____
Clerk of Council

Approved On: _____

Presented to Mayor: _____

Mayor

	Yea	Nay
Bortolotto	_____	_____
Ali	_____	_____
Sage	_____	_____
Meany	_____	_____
McGregor	_____	_____
Ference	_____	_____
Grech	_____	_____

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2021-

Introduced By: Mayor Matthew Castelli

**AN ORDINANCE
AUTHORIZING THE MAYOR TO SIGN A FIRST AMENDMENT TO
AGREEMENT WITH MACKAY ENGINEERING AND SURVEYING
COMPANY FOR PROFESSIONAL CONSULTING ENGINEERING
SERVICES**

WHEREAS, through adoption of Ordinance No. 2009-97 on December 8, 2009, the City of Middleburg Heights and Mackay Engineering and Surveying Company entered into an agreement for professional consulting engineering services; and

WHEREAS, Mackay Engineering has entered into an agreement to sell substantially all of its assets to Wallace & Pancher, Inc.; and

WHEREAS, the City and Mackay desire to amend the Agreement and the City desires to consent to the proposed assignment of the Agreement to Wallace & Pancher, Inc. on the terms and conditions set forth in the amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Mayor is hereby authorized to sign the First Amendment to Agreement between the City of Middleburg Heights and Mackay Engineering and Surveying Company, a copy of which is attached hereto and marked "Exhibit A".

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: _____

President of Council

Attest: _____

Clerk of Council

Approved On: _____

Presented to Mayor: _____

	Yea	Nay
Bortolotto	_____	_____
Ali	_____	_____
Sage	_____	_____
Meany	_____	_____
McGregor	_____	_____
Ference	_____	_____
Grech	_____	_____

Mayor

FIRST AMENDMENT TO AGREEMENT

THIS FIRST AMENDMENT TO AGREEMENT (the "Amendment") is made and entered into effective as of the ____ day of _____, 2021, by and between the CITY OF MIDDLEBURG HEIGHTS, OHIO, a municipal corporation ("City") and MACKAY ENGINEERING AND SURVEYING COMPANY, an Ohio corporation ("Mackay").

RECITALS:

A. The City and Mackay entered into a certain Agreement dated January 1, 2010 pursuant to which the City retained Mackay to perform engineering services on behalf of the City (the "Agreement"), which Agreement was authorized by Ordinance No. 2009-97 of the City.

B. Mackay has entered into an agreement to sell substantially all of its assets to Wallace & Pancher, Inc. ("W&P") and, upon the consummation of such transaction, Mackay will assign its rights and obligations under the Agreement to W&P.

C. The City and Mackay desire to amend the Agreement in order to designate Mackay contacts for the Mayor, Council and other City officials, and the City desires to consent to the proposed assignment of the Agreement (as amended) to W&P, on the terms and conditions more fully set forth in this Amendment.

D. Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Agreement.

AGREEMENTS:

In consideration of the foregoing Recitals and the mutual covenants and agreements herein set forth, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. MACKAY CONTACTS. The City and Mackay hereby agree that the last paragraph of Section 1(a) of the Agreement shall be deleted in its entirety, and the following shall be inserted in lieu thereof:

" Michael Mackay, Kimberly Kerber, or an employee of Mackay designated by Michael Mackay or Kimberly Kerber will be the contact for the Mayor, Council and other City Officials and such contact will be changed only as requested by the City."

2. CONSENT TO ASSIGNMENT. In the event Mackay consummates the sale of substantially all of its assets to W&P, the City consents to the assignment by Mackay of its rights and obligations under the Agreement (as amended by this Amendment) to W&P.

3. CONFLICTING TERMS; NO OTHER MODIFICATIONS. To the extent that any terms and conditions of this Amendment are inconsistent with the terms and conditions of the

Agreement, the terms and conditions of this Amendment shall prevail. Otherwise, unless expressly modified or superseded herein, all of the terms and conditions of the Agreement shall remain unaffected and in full force and effect.

4. BINDING EFFECT; GOVERNING LAW. This Amendment shall be governed by and construed in accordance with the laws of the State of Ohio, and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

5. COUNTERPARTS. This Amendment may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument. This Amendment may be delivered by the parties hereto by facsimile or email in pdf format, and delivery in such manner shall be as binding and effective on the party delivering by facsimile or email as if the original had been delivered.

(signatures on following page)

IN WITNESS WHEREOF, the City and Mackay have executed this Amendment as of the day and year first above written.

CITY:

CITY OF MIDDLEBURG HEIGHTS, OHIO

By: _____
Matthew J. Castelli, Mayor

MACKAY:

MACKAY ENGINEERING AND
SURVEYING COMPANY

By: _____
Michael Mackay, President

City of Middleburg Heights, Ohio

DELIVERED DEC 09 2021

Ordinance No. 2021-_____

Introduced by: Mayor Matthew Castelli

**AN ORDINANCE
TO MAKE SUPPLEMENTAL APPROPRIATIONS
FOR CURRENT EXPENDITURES AND EXPENSES
FOR THE CITY OF MIDDLEBURG
HEIGHTS FOR THE CALENDAR YEAR 2021
AND DECLARING AN EMERGENCY**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, CUYAHOGA COUNTY, STATE OF OHIO:

Section 1. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the General Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Police - Wages & Fringe Benefits - Overtime	\$ 50,000.00
Police - Wages & Fringe Benefits - Regular Wages	\$ (50,000.00)
Fire - Wages & Fringe Benefits - Overtime	\$ 20,000.00
Fire - Wages & Fringe Benefits - Regular Wages	\$ (20,000.00)
Finance - Wages & Fringe Benefits - Regular Wages	\$ 500.00
Finance - Other - Operating Supplies	\$ (500.00)
Service - Wages & Fringe Benefits - Regular Wages	\$ (40,000.00)
Service - Wages & Fringe Benefits - Overtime	\$ 30,000.00
Facility Maintenance - Wages & Fringe Benefits - Overtime	\$ 5,000.00
Refuse Removal - Other - Solid Waste Removal	\$ 50,000.00
Gen. Govt. - Wages & Fringe Benefits - Retirements/Resignations	\$ 38,000.00
Stat. Accounts - Other - RITA Fees	\$ 90,000.00
Advances - Advance to Streets/Inf. Improvement Fund (Awaiting Project Reimb.)	\$ 500,000.00
Total Increase to the General Fund	\$ 673,000.00

Section 2. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the SCM&R Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Streets - Wages & Fringe Benefits - Overtime	\$ 5,000.00
Total Increase to the SCM&R Fund	\$ 5,000.00

Section 3. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Recreation Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Recreation Programs - Other - Utilities	\$ 6,000.00
Community Center - Other - Utilities	\$ (6,000.00)
Total Decrease to the Recreation Fund	\$ -

Section 4. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2020, the following sums be appropriated from the Architect Review Trust Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Building - Other - Professional Services	\$ (3,000.00)
Total Decrease to the Architect Review Trust Fund	\$ (3,000.00)

Section 5. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Builders Bond Trust Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Building - Other - Refunds and Reimbursements	\$ (12,000.00)
Total Decrease to the Builders Bond Trust Fund	\$ (12,000.00)

Section 6. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Examination of Plans Trust Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Building - Other - Professional Services	\$ (2,000.00)
Total Decrease to the Examination of Plans Trust Fund	\$ (2,000.00)

Section 7. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Yard Grade Trust Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Building - Other - Professional Services	\$ (1,000.00)
Total Decrease to the Yard Grade Trust Fund	\$ (1,000.00)

Section 8. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Sidewalk Grade Trust Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Building - Other - Professional Services	\$ (100.00)
Total Decrease to the Sidewalk Grade Trust Fund	\$ (100.00)

Section 9. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Tree Planting Trust Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Building - Other - Professional Services	\$ (1,000.00)
Total Decrease to the Tree Planting Trust Fund	\$ (1,000.00)

Section 10. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Misc. Insp. Trust Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Building - Other - Refunds and Reimbursements	\$ (9,000.00)
Total Decrease to the Misc. Insp. Trust Fund	\$ (9,000.00)

Section 11. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Flexible Spending Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Flexible Spending - Other - Medical Reimbursement (Adjust to actual)	\$ (1,500.00)
Flexible Spending - Other - Dependent Care Reimbursement (Adjust to actual)	\$ (4,000.00)
Total Decrease to the Flexible Spending Fund	\$ (5,500.00)

Section 12. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2021, the following sums be appropriated from the Board of Building Standards Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Building - Other - State Fee	\$ 4,406.21
Total Increase to the Board of Bldg. Standards Trust Fund	\$ 4,406.21

Section 13. That it is hereby found and determined that all formal actions of this council concerning and relating to the passage of this ordinance were adopted in an open meeting of this council, and that all deliberations of this council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including chapter 107 of the Codified Ordinances and section 121.22 of Ohio Revised Code.

Section 14. That this ordinance is hereby declared to be an emergency measure, immediately necessary for the preservation of the public peace, health and safety of the citizens of the City of Middleburg Heights, Ohio. Such emergency being the necessity of supplementing appropriations from the above listed funds and accounts in order to allow the City to pay outstanding obligations of the City for the year 2021. Therefore, this ordinance shall take effect and be in force immediately upon its passage and approval by the Mayor.

PASSED _____

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

PRESENTED TO MAYOR _____

APPROVED ON: _____

	YEAS	NAYS
BORTOLOTTI	_____	_____
ALI	_____	_____
SAGE	_____	_____
MEANY	_____	_____
MCGREGOR	_____	_____
FERENCE	_____	_____
GRECH	_____	_____

MAYOR

Finance Department

CITY OF MIDDLEBURG HEIGHTS

15700 Bagley Road • Middleburg Heights, Ohio 44130-4832
440/234-8989 • Fax 440/234-4934 • E-mail: finance@middleburgheights.com



Matthew Castelli
Mayor

Jason Stewart, CPA
Director of Finance

Memorandum

To: Members of Council
From: Jason Stewart, CPA, Finance Director
Date: December 8, 2021
Subject: Clean-up Appropriation

Attached you will find the 2021 clean-up appropriation ordinance for your consideration. There are a number of items for your consideration. I have broken them down by fund below:

Sections #1-2: General Fund and SCM&R Fund

Item 1.) As previously reported, a transfer of Regular Wages to Overtime Wages (\$50,000) in the Police Department as additional overtime costs were incurred to maintain staffing as the result of a number of vacancies, participation in task forces and training opportunities in the department.

Item 2.) As previously reported, a transfer of Regular Wages to Overtime Wages (\$20,000) in the Fire Department as additional overtime costs were incurred to attempt to maintain staffing at six men per shift.

Item 3.) Transfer of appropriation from Operating Supplies to Regular Wages (\$500) to account for an error in the budget worksheet which used an incorrect sick leave percentage in calculating the wages of the department.

Item 4.) As previously reported, a transfer of Regular Wages (\$40,000) to Overtime Wages (\$30,000) in the Service Department, Facility Maintenance (\$5,000), and Streets Department (\$5,000) as additional overtime costs were incurred due to an increased need for snow plowing, landscaping maintenance, and manning at community events.

Item 5.) There is an additional appropriation amount of \$50,000 to cover the costs of the previously approved increase in rates for the Allied Waste contract.

Item 6.) Each year, we anticipate a certain number of retirements throughout the year. This year we will need an additional appropriation of \$38,000 for unanticipated retirements/resignations during the year.

Item 7.) There is an additional appropriation of \$90,000 for RITA fees. Income tax collections for 2021 are exceeding original expectations. This additional fee is to account for the 3% retainer withheld by the Regional Income Tax Agency.

Item 8.) We are expected to receive over \$500,000 in funding from Cuyahoga County for a number of projects that were undertaken in 2021, including the resurfacing of Glenridge, Webster Road, and storm sewer work on Middlebrook. Those funds are likely to not be received

(OVER)

City of Middleburg Heights, Ohio

Appr2201.doc

Ordinance No. 2021-_____**Introduced by: Mayor Matthew Castelli**

**AN ORDINANCE
TO MAKE APPROPRIATIONS
FOR CURRENT EXPENDITURES AND EXPENSES
FOR THE CITY OF MIDDLEBURG
HEIGHTS FOR THE CALENDAR YEAR 2022
AND DECLARING AN EMERGENCY**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS,
CUYAHOGA COUNTY, STATE OF OHIO:**

Section 1. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2022, the following sums shall be appropriated as shown in the attached 2022 Appropriations schedule, marked Exhibit A.

Section 2. That it is hereby found and determined that all formal actions of this council concerning and relating to the passage of this ordinance were adopted in an open meeting of this council, and that all deliberations of this council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including chapter 107 of the Codified Ordinances and section 121.22 of Ohio Revised Code.

Section 3. That this ordinance is hereby declared to be an emergency measure, immediately necessary for the preservation of the public peace, health and safety of the citizens of the City of Middleburg Heights, Ohio. Such necessity the immediate emergency being the necessity of appropriating the funds and accounts shown on Exhibit A, in order to allow the City to pay obligations of the City for the year 2022. Therefore, this ordinance shall take effect and be in force immediately upon its passage and approval by the Mayor.

PASSED _____

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

PRESENTED TO MAYOR _____

APPROVED ON: _____

	YEAS	NAYS
BORTOLOTTA	_____	_____
ALI	_____	_____
SAGE	_____	_____
MEANY	_____	_____
MCGREGOR	_____	_____
ERENCE	_____	_____
GRECH	_____	_____

MAYOR

**CITY OF MIDDLEBURG HEIGHTS
APPROPRIATIONS 2022**

EXHIBIT A

Department	Total Wages & Fringe Benefits	Total Other	Department Total
Police	\$ 5,193,981.06	\$ 1,080,708.00	\$ 6,274,689.06
Fire	4,264,918.88	425,220.00	4,690,138.88
Senior Bus	-	87,600.00	87,600.00
Planning & Zoning	110,145.47	4,700.00	114,845.47
Building Department	749,808.51	29,900.00	779,708.51
Engineer	-	56,827.49	56,827.49
Refuse Removal	-	1,400,000.00	1,400,000.00
Mayor's Court	301,859.32	8,500.00	310,359.32
Community Diversion	-	8,860.00	8,860.00
Mayor	584,966.32	10,300.00	595,266.32
Economic Development	176,000.88	415,100.00	591,100.88
Finance	615,039.71	43,200.00	658,239.71
Law Department	415,783.12	102,000.00	517,783.12
Service Department	2,992,763.39	410,400.00	3,403,163.39
Service Department Fac. Maint	461,311.78	286,900.00	748,211.78
Council	478,144.49	77,350.00	555,494.49
Boards & Commissions	3,225.39	7,900.00	11,125.39
Safety Director	-	-	-
City Hall/Gen'l Gov't	275,000.00	898,250.00	1,173,250.00
Statutory Accounts	-	871,100.00	871,100.00
Transfers	-	1,700,000.00	1,700,000.00
Advances	-	-	-
TOTAL GENERAL FUND	\$ 16,622,948.32	\$ 7,924,815.49	\$ 24,547,763.81
S.C.M.& R. Fund	\$ 1,016,386.91	\$ 1,236,312.00	\$ 2,252,698.91
State Highway Fund	-	65,000.00	65,000.00
Recreation Fund	2,172,671.21	892,900.00	3,065,571.21
Court Computer	-	11,800.00	11,800.00
L.E. Education	-	21,600.00	21,600.00
L.E. Drug Penalty	-	-	-
L.E. Contra Seizure	-	2,000.00	2,000.00
L.E. Drug Fine Fund	-	-	-
Police Prof. Training Fund	-	6,000.00	6,000.00
Medical Transport Fund	43,852.44	432,000.00	475,852.44
FEMA Grant Fund	-	135,927.39	135,927.39
Local Fiscal Recovery Fund	-	-	-
PACE Special Assessment Fund	-	323,500.00	323,500.00
Bond Retirement	-	570,240.00	570,240.00
Capital Improvements	-	9,783,537.95	9,783,537.95
Streets/Infrastructure Imp.	-	10,811,842.00	10,811,842.00
Fat Head's Brewing TIF Fund	-	75,000.00	75,000.00
Health Insurance Reserve	-	3,805,000.00	3,805,000.00
Police Pension Fund	190,000.00	100.00	190,100.00
Fire Pension Fund	190,000.00	100.00	190,100.00
Architect Trust Fund	-	10,000.00	10,000.00
Builders Bond Trust	-	85,000.00	85,000.00
Examination of Plans	-	60,000.00	60,000.00
Yard Grade Trust	-	3,500.00	3,500.00
Sidewalk Grade Trust	-	100.00	100.00
Tree Planting Trust	-	7,500.00	7,500.00
Misc Inspection Deposit	-	34,000.00	34,000.00
Unclaimed Monies Trust	-	98,000.00	98,000.00
Veterans Memorial	-	7,450.00	7,450.00
Rental Deposit Fund	-	1,400.00	1,400.00
Flexible Spending Trust Fund	-	80,000.00	80,000.00
Bd. of Building Stds.	-	7,500.00	7,500.00
Southwest General	-	193,000.00	193,000.00
TOTAL ALL FUNDS	\$ 20,235,858.88	\$ 36,685,124.83	\$ 56,920,983.71

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2021-

Introduced By: Mayor Matthew Castelli

**AN ORDINANCE
AUTHORIZING THE MAYOR AND FINANCE DIRECTOR
TO ENTER INTO A PURCHASE AGREEMENT FOR THE PURCHASE OF
CERTAIN REAL ESTATE IN THE CITY OF MIDDLEBURG HEIGHTS TO BE
USED FOR THE CONSTRUCTION OF ABRAM CREEK DETENTION
BASINS NEAR BIG CREEK PARKWAY PROJECT
AND DECLARING AN EMERGENCY**

WHEREAS, flooding of public and private property has been a concern throughout the City of Middleburg Heights ("City") for many years; and

WHEREAS, it is the desire of the Mayor and Council to work towards the elimination of all flooding concerns within the City and to improve stormwater management within the City; and

WHEREAS, the acquisition of this parcel of land will allow the City to proceed with certain necessary improvements to increase stormwater detention capacity to reduce flooding within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Mayor and Finance Director are hereby authorized to enter into a purchase agreement, a copy of which is attached hereto and marked "Exhibit A", for the purchase of certain real estate and improvements in the City of Middleburg Heights.

Section 2: That there is hereby appropriated from the Streets/Infrastructure Improvements Fund \$_____ for the purchase of a certain parcel of real estate, closing costs and related fees, expenses and demolition and removal improvements on said parcel, and the Finance Director is hereby authorized to advance the same amount from the General Fund to the Streets/Infrastructure Improvements Fund to implement this Ordinance.

Section 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public,

in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Section 4: That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, and welfare of said City. Wherefore, provided this Ordinance receives the affirmative vote of at least two-thirds (2/3) of the members of Council it shall take effect and be in force immediately upon its passage and approval by the Mayor.

Passed: _____

President of Council

Attest: _____
Clerk of Council

Approved On: _____

Presented to Mayor: _____

Mayor

	Yea	Nay
Bortolotto	_____	_____
Ali	_____	_____
Sage	_____	_____
Meany	_____	_____
McGregor	_____	_____
Ference	_____	_____
Grech	_____	_____