

CITY OF MIDDLEBURG HEIGHTS, OHIO

Council Agenda

January 11, 2022

6:55 P.M. PUBLIC HEARING

RESOLUTION 2021-69
DAKDOUK REZONING

7:00 P.M. REGULAR MEETING

- CALL TO ORDER
- ROLL CALL
- PLEDGE OF ALLEGIANCE

Minutes of the Swearing-In of December 14, 2021
Minutes of the Regular Meeting of December 14, 2021
Minutes of the Executive Session of December 14, 2021

COMMUNICATIONS

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

Council Agenda

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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)

ORDINANCE 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, Public Hearing 1/25/22)

UN-NUMBERED LEGISLATION

INTRODUCED BY COUNCILMAN MEANY

An Ordinance authorizing the mayor to enter into a Memorandum of Understanding with the Cuyahoga Soil and Water Conservation District (SWCD) to carry out mandated responsibilities related to the NPDES Storm Water Permit.

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 2022 and declaring an emergency.

INTRODUCED BY MAYOR CASTELLI

An Ordinance extending a moratorium on the acceptance, processing and approval of applications for zoning, occupancy and/or building permits for dealers in secondhand articles use in all zoning districts of the city and declaring an emergency.

INTRODUCED BY MAYOR CASTELLI

An Ordinance amending Chapter 127 "Police Division" of the Middleburg Heights Codified Ordinances.

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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

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2022-

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 SOIL AND WATER
CONSERVATION DISTRICT (SWCD) TO CARRY OUT MANDATED
RESPONSIBILITIES RELATED TO THE NPDES STORM WATER PERMIT**

WHEREAS, the Cuyahoga Soil and Water Conservation District (SWCD) and the City of Middleburg Heights recognize the need for effective collaboration in protecting soil and water resources and in carrying out its mandated responsibilities, especially related to the National Pollutant Discharge Elimination System (NPDES) Storm Water Permit; and

WHEREAS, the Cuyahoga SWCD will provide technical assistance in implementing soil and water conservation measures that promote best practices for pollution prevention and corresponds with the City's Municipal Separate Storm Sewer System permit.

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 Soil and Water Conservation District (SWCD) for services related to storm water pollution prevention and stormwater quality management at a cost not to exceed \$23,000, a copy of which is attached hereto and marked "Exhibit A".

Section 2: That there is hereby appropriated from the Service Department Miscellaneous Contracts Fund up to \$23,000 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.

Passed: _____

President of Council

Attest: _____
Clerk of Council

Approved On: _____

Presented to Mayor: _____

Mayor

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

MEMORANDUM OF UNDERSTANDING
Between the Cuyahoga Soil and Water Conservation District
and the
City of Middleburg Heights

This Memorandum of Understanding (“MOU”) is made this ___ day of _____, 2022 (“Effective Date”), between the Cuyahoga Soil and Water Conservation District (SWCD) and City of Middleburg Heights (“City”), for assistance with technical assistance in implementing soil and water conservation measures.

Purpose – Implementation of a conservation program that promotes best practices for pollution prevention and corresponds with the City’s Municipal Separate Storm Sewer System permit.

Recognizing the need for effective collaboration in protecting soil and water resources and in carrying out its mandated responsibilities, especially related to the National Pollutant Discharge Elimination System (NPDES) Storm Water Permit, the City and the Cuyahoga SWCD accept this agreement as the document which describes the process for exchange. Cooperation between these two units of government facilitates solutions to problems encountered by the City as it plans for the development/redevelopment and conservation of its environment and water quality improvements. The Ohio Revised Code, Chapter 940, describes the Cuyahoga SWCD’s authority for engaging in this Mutual Agreement.

NOW, THEREFORE, the parties’ understanding is as follows:

Project Tasks

The Cuyahoga SWCD and the City have mutually agreed to the scope of technical assistance related to pollution prevention on disturbed sites, including construction sites disturbing one or more acres of total land, including the entire area disturbed in the larger common plan of development or sale (≥ 1 acre) as required under the NPDES rules. Construction activities disturbing less than one acre and not part of a larger common plan of development or sale of total land (< 1 acre), and not covered under the NPDES rules, will be reviewed by the Cuyahoga SWCD as requested by the City.

The Cuyahoga SWCD will: (i) perform storm water pollution prevention plan (SWP3) reviews for proposed development, redevelopment and infrastructure renovation projects; (ii) perform abbreviated construction plan reviews, as requested by the City; (iii) perform field reviews of active construction projects; (iv) perform long-term maintenance field reviews of post-construction water quality facilities; and (vii) provide written technical advisory reports detailing plan review recommendations, site conditions, and recommendations for compliance and/or maintenance activities needed.

NPDES, Minimum Control Measure 4 – Stormwater Pollution Prevention/Erosion & Sediment Control

1. The Cuyahoga SWCD will provide technical assistance, related to storm water pollution prevention and stormwater quality management, as requested, including:
 - Preliminary site planning meetings or conference calls*
 - a. Review of development, redevelopment, and infrastructure renovation plans for compliance with NPDES rules (Ohio Revised Code 3745 39-04 (B) (1) through (6)) and the current edition of Ohio’s Rainwater and Land Development standard guidance manual
 - b. Provide rapid field assessment of soils and soil quality; and
 - c. Provide an annual report of all activities undertaken (including copies of any other data collected).

2. The annual conservation program will include technical assistance related to NPDES covered construction activities of an estimated of:
 - a. 9-12 active construction sites (≥ 1 acre)

- b. Initial SWP3 reviews, as received (≥ 1 acre)
 - c. Subsequent SWP3 review, *as needed* (≥ 1 acre)
 - d. Technical advisory inspections (field reviews) and reporting (12 per year per site) once construction begins
 - e. Plan reviews for abbreviated construction plans will be performed by request of the City.
3. Construction site activities \$16,500.00

NPDES, Minimum Control Measure 5 – Post Construction Stormwater Management

- 1. As required under the MS4 Permit, the Cuyahoga SWCD will also provide annual inspections of all post construction stormwater control measures (water quality and water quantity basins):
 - a. Transition meetings will be held with SWCD staff, city personnel and site personnel to review long-term operations and maintenance needs, and reporting requirements
 - b. 30-35 water quality and 20-25 water quantity stormwater control measures, annual long-term maintenance field reviews, including rapid field assessment, of post- construction water quality facilities
 - c. Technical advisory inspection and reporting to the City and landowners with SCMs on their properties
 - d. Project file management
 - e. Mapping of facility locations
 - f. Maintenance program fact sheets, individual site assessments and training, when needed
- 2. Post-Construction Program-\$6,500

The Cuyahoga SWCD will also provide technical advice on planning issues, including:

- a. Technical assistance on local legislation if the City pursues universal application of accepted best management practices at construction sites
- b. Sound *storm water* management
- c. Protection of sensitive natural areas
- d. General evaluation of sensitive areas such as creeks, floodplains, soils, slopes, wetlands, watersheds, woodlands, or other unique areas that are planned for development
- e. Recommendations for stream bank and wetlands restoration, slope erosion control; and
- f. Small drainage systems and wildlife habitat enhancements.

City’s Role Related to Storm Water Pollution Prevention Activities

- 1. The City will designate someone to serve as the City’s liaison for the storm water pollution prevention program.
- 2. The City will recognize the environmental and economic functions of naturally vegetated open spaces, such as wetlands, stream corridors, ravines, woodlands, and fields as worthy of the City’s protection as open space.
- 3. The City will utilize the Cuyahoga SWCD’s technical assistance including plan reviews, project inventories, evaluations, and inspections of planned construction sites, water quality and water quantity basins or sensitive natural areas of concern.
- 4. The City will direct builders, developers, and consultants to the Cuyahoga SWCD for assistance on planning and conservation early in the concept planning stage of the construction planning cycle.

5. The City will adopt, apply, and enforce Cuyahoga SWCD recommendations by not authorizing commencement and/or issuing work stoppage and other remedies.
6. The City will provide the Cuyahoga SWCD with field surveys, proposed layouts, designs or meeting notices needed for adequate technical assistance in a timely manner.
7. The City recognizes that the Cuyahoga SWCD has no regulatory authority to enforce NPDES rules.

Agreed Procedures

- The City agrees to grant an annual conservation appropriation to the SWCD for Storm Water Pollution Prevention programs implementation, not to exceed **\$23,000** per twelve-month period following the Effective Date and the Cuyahoga SWCD agrees to use the grant funds to provide a comprehensive conservation program for the City.
- The City and the SWCD will determine the most effective manner to appropriate the funds.
- The City will provide a resolution to the SWCD that acknowledges this working agreement and provides documentation to facilitate dispersal of funds to the SWCD on an annual basis.
- That the Cuyahoga SWCD is not granted regulatory authority in the Ohio Revised Code.
- That the Cuyahoga SWCD and the City will meet at least once a year to coordinate a work plan and exchange information.
- The Cuyahoga SWCD will provide the City with a written annual summary, relevant to its role, as outlined in this MOU.
- The *NPDES rules*, current edition of Ohio's Rainwater and Land Development standard guidance manual, and standards of the USDA, Natural Resources Conservation Service will be used in planning and application of conservation measures.
- That both parties will review quality of assistance and address concerns as they arise.
- There shall be no discrimination exercised against any person because of race, color, religion, national origin, sex, gender, ancestry, age, disability, sexual orientation, sexual identify, genetic information, political affiliation, or military status when fulfilling the purpose of this engagement.
- The City recognizes the Cuyahoga SWCD's obligation to make its reports and other written materials available to the public on request in accordance with the Ohio Public Records Act.

Term, Renewal, Termination

The term of this MOU shall commence on the date (the "Initial Effective Date") SWCD receives written notice from the City, in a form approved by SWCD and in accordance with Sections 5705.41 and 5705.44 of the Ohio Revised Code, as applicable, indicating that the City has agreed to provide funds, in an amount agreed to by the parties, to support SWCD's general operations for the following 12-month period (the "Initial City Notice"). The parties acknowledge, understand, and agree that any such funding shall be for the purposes of the District's general operations for a period of *12 calendar* months following the Initial Effective Date (the "Initial MOU Term") and that this MOU shall terminate on the 12-month anniversary of the Initial Effective Date in the event the City does not renew this MOU as set forth herein.

This MOU may be renewed by City for any 12-month period following the Initial MOU Term (a "Subsequent MOU Term") provided that the SWCD receives written notice, as described above (a "Subsequent City Notice"), not less than 30 days prior to expiration of the Initial MOU Term (the date the District receives a Subsequent City Notice, a "Subsequent Effective Date"), and shall continue to renew for any 12-month period provided that the SWCD receives a Subsequent City Notice not less than 30 days prior to expiration of any Subsequent MOU Term then in effect.

This MOU may be amended or terminated at any time by mutual consent of both parties or the agreement may be terminated by either party giving thirty (30) day's advance written notice to the other.

In witness thereof, the Memorandum executed and agreed to on the latest day, month and year written below:

Cuyahoga Soil & Water
Conservation District

City of Middleburg Heights

By: Sherri Lippus
Chair

By: Hon. Matthew Castelli
Mayor

Date:

Date:

City of Middleburg Heights, Ohio

Ordinance No. 2022-_____

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 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 be appropriated from the Capital Improvements Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Capital – Service - 2022 Pickup Truck Replacement	\$ 7,000.00
Total Increase to the Capital Improvements Fund	<u>\$ 7,000.00</u>

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 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 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
BORTOLOTTO	_____	_____
ALI	_____	_____
SAGE	_____	_____
MEANY	_____	_____
MCGREGOR	_____	_____
FERENCE	_____	_____
GRECH	_____	_____

MAYOR

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2022-

Introduced By: Mayor Matthew Castelli

AN ORDINANCE EXTENDING A MORATORIUM ON THE ACCEPTANCE, PROCESSING, AND APPROVAL OF APPLICATIONS FOR ZONING, OCCUPANCY AND/OR BUILDING PERMITS FOR DEALERS IN SECONDHAND ARTICLES USE IN ALL ZONING DISTRICTS OF THE CITY AND DECLARING AN EMERGENCY

WHEREAS, Ordinance 2019-82, passed June 25, 2019 established a temporary moratorium on the acceptance, processing, and approval of applications for zoning, occupancy and/or building permits for dealers in secondhand articles use in all zoning districts of the City and Ordinances 2019-126, passed December 10, 2019 and 2020-44, passed May 21, 2020, 2020-94, passed November 24, 2020, and 2021-54, passed July 13, 2021 extended the moratorium for an additional period of six months from the effective date of the Ordinances; and

WHEREAS, The City of Middleburg Heights may regulate the location and approval of Dealers in Secondhand Articles; and

WHEREAS, The City of Middleburg Heights seeks to avoid an over-concentration of Dealers in Secondhand Articles and desires to encourage a greater diversity of retail activity and purchasing options within the City; and

WHEREAS, the City of Middleburg Heights is working together with the Cuyahoga County Planning Commission to develop a comprehensive, useable, and actionable Master Plan for the City of Middleburg Heights; and

WHEREAS, the Master Plan will document all recommendations regarding issues related to Land Use and Zoning, Building and Land Vacancy, Economic Development, Environment and Transportation; and

WHEREAS, the City is simultaneously undergoing a Zoning Code update project with the assistance of a land use planning and zoning professional; and

WHEREAS, this ordinance will temporarily preserve the status quo pending further study of a new Comprehensive Master Plan and Zoning Code update; and

WHEREAS, the Mayor and Council have determined the extension of this moratorium will protect the planning process and will be in the best interest of the community, health, safety, and welfare to undertake a review of the Middleburg Heights Zoning Code and to consider updates so that any necessary regulations conform to the goals of the City of Middleburg Heights.

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 Council hereby extend a moratorium for an additional period of six months from the effective date of this Ordinance, the City shall not accept, process, or approve any applications from or for Dealers in Secondhand Articles uses in all Zoning Districts of the City during said period.

Section 2: The purpose of this extended moratorium is so that the City Administration, Council, and Planning Commission can continue review of the Middleburg Heights Zoning Code and consider amendments thereof relative to the location and approval process for Dealers in Secondhand Articles.

Section 3: Whenever the provisions of this Ordinance conflict with any other Ordinance or any provision of the Codified Ordinances of the City, the provisions of this Ordinance shall prevail.

Section 4: The extended moratorium shall be in effect for a period of six months from the effective date of this Ordinance, or until changes are enacted to amend the Codified Ordinance of the City of Middleburg Heights to address these issues, or until Council approves legislation explicitly revoking this moratorium, whichever occurs first.

Section 5: 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 6: 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	_____	_____

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2022-

Introduced By: Mayor Matthew Castelli

AN ORDINANCE AMENDING CHAPTER 127 "POLICE DIVISION" OF THE MIDDLEBURG HEIGHTS CODIFIED ORDINANCES

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

Section 1: That Section 127.15(b) "Office Specialist" shall be amended to read as follows:

(b) There shall be no more than ~~three~~ **two** part-time Office Specialists.

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: _____

Mayor

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