

CITY OF MIDDLEBURG HEIGHTS, OHIO

Council Agenda

November 8, 2022

7:00 P.M. REGULAR MEETING

- CALL TO ORDER
- ROLL CALL
- PLEDGE OF ALLEGIANCE

Minutes of the Regular Meeting of October 25, 2022

COMMUNICATIONS

TREX request from Ohio Department of Commerce for El Torito Tacos, 7523 Pearl Road. No objections from Chief Tomba.

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

NOVEMBER 8, 2022

PAGE 2

UN-NUMBERED LEGISLATION

INTRODUCED BY MR. BORTOLOTTI

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

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 2022 Cuyahoga County Municipal 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 grant through the 2023 Community Development Supplemental Grant Program and declaring an emergency.



**Department
of Commerce**

Division of Liquor Control

Division Use Only	
Check #: _____	Permit # _____
# of Checks: _____	
Check Amt: _____	

ECONOMIC DEVELOPMENT TRANSFER FORM (Trex)

Ohio Revised Code 4303.29(B)(2)(b)

READ BEFORE YOU START THIS APPLICATION

Certain permits in Ohio are subject to a quota based upon a formula that factors in the total population of the city, village, or township where the permit will be issued and a ratio, specific to particular permit classes, as set forth in Ohio law (Learn more in our [Quota Resource Guide](#)). When transferring a specific quota permit (i.e., D-1, D-2, etc.) that will move locations to a NEW city, village, or township from where it is currently issued, there must be available spots in that new quota before the Division can process the transfer. If, for a particular quota permit class, there are NO spots available in the new quota, then the applicant has a few choices as discussed in our [Trex Resource Guide](#). This form covers the specific permit classes that can be Trex'd under the Ohio law provision noted at the top of this application. A few things to understand before proceeding with the Trex option are that:

- The Division can **ONLY** process the Trex transfer application if the city, village, or township where the permit will transfer to **APPROVES** the transfer as an economic development project. The city, village, or township can document its approval by signing our form below in Section E.
- **ONLY** after we receive this completed form with the transfer application will the Division Superintendent review it for processing.
- The city, village, or township, despite approving the Trex transfer can still object to the issuance of your permit at the applied for location and the applicant must still be WET ([Review our Local Option Election Guide](#) for more information) for the requested sales at that address and meet all other rules and regulations before the permit(s) can be issued at that new location.

For this form to be deemed complete, you must fully and legibly complete this application, including:

- Answering all required questions ("*" indicates a required field);
- Submitting this application with your Transfer Application; and
- Securing signatures from the appropriate local government officials listed below.

SECTION A – Issued Permit Holder Information (i.e. Seller) * This section MUST be completed.	
* Issued Permit Holder's Business Name as on File with the Division: Stephanie Elverd	* Issued Permit Holder #: 2458387

SECTION B – New Business Owner's Information (i.e., Buyer) ☐ N/A-Seller REMAINS the owner and is ONLY moving locations. * ONLY fill out this section if the ownership and location is changing.	
* Business Entity or Sole Proprietor Name ("Applicant") (MUST match name listed on transfer application): El Torito Tacos LLC	

Section C – New Permit Premises Address Information * This section MUST be completed.		
* New Permit Premises Address: 7523 Pearl Road		
* New Township (if outside city limits):	* New City: Middleburg Heights	* New County: Cuyahoga

SECTION D - Transferred Permits subject to TREX

This section identifies the permit classes that are being transferred into a NEW city, village, or township consistent with the Transfer Application that REQUIRE TREX sign-off from the local government official that signed below.

Select the Permit Type(s) being transferred that need to be TREX'd

☐ C-1 ☐ C-2 ☒ D-1 ☒ D-2 ☒ D-3 ☐ D-5

- Note - there may be other permit types, like a C-2X, D-3A or D-6, that are also part of your transfer that are not listed above. Your complete transfer listing needs to be identified on your transfer application (D/C 4120) that you must send with this signed TREX form.

Remember this form is ONLY for those permit classes that are subject to the quota and would require TREX sign-off because there are no permits available for the given class in the NEW locality when the transfer is filed. For example, you can be transferring a D-1, D-2, D-3 permit from City A to City B. In City B, there are D-1 and D-3 permits available but no D-2 permits. In this situation, the only permit class that would REQUIRE TREX sign-off is the D-2.

Section E - Information that MAY be Used to Determine if the Transfer is an Economic Development Project

lists several factors the local legislative authority (City, Village or Township) can use when determining if it should approve this transfer as an Economic Development Project. While the law provides broad discretion to the legislative authority when making this decision, SOME factors that may be useful to the legislative authority in making its decision, include the

- Total amount invested in this project \$ 70,000⁰⁰
- Total number of jobs that will be created by this project 6
- Existing or estimated Tax Revenue generated by this project
 - Ohio Unemployment Tax \$6,000⁰⁰ Per year.
 - Property Tax \$
 - Sales Tax \$2,800⁰⁰ Per month
 - State Withholding Tax \$6,000 Per month
 - Other \$ City tax 7,000⁰⁰

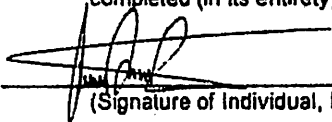
You may also be asked to provide a projected earnings statement (brand new business), or a profit and loss statement (existing business), or a copy of building plans/drawings outlining any construction plans.

Section F – Applicant Signature

- This section **MUST** be signed by either the applicant in:
 - **Section A** if the seller **REMAINS** the owner of the permit and is **ONLY** moving the permit address to a **NEW** city, village, or township from where it is currently issued; **OR**
 - **Section B** if the ownership of the permit is changing **AND** the new permit address will be in a **NEW** city, village, or township from where the permit is currently issued.

By signing below, I certify and understand that:

- I have authority to execute this document;
- The information provided is true, correct, and complete to the best of my knowledge and belief;
- Failing to complete this form, consistent with the above listed instructions, will result in this form and/or transfer application being returned to me, unprocessed, until a corrected, complete application is received by the Division;
- During the review of this form and/or my transfer application, further documentation may be needed, and I agree to comply timely and understand that failure to comply could delay the processing of my application;
- Even if the city, township, or village approves my TREX transfer application, the Division **MUST** still notify the applicable legislative authority about your transfer application and that legislative authority has the right to object to the issuance of the permit even for those permit classes that it approved as part of this TREX process; **AND**
- If this TREX form is required, the Division **CANNOT** process the transfer application until it is submitted with this completed (in its entirety) and signed form.



(Signature of Individual, Partner, Officer, Managing Member, or 5% or more Shareholder or Member)

Felipe De Leon Gomez

(Please Print Name)

owner

(Title)

10/20/22

(Date)

(Street Address, City, State, Zip Code)

(Telephone with Area Code)

SECTION G – NEW City, Village, or Township Signature

* This section **MUST** be completed by the City, Village or Township in which this Economic Development Project (TRES) will be located. Legislative officials who can sign this section are, as applicable, the/a:

- Mayor,
- City Council Member,
- Law Director,
- Clerk of Council,
- Township Fiscal Officer,
- County or Township Trustee Board Member; or
- Other legislative office holder not specified with the authority to act on behalf of the applicable jurisdiction where the permit will be located.

THE APPLICANT MUST PROVIDE AN EXECUTED COPY OF THIS FORM WITH ITS TRANSFER APPLICATION.

The City, Village or Township of Middleburg Heights has considered the above-named applicant's TRES application consistent with the factors outlined in R.C. 4303.29(B)(2)(b) and hereby agrees and accepts that this transfer will be an economic development project within its jurisdiction.

By signing this form, I, the city, village, or township official listed below, acknowledges and understands that:

- I have the authority on behalf of my local government to sign this form;
- My signature, on behalf of my jurisdiction, means the Division can continue to process the applicant's transfer application for the applicable TRES'd permit classes;
- The city, village, or township will still be notified about the potential issuance of this permit and that it retains the right to object to this transfer for any and all permit classes applied for by the applicant;
- Once the applied for permit classes are transferred to the applicant within the city's, village's, or township's jurisdiction, the permit can then be transferred to other owners at the same location or to other locations within the city, village, or township by either the current or future owners subject to notice and hearing provisions under R.C. 4303.26;
- The TRES process **ONLY** contemplates the Division's ability to start processing the applicant's transfer application for the affected permit classes, the applicant **MUST** still meet any rules and regulations before the permit can be issued and the new location must also be wet for the type of permit classes that the applicant seeks to operate at the new location; and
- It is within the city, village, or township's sole discretion, consistent with Ohio law, to decide whether to approve the applicant's TRES application as an economic development project.

(Signature of Local Official specified above)

(Please Print Name)

(Title)

(Date)

(Government Email Address)

(Telephone with Area Code)

Applicant **MUST** submit the transfer application, this TRES form, and any other required forms to:

Ohio Department of Commerce – Division of Liquor Control
c/o Licensing New & Transfer Section
6606 Tussing Road
Reynoldsburg, OH 43068-9005

For Questions call (614) 644-3155
Or email fileinquiry@com.ohio.gov

Office Hours: 8:00 a.m. - 5:00 p.m. EST

Subject: Re: Liquor permit-7523 Pearl Road
Date: Tuesday, October 25, 2022 at 4:13:58 PM Eastern Daylight Time
From: Edward Tomba
To: Sherri Menoes
Attachments: TREX.pdf

I have no objection to the liquid permit request from 7523 Pearl Road

Ed Tomba

On Oct 25, 2022, at 3:46 PM, Sherri Menoes <smenoes@middleburgheights.com> wrote:

Attached please find a corrected TREX application for El Torito Tacos LLC, please note the correction to the permit premises address. The address was originally listed as 7501 Pearl Road which is the location of Rock City Dance studio.

Please update your recommendation to reflect the corrected address of 7523 Pearl Road for El Torito Tacos.

Thank you.

Santo

Sherri Menoes
Law Department
City of Middleburg Heights
15700 Bagley Road
Middleburg Heights, OH 44130
440-234-8811 ext. 1226
smenoes@middleburgheights.com

From: Edward Tomba
Date: Tuesday, October 25, 2022 at 10:31 AM
To: Sherri Menoes <smenoes@middleburgheights.com>
Cc: Mary Ann Meola <mmeola@mbhts.com>

Subject: Liquor permit-7501 Pearl Road

I have no objections to the liquor permit request relative to the property at 7501 Pearle Road (El Torito Tacos LLC)

Edward J. Tomba
Chief of Police

DELIVERED NOV 03 2022

City of Middleburg Heights, Ohio

Ordinance No. 2022-_____

Introduced by: Mr. Bortolotto, Mr. Meany, and Mr. Grech

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

**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 General Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Gen. Govt. - Other - Misc. Contr. Services - Sheldon Road ADA Curb Ramp Eng.	\$ 7,630.00
Total Increase to the General Fund	\$ 7,630.00

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.

PASSED _____

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

PRESENTED TO MAYOR _____

APPROVED ON: _____

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

MAYOR

September 20, 2022

Mr. Edward Orcutt, Mayor
City of Brook Park
6161 Engle Road
Brook Park, Ohio 44142

And

Mr. Matthew J. Castelli, Mayor
City of Middleburg Heights
15700 Bagley Road
Middleburg Heights, Ohio 44130

Re: Sheldon Road Resurfacing- Additional
Right-of-Way for ADA Curb Ramps

Dear Mayor Orcutt and Mayor Castelli,

Included below is Euthenics, Inc.'s project description and scope of work for the necessary surveying and engineering design services for the above referenced project.

PROJECT DESCRIPTION

The project consists of resurfacing Sheldon Road from Engle Road to Smith Road for a length of approximately 1 mile. The project will also replace a water line along Sheldon Road between Engle Road and I-71.

The resurfacing portion of the project will be funded with Federal, Cuyahoga County, City of Brook Park and City of Middleburg Heights funds. The water line work will be funded with 100% City of Brook Park funds. The project will be let by Cuyahoga County. A stipulation of receiving Federal and Cuyahoga County funds is that no additional right of way is needed to build the project.

ADA curb ramps at intersections within the project limits will need to conform to the most current ADA standards. The construction cost to replace non-compliant ADA curb ramps is eligible for project funding with the condition that they can be replaced within the limits of existing right of way. Based on a review of the Cuyahoga County Tax Maps (Cuyahoga County GIS), it appears that there are numerous ADA curb ramps that are or will be outside of the existing road right of way, therefore additional right of way (easements) may need to be acquired outside of the scope of the Sheldon Road Resurfacing Project (PID 113312) and prior to the letting of said Resurfacing Project.

SCOPE AND FEE

The following tasks will need to be performed to acquire the additional right of way needed for the proper installation of ADA compliant curb ramps. These tasks are not included within the scope and fee of a "typical" road resurfacing project and therefore are not included with the scope and fee for the Sheldon Road Resurfacing Project (PID 113312).

1. Field Survey – Recover existing centerline of right of way monuments along Sheldon Road and along each of the intersecting side streets to establish the centerline of road right of ways in CAD basemap;
2. Field Survey – Detailed survey of 25 ADA curb ramps and adjacent sidewalks (12 ADA curb ramps in Brook Park, 13 ADA curb ramps in Middleburg Heights) ***This Task included within the scope and fee of the Sheldon Road Resurfacing Project (PID 113312);***
3. Records Research – Research County Records for plats and deeds to determine existing right of way widths and locations and the existence of any easements granting rights for highway or sidewalk purposes.
4. Design of ADA Compliant Curb Ramps – ***This Task included within the scope and fee of the Sheldon Road Resurfacing Project (PID 113312);***
5. Proposed Easement Documents – Prepare legal descriptions and exhibits for quadrants of the intersections that require additional right of way (easements) to construct an ADA compliant curb ramp. The exact number of easements will not be known until the Field Survey, Records Research, and ADA compliant curb ramp design are completed. For the purpose of this proposal, we are assuming that 10 easements will be needed (10 Legal Descriptions and 10 Exhibits). We will only invoice each City for Proposed Easement Documents based on the actual number of easements needed within each City. Negotiations, appraisals, recording of legal descriptions and exhibits, etc., are by others.
6. Acquisition – The number of proposed easements and the locations that require additional right of way are not known at this time, therefore right of way acquisition is not in this scope of services. Acquisition of easements within the City of Brook Park will be the responsibility of the City of Brook Park. Acquisition of easements within the City of Middleburg Heights will be the responsibility of the City of Middleburg Heights. Acquisition Services shall include the recording of Easement Documents as described in number 5 above.

Euthenics Fee (see above Scope):

1.0 – Field Survey – Right of Way Monuments	\$3,960.00
2.0 – Field Survey – ADA Curb Ramps	\$Not in this contract
3.0 – Records Research	\$2,400.00
4.0 – Design of ADA Compliant Curb Ramps	\$Not in this contract
5.0 – Proposed Easement Documents (10)	\$8,900.00
6.0 – Acquisition	\$Not in this contract
TOTAL	\$15,260.00

Local Cost Splits (from above):

	<u>Brook Park</u>	<u>Middleburg Heights</u>	<u>Total</u>
1.0	\$1,980.00	\$1,980.00	\$3,960.00
2.0	-	-	-
3.0	\$1,200.00	\$1,200.00	\$2,400.00
4.0	-	-	-
5.0	\$4,450.00*	\$4,450.00*	\$8,900.00**
6.0	-	-	-
	\$7,630.00	\$7,630.00	\$15,260.00

* - estimate based on 5 Legal Descriptions/Exhibits

** - estimate based on 10 Legal Descriptions/Exhibits

Written authorization to proceed with any additional services will be obtained prior to commencing with any work that is not included in the Items as described herein. The fees shown in the Proposal will be held for work in progress through the end of December 2023.

If additional work or work of significantly increased complexity, clearly not contemplated in the original scope of services, is required, or if Euthenics, Inc. is required to abandon or perform or re-perform approved work, supplemental or modification agreements shall be negotiated providing for the cost and suitable profit for such work. If this Agreement is terminated during performance of the work, Euthenics, Inc. shall be paid for services rendered to the date of termination.

We appreciate the opportunity to provide this proposal and look forward to working with you on this project. Please call if you have any questions or need additional information.

Very Truly Yours,
EUTHENICS, INC.



Alan R. Piatak, P.E.
President

CITY OF MIDDLEBURG HEIGHTS, OHIO

Resolution No. 2022-

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 2022 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 Bardbury Avenue from Pearl Road to Nethersole Drive, 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 Bardbury Avenue from Pearl Road to Nethersole Drive.

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: _____

Attest: _____
Clerk of Council

Approved On: _____

Presented to Mayor: _____

Mayor

President of Council

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

CITY OF MIDDLEBURG HEIGHTS, OHIO

DELIVERED NOV 03 2022

Resolution No. 2022-

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 2023 COMMUNITY DEVELOPMENT 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 construction of a new pavilion for the Tri City Bark Park in the City of Middleburg Heights for the maintenance of health, safety and welfare; and

WHEREAS, the residents of Middleburg Heights, at a public meeting, have been given the 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 grant through the Cuyahoga County Community Development Supplemental Grant Program in the amount of \$50,000 for the construction of a new pavilion for the Tri City Bark Park in the City of Middleburg Heights.

Section 2: That 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 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: That 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. Wherefore, provided this Resolution 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: _____

Attest: _____
Clerk of Council

Approved On: _____

Presented to Mayor: _____

Mayor

President of Council

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