

CITY OF MIDDLEBURG HEIGHTS, OHIO

Council Agenda

March 14, 2023

7:00 P.M. REGULAR MEETING

- CALL TO ORDER
- ROLL CALL
- PLEDGE OF ALLEGIANCE

Minutes of the Regular Meeting of February 28, 2023

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

MARCH 14, 2023

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2023 PENDING LEGISLATION

ORDINANCE NO. 2023-6 – INTRODUCED BY COUNCILMAN GRECH

An Ordinance approving the proposed zoning code edits submitted by Stewart Land Use.

1st Reading and Referred to Planning Commission – January 24, 2023

2nd Reading – February 14, 2023

UN-NUMBERED LEGISLATION

INTRODUCED BY COUNCIL PRESIDENT BORTOLOTTO

An Ordinance to make supplemental appropriations for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2023.

INTRODUCED BY MAYOR CASTELLI

A Resolution authorizing engagement of Dickie, McCamey & Chilcote, P.C. to provide legal services in regard to labor, employment and related services.

INTRODUCED BY MAYOR CASTELLI

A Resolution waiving permit fees for Southwest General Health Center for the Center for Bariatric Surgery.

INTRODUCED BY MAYOR CASTELLI

A Resolution waiving permit fees for Southwest General Health Center for the Southwest General Medical Group Pain Management.

City of Middleburg Heights, Ohio

Ordinance No. 2023-_____

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 2023**

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 2023, the following sums be appropriated from the Capital Improvements Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Capital - Body Worn Cameras (OCJS Grant Funded)	\$ 30,830.00
Total Increase to the Capital Improvements Fund	\$ 30,830.00

Section 2. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2023, the following sums be appropriated from the Streets/Infrastructure Imp. Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Streets - Capital - General Pavement Services	\$ 400,000.00
Total Increase to the Streets/Infrastructure Imp. Fund	\$ 400,000.00

Section 3. That in order to provide for current expenditures and expenses for the City of Middleburg Heights for the calendar year 2023, the following sums be appropriated from the General Fund:

<u>Description</u>	<u>Increase (Decrease)</u>
Transfers - Transfer to Streets/Infrastructure Imp. Fund	\$ 400,000.00
Total Increase to the General Fund	\$ 400,000.00

Section 4. 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
BORTOLOTTA	_____	_____
ALI	_____	_____
SAGE	_____	_____
MEANY	_____	_____
MCGREGOR	_____	_____
FERENCE	_____	_____
GRECH	_____	_____

MAYOR

CITY OF MIDDLEBURG HEIGHTS, OHIO

Resolution No. 2023-

Introduced By: Mayor Matthew Castelli

A RESOLUTION

AUTHORIZING ENGAGEMENT OF DICKIE, MCCAMEY & CHILCOTE, P.C. TO PROVIDE LEGAL SERVICES IN REGARD TO LABOR, EMPLOYMENT AND RELATED SERVICES

WHEREAS, the Law Director is recommending the engagement of the law firm Dickie, McCamey & Chilcote, P.C. to provide legal services in regard to labor, employment, and other legal services as further described under "Scope of Services" in the attached engagement letter; and

WHEREAS, the purpose of this Engagement Letter is to confirm the terms and conditions upon which Dickie, McCamey & Chilcote, P.C. will provide those legal services; and

WHEREAS, Shaka S.J. Sadler will be the attorney primarily responsible for the labor, employment, and related services to the City of Middleburg Heights.

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

Section 1: That the Mayor is hereby authorized to sign an engagement letter authorizing Dickie, McCamey & Chilcote, P.C. to provide legal services in regard to labor, employment, and other legal services as further described in the engagement letter, a copy of which is attached hereto.

Section 2: 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.

Passed: _____

President of Council

Attest: _____
Clerk of Council

Approved On: _____

Presented to Mayor: _____

Mayor

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

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION



Kristin L. Wedell
Admitted in Ohio and Pennsylvania

Telephone: 216.685.1827
Facsimile: 888.811.7144
kwedell@dmclaw.com

March 3, 2023

VIA ELECTRONIC EMAIL
jestupka@middleburgheights.com

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

Re: *Engagement of Dickie, McCamey & Chilcote, P.C. for Legal Services*

Dear Mayor Castelli:

Thank you for permitting my colleague Shaka Sadler and I to meet with you about the opportunity to further assist the City of Middleburg Heights and provide the City with additional representation in the area of labor and employment related matters.

As we discussed, Dickie, McCamey & Chilcote, P.C. (the "Firm") is pleased to provide legal services to the City of Middleburg Heights, Ohio (the "Client") in regard to labor, employment, and related services as further described herein under "Scope of Services." The purpose of this Engagement Letter is to confirm the terms and conditions upon which the Firm will provide those legal services. If the terms set forth below meet with your approval, please sign and date where indicated, and return this letter to me.

Fundamental to an attorney-client relationship is a clear understanding of the terms and conditions upon which the Firm will provide legal services. I have prepared this Engagement Letter based on the information you have provided to me. If any of the information contained in this Engagement Letter is inaccurate or unclear, please advise me immediately so that the Engagement Letter can be modified accordingly.

Client

The Client for whom the Firm will be providing legal services under this Engagement Letter is the City of Middleburg Heights, Ohio. It is my understanding that Mayor of Middleburg

Heights and the Law Director of Middleburg will be the Client's contact representatives in regard to the Firm's legal representation of the Client.

The Firm, however, will not represent any of the Constituents of the Client (i.e. its officials, officers, directors, employees, and other agents) individually unless and until the Firm and the Client agree in writing that the representation of the Constituent(s) individually does not create a conflict, the Client and the Constituent provide written consent to the multiple representation, and this Engagement Letter is revised to authorize the multiple representation.

Scope of Services

The Firm will represent the Client in connection with labor, employment, and related services as directed by the Client, which may include examples as identified in Exhibit A, attached hereto. While this Engagement Letter is limited to the Scope of Services described herein, the Firm may represent the Client regarding other issues which may arise and for which the Client wishes the Firm to represent the Client.

Staffing

Within the context of this engagement, Shaka Sadler will be the attorney at the Firm primarily responsible for the labor, employment, and related services to the Client. Other attorneys and paralegals in the Firm may also assist in order to competently and efficiently perform the Legal Services.

It is important that you are satisfied with the Firm's services and responsiveness at all times. When questions or comments arise regarding the Firm's services, staffing, billing or other aspects of the representation, please contact me by email and/or at my direct dial number listed above. Any issues related to a bill should be raised immediately upon receipt of the bill for our services.

Fees, Disbursements and Other Charges

A clear understanding now of how our fees are determined can avoid any misunderstanding later. In preparing a bill, the Firm will take into account a number of factors, the principal factor being the schedule of hourly rates for the attorneys and legal assistants who serve you. A more complete explanation of the Firm's billing procedures and other considerations related to our engagement is contained in the attachment entitled "Our Policies" which is incorporated herein by reference.

Shaka Sadler's standard hourly rate is \$290.00. However, the Firm is sensitive to the needs of government clients to be exemplary stewards of public funds. Consequently, the Firm agrees to substantially reduce Ms. Sadler's effective rate. We propose to provide up to sixteen (16) hours per month of Ms. Sadler's time at a rate of \$175 per hour (i.e., up to \$2,800.00 per month). In a given calendar month, if Ms. Sadler's time under this engagement, and as directed by the Client, exceeds sixteen (16) hours, the Firm will charge \$200.00 per hour for Ms. Sadler's time.

City of Middleburg Heights

March 3, 2023

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For the avoidance of any misunderstandings, should other attorneys at the Firm perform work, at the direction of the Client, relating to or arising out of Ms. Sadler's labor, employment, and related representation function, the Firm will charge \$285.00 per hour for partners and \$200.00 for associates, as the Firm has previously charged in prior and other continuing engagements with the Client.

While it is understood that the details of this representation are likely to evolve over time along with the Client's identified needs, examples of what would be included and excluded from this representation arrangement are attached hereto as Ex. A. Importantly, the Client has identified that this representation includes Ms. Sadler's regular on-site presence at the Client's workplace, but in no way should Ms. Sadler be construed as being an employee of the Client. At all times, Ms. Sadler will be an employee of the Firm.

While we do not anticipate any need for third-party persons in order to competently undertake this representation, the Firm's fee is exclusive of any fees that may be required by any third party who may be retained to assist in this representation, such as accountants, investigators or trial consultants, whose retention will be discussed with and approved by the Client prior to retention of the third party.

The Firm upon request will provide an estimate of the fees and costs of this engagement in whole or in part but they will be just that – estimates. The Firm cannot guarantee that the actual fees and costs attendant to our representation will not be higher than the estimate provided because of unexpected difficulties of fact or law, unanticipated time constraints, unresponsive opposing counsel, and a great many other factors. Similarly, at any time, the Firm's attorneys may express opinions or beliefs concerning the events or various courses of action and results that might be anticipated. Those statements are an expression of opinion only based on information available to the Firm at the time and must not be construed to be a promise or guaranty of any particular result.

Client Responsibilities

In order for the Firm to provide quality legal services, representatives of the Client must keep the Firm reasonably informed of the progress and development of the matter, and respond to our inquiries in a timely manner. The Client must also fully and accurately disclose to us all facts that may be relevant to the matter or that we may otherwise reasonably request in order to keep us apprised of developments relating to the matter.

We will keep you informed of the status of this matter as developments occur. This will include sending you copies of significant correspondence and documents that we prepare as well as copies of important letters and other documents which we may receive from others. Usually, you will have to take no action upon receipt of this information, but you should read it to be aware of what is taking place. We suggest that you maintain a file marked "Confidential/Attorney-Client Communications" in which to keep copies of the items we send you.

This file should be placed in a secure location that is not accessible to other persons. For email exchanges with us, we recommend using a personal and confidential, password protected account that is accessible only by you to receive and store those communications. **Under no**

circumstances should you communicate with us using an email system that does not create a reasonable expectation of privacy. Also, do not use text messaging for any matters involving the substance of our engagement. Text messaging should be limited to scheduling or other non-substantive communications.

Termination of Representation

The Client may terminate the representation of the Firm or the arrangement identified in this Engagement Letter at its discretion. To the extent permitted by the applicable rules of attorney conduct, the Firm also reserves the right to terminate the Firm's representation of the Client. However, any termination does not prohibit the Firm to the extent permitted by applicable rules of attorney conduct from collecting fees, costs and charges incurred prior to termination or from collecting fees, costs and charges incurred subsequent to termination that are in the Firm's view necessary for the protection of the Client's interest.

Unless previously terminated, the Firm's representation of you shall terminate upon the transmission of our final statement for services rendered as described in the Scope of Service. You are engaging the Firm to provide legal services to you solely described in the Scope of Service. Upon conclusion of your representation by the Firm, changes may occur in applicable laws that could impact your future rights and liabilities. Unless you engage the Firm in writing to provide additional services to you on issues arising from or related to our representation after its conclusion, the Firm shall have no continuing obligation to advise you with respect to future legal developments.

Intra-Law Firm Communications

The Firm has identified one of its attorneys to perform the function of the in-house counsel for the Firm. Part of the function of the in-house counsel is to consult with the attorneys regarding issues involving the attorneys on the Firm's and its lawyers' ethical legal obligations. The Client will not be charged for any such consultation with the Firm's in-house counsels and the attorney-client privilege protects any attorney's communications with the in-house counsel from disclosure.

Conflicts

Based on the information that you have provided the Firm in regard to the Client and the legal representation, the Firm has not identified any conflicts of interest which would preclude this representation.

File Retention and Destruction

The legal documents in this representation and the files within which they are contained are the property of the Client and will be delivered to the Client at the Client's written request. If the Client does not request the Client's files the Firm will deem the absence of that request as permission to destroy the files seven years after each separate matter the Firm has handled for the Client has concluded.

City of Middleburg Heights
March 3, 2023
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If the foregoing terms of our engagement are satisfactory, please indicate your consent by signing in the space provided for your signature below and return this letter to me. If you should have any questions or comments concerning this representation agreement, please do not hesitate to contact me. Again, we very much look forward to continuing to work on the City's behalf.

Very truly yours,

Kristy L. Wedell

AGREED AND APPROVED this _____ day of March, 2023.

Mayor Matthew J. Castelli
City of Middleburg Heights

cc: Law Director Santo Incorvaia (Via E-mail)

DELIVERED MAR 09 2023

CITY OF MIDDLEBURG HEIGHTS, OHIO

Resolution No. 2023-

Introduced By: Mayor Matthew Castelli

A RESOLUTION WAIVING PERMIT FEES FOR SOUTHWEST GENERAL HEALTH CENTER FOR THE CENTER FOR BARIATRIC SURGERY

WHEREAS, Southwest General Health Center has a deep commitment to providing personalized care and building a healthy future for the patients, families, and communities it serves; and

WHEREAS, the nationally recognized Center for Bariatric Surgery at St. Vincent Charity Medical Center has transitioned to Southwest General Health Center; and

WHEREAS, Southwest General Health Center will undergo interior alterations so patients will have easy access to state-of-the art facilities and technology at the Center for Bariatric Surgery; and

WHEREAS, contractor registrations and plan review fees will not be waived.

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

Section 1: That Council hereby authorizes the estimated permit fees of \$22,222.00, based on 1% of the job valuation, for the interior alterations of the Center for Bariatric Surgery at Southwest General Health Center be waived.

Section 2: 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.

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

Resolution No. 2023-

Introduced By: Mayor Matthew Castelli

**A RESOLUTION
WAIVING PERMIT FEES FOR SOUTHWEST GENERAL HEALTH CENTER
FOR THE SOUTHWEST GENERAL MEDICAL GROUP PAIN
MANAGEMENT**

WHEREAS, Southwest General Health Center has a deep commitment to providing personalized care and building a healthy future for the patients, families, and communities it serves; and

WHEREAS, the Southwest General Medical Group Pain Management specializes in the evaluation, diagnosis, and treatment of pain; and

WHEREAS, Southwest General Health Center will undergo interior expansion and renovation to the Pain Management center to support a multidisciplinary approach to care; and

WHEREAS, contractor registrations and plan review fees will not be waived.

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

Section 1: That Council hereby authorizes the estimated permit fees of \$15,723.75, based on 1% of the job valuation, for the interior expansion and renovation to the Southwest General Medical Group Pain Management at Southwest General Health Center be waived.

Section 2: 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.

Passed: _____

President of Council

Attest: _____
Clerk of Council

Approved On: _____

Presented to Mayor: _____

Mayor

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