



CITY OF FAIRVIEW PARK CITY COUNCIL MEETING AGENDA

COMMITTEE MEETING
MONDAY, MAY 9, 2016
Council Caucus Room
7:00 p.m.

MEETING CALLED TO ORDER | ROLL CALL

City officials and guests who will be present for committee items:

- Greg Cingle, Interim Finance Director
- William McGinty, Law Director
- Matt Hrubey, Development Administrator

FINANCE – Councilwoman Cleary, Chair

- ✧ Ord. 16-13 | Authorizing Incentive Grant for Hospice of the Western Reserve
- ✧ Ord. 16-14 | Advanced Energy District Declaring Determination to Proceed
- ✧ Ord. 16-15 | Advanced Energy District Levying Special Assessments
- ✧ Res. 16-04 | Advanced Energy District Approving Petition
- ✧ Res. 16-05 | Advanced Energy District Approving Necessity
- ✧ *Issue:* City Parking Tickets

ENVIRONMENT, PUBLIC WORKS, PLANNING, ZONING AND DEVELOPMENT - Councilman Minek, Chair

- ✧ *Issue(s):* Safety Fence on Bridges, Community Development, Municipal Facilities Maintenance and Sewers

LOCAL GOVERNMENT & COMMUNITY SERVICE - John Hinkel, Chair

- ✧ *Issue(s):* Division of Director of Public Service and Service Development into Separate Positions, Gemini Memberships, Number of Dogs Permitted, Dogs in City Parks, Bain Park Preservation, City Playgrounds, Speeding and Crosswalks, Archiving City Documents and Charter & Codified Ordinances Review

BOARD & COMMISSIONS REPORTS

ROUNDTABLE

Agenda and meeting documents for this meeting can be viewed online by using this code:



CITY OF FAIRVIEW PARK
ORDINANCE NO. 16-13
REQUESTED BY: MAYOR EILEEN ANN PATTON
SPONSORED BY: COUNCILWOMAN CLEARY & COUNCILMAN MCDONOUGH
CO-SPONSORED BY: COUNCILMAN MINEK

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN ECONOMIC INCENTIVE GRANT AGREEMENT WITH THE HOSPICE OF THE WESTERN RESERVE, INC. AND DECLARING AN EMERGENCY.

WHEREAS, the retention and creation of jobs and employment opportunities is integral to the continued economic health of the City of Fairview Park and its citizens; and

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution gives Municipalities the authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws; and

WHEREAS, Article II of the Fairview Park Charter provides the City of Fairview Park with all the powers, general or special, governmental or proprietary, express or implied, which may now or hereafter lawfully be possessed or assumed by municipalities of the class of this municipality under the Constitution and laws of the State of Ohio. No enumeration of specific powers in this Charter shall be held to be exclusive.

WHEREAS, certain economic and business conditions have necessitated that HOSPICE OF THE WESTERN RESERVE, INC. consider facility accommodations within and outside the City; and

WHEREAS, the building that HOSPICE OF THE WESTERN RESERVE, INC. presently leases is closing; and

WHEREAS, HOSPICE OF THE WESTERN RESERVE, INC. would like to locate within the City of Fairview Park; and

WHEREAS, the City has negotiated an agreement with HOSPICE OF THE WESTERN RESERVE, INC. to provide an economic incentive to assist HOSPICE OF THE WESTERN RESERVE, INC. to relocate, providing significant economic advantages to Fairview Park and significantly increasing income tax revenue.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. The Mayor is hereby authorized to enter into an Incentive Grant Agreement with HOSPICE OF THE WESTERN RESERVE, INC., the draft of which is attached hereto as Exhibit "A," with such revisions that may be made by the Director of Law and approved by the Mayor without altering the substance thereof.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and to accommodate the seasonal constraints of outdoor construction, and provided it receives an affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 05.02.16
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK

INCENTIVE GRANT AGREEMENT

This AGREEMENT, made and entered into this ____ day of _____, 2016 by and between the City of Fairview Park, Ohio, a municipal corporation organized and existing pursuant to the Ohio Constitution and the Ohio Revised Code (hereinafter referred to as “City” of Fairview Park) 20777 Lorain Road, Fairview Park, Ohio 44126, and the Hospice of the Western Reserve, 17876 St. Clair Ave., Cleveland, Ohio 44110.

Whereas, certain economic and business conditions have necessitated that the Hospice of the Western Reserve, Inc. consider other facility accommodations within and outside the City;

Whereas, the Hospice of the Western Reserve, Inc. would like to locate an office in the City of Fairview Park; and

Whereas, the Hospice of the Western Reserve, Inc. has entered into a ten (10) year Lease Agreement for the property located at 22730 Fairview Center Drive, Fairview Park, Ohio 44126; and

Whereas, the Hospice of the Western Reserve, Inc. is qualified by financial responsibility and business experience to create and preserve employment opportunities and to maintain and improve the economic climate of the City of Fairview Park; and

Whereas, it is necessary for the City to provide the Hospice of the Western Reserve with a financial incentive to move into the City; and

Whereas, the Council of the City of Fairview Park has authorized the Mayor to enter into this agreement with Hospice of the Western Reserve, Inc. via Ordinance No. 16-___, passed on the

___ day of _____, 2016, and approved by the Mayor on the ___ day of _____, 2016.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the City and the Hospice of the Western Reserve, Inc. agree as follows:

1. The AGREEMENT shall commence with the effective date of the lease and shall continue for ten (10) years.
2. Hospice of the Western Reserve, Inc. shall pay, as is required by law, income tax, presently in the amount of two percent (2%) of actual total payroll.
3. The City shall provide an incentive rebate to the Hospice of the Western Reserve, Inc. in an amount in the form of non-tax revenue equal to thirty percent (30%) of income tax paid by the Hospice of the Western Reserve, Inc. for a period of ten (10) years. The City's obligation to pay this rebate will be adjusted for any increase or decrease in the annual payroll or proportionate partial year equivalent thereof decreases below \$5,500,000 per annum.
4. Hospice of the Western Reserve, Inc. agrees to provide to the City by the previous December 31 of each applicable tax year documentation concerning the number of employees, the yearly gross payroll and the yearly gross payroll withholding tax. This may be satisfied by providing the Finance Director with a copy of the payroll reconciliation filed with the Regional Income Tax Agency (RITA).
5. The City shall pay the rebate referred to in Paragraph 4 above annually on or before March 15th of the year following.

6. If Hospice of the Western Reserve, Inc. fails to comply with the terms of this AGREEMENT, the City will not be required to pay the rebate to the Hospice of the Western Reserve, Inc.

7. This AGREEMENT is binding upon and the Hospice of the Western Reserve, Inc. its successors or assignees.

8. This AGREEMENT is non-transferable or assignable without the express legislative approval of the City.

9. This AGREEMENT may be executed in one or more counter parts, each of which shall be deemed an original but all of which together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties caused this instrument to be executed in several counterparts on this ____ day of _____, 2016.

The City of Fairview Park

Hospice of the Western Reserve, Inc.

BY: _____

BY: _____

This Document Approved as to Form:

William T. McGinty, Director of Law

CITY OF FAIRVIEW PARK
ORDINANCE NO. 16-14
REQUESTED BY: MAYOR EILEEN ANN PATTON
SPONSORED BY: COUNCILWOMAN CLEARY

AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF FAIRVIEW PARK, OHIO, IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT AND DECLARING AN EMERGENCY.

WHEREAS, the City Council (“Council”) of the City of Fairview Park, Ohio (“City”), duly adopted Resolution No. _____ on _____, (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, constructing, improving, and installing energy efficiency improvements (the “Project”, as fully described in the Project Petition referenced in this Ordinance) located on real property owned by Mrs. Bernadette A. Kim (the “Owner”) at 21531 Lorain Road within the City (the “Property”, as fully described in Exhibit A to the Project Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Owner’s *Petition to Add Territory to Northeast Ohio Advanced Energy District and for Special Energy Improvement Project*, including by levying and collecting special assessments to be assessed upon the Property in an amount sufficient to pay the costs of the Project and other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Northeast Ohio Advanced Energy District (“AED”) administrative fees and expenses; and (iii) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City and the AED; and

WHEREAS, the claims for damages alleged to result from and objections to the Project have been waived by one hundred percent (100%) of the affected property owners.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. Definitions. That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Project Petition.

SECTION 2. Determination to Proceed. That this Council declares that its intention is to proceed with the acquisition, construction, and improvement of the Project described in the Project Petition and the Resolution of Necessity. The Project shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, profiles, and estimates of costs previously approved.

SECTION 3. Special Assessments. That the Special Assessments to pay the costs of the Project, and other related financing costs incurred in the connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner or otherwise to pay costs of the Authorized Improvements in anticipation of the receipt of

the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and AED administrative fees and expenses, shall be assessed against the Property in the manner and in the number of semi-annual installments provided in the Project Petition and the Resolution of Necessity. Each semi-annual Special Assessment payment represents the payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and the scheduled amounts payable as the AED administrative fee and the trustee fee. The Special Assessments shall be assessed against the Property commencing in the tax year ___ for collection in ___ and shall continue through tax year ___ for collection in _____. In addition to the Special Assessments, the Fiscal Officer of Cuyahoga County, Ohio, may impose a special assessment collection fee with respect to each semi-annual payment, which amount, if imposed, will be added to the Special Assessments by the Fiscal Officer of Cuyahoga County, Ohio.

SECTION 4. Amount of Assessments. That the estimated Special Assessments for costs of the Project prepared and filed in the office of the Clerk of the Council and in the office of the Finance Director, in accordance with the Resolution of Necessity, are adopted.

SECTION 5. Certification to County Fiscal Officer. That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is directed to deliver a certified copy of this Ordinance to the Fiscal Officer of Cuyahoga County, Ohio, within fifteen (15) days after the date of its passage.

SECTION 6. Contracts. That all contracts for the construction of the Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code, the Project Petition and the costs of the Project shall be financed as provided in the Resolution of Necessity.

SECTION 7. Compliance with Public Meetings Requirements. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 8. Effective Date. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and to accommodate the seasonal constraints of outdoor construction, and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 05.02.16
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK
ORDINANCE NO. 16-15
REQUESTED BY: MAYOR EILEEN ANN PATTON
SPONSORED BY: COUNCILWOMAN CLEARY

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF FAIRVIEW PARK, OHIO, IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT AND DECLARING AN EMERGENCY.

WHEREAS, the City of Fairview Park, Ohio (the “City”), duly adopted Resolution No. ____ on ____, (the “Resolution of Necessity”) and declared the necessity of acquiring, constructing, improving, and installing energy efficiency improvements (the “Project”, as described in the Resolution of Necessity and as set forth in the Project Petition requesting those improvements) on real property owned by Mrs. Bernadette A. Kim (the “Owner”) at 21531 Lorain Road within the City (the “Property”); and

WHEREAS, this Council duly passed Ordinance No. ____ on ____, and determined to proceed with the Project and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the Clerk of the Council and the Finance Director pursuant to the Resolution of Necessity; and

WHEREAS, it is necessary for the immediate preservation of public peace, property, health and safety, that this Ordinance take effect at the earliest possible date in order to allow for work to begin on the special energy improvement project on the Property, and for the Northeast Ohio Advanced Energy District (the “AED”) to take advantage of the financing available to it for a limited time.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. Definitions. That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity.

SECTION 2. Special Assessments. That the list of Special Assessments to be levied and assessed on the Property in an amount sufficient to pay the costs of the Project, which is \$126,075.00, and other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to Eber Holdings LLC or otherwise to pay costs of the Authorized Improvements in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and AED administrative fees and expenses, which costs were set forth in the Project Petition and previously reported to this Council and are now on file in the offices of the Clerk of the Council and the Director of the Department of Finance, is adopted and confirmed, and that the Special Assessments are levied and assessed on

the Property. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate of rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City.

The Special Assessments are assessed against the Property commencing in tax year [____] for collection in [____] and shall continue through tax year [____] for collection in [____]. The annual installment of the Special Assessments shall be collected in each calendar year equal to a maximum annual amount of Special Assessments as shown in Exhibit A, attached to and incorporated into this Ordinance.

All Special Assessments shall be certified by the Director of the Department of Finance to the Fiscal Officer of Cuyahoga County, Ohio, pursuant to the Project Petition and Ohio Revised Code Chapter 727.33 to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Project Petition.

The Special Assessments shall be allocated among the parcels constituting the Property as set forth in the Project Petition and the List of Special Assessments attached to and incorporated into this Ordinance as Exhibit A.

SECTION 3. Amount of Special Assessments. That this Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Project Petition and are not in excess of any applicable statutory limitation.

SECTION 4. Waiver of Cash Settlement. That the Owner has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Director of the Department of Finance to the Fiscal Officer of Cuyahoga County, Ohio, as provided by the Project Petition and Ohio Revised Code Section 727.33 to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Project Petition.

SECTION 5. Appropriation of Special Assessments. That the Special Assessments will be used by the City to provide the Authorized Improvements in cooperation with the AED in any manner, including assigning the Special Assessments actually received by the City to the AED or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

SECTION 6. Special Assessments File. That the Director of the Department of Finance shall keep the Special Assessments on file in the Office of the Director of the Department of Finance.

SECTION 7. Certification to County Fiscal Officer. That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is directed to deliver a certified copy of this Ordinance to the Fiscal Officer of Cuyahoga County, Ohio, within twenty (20) days after its passage.

SECTION 8. Compliance with Public Meetings Requirements. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 9. Effective Date. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and to accommodate the seasonal constraints of outdoor construction, and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 05.02.16
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK
RESOLUTION NO. 16-04
REQUESTED BY: MAYOR EILEEN ANN PATTON
SPONSORED BY: COUNCILWOMAN CLEARY

A RESOLUTION APPROVING THE PETITION FOR SPECIAL ENERGY IMPROVEMENT PROJECTS UNDER OHIO REVISED CODE CHAPTER 1710 AND DECLARING AN EMERGENCY.

WHEREAS, As set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to include their properties within energy special improvement districts (“ESIDs”) upon a petition to a municipal corporation or township, which ESIDs are voluntary organizations of property owners who undertake special energy improvement projects for their properties and finance such special energy improvement projects by way of voluntary special assessments; and,

WHEREAS, Pursuant to Resolution 10-18, passed October 4, 2010, Fairview Park City Council approved the *Petition to Create the City of Cleveland-First-Suburbs Development Council Advanced Energy Special Improvement District*, including *Articles of Incorporation* and an initial plan entitled *City of Cleveland-First Suburbs Development Council Advanced Energy Special Improvement District Commercial-Industrial Program Project Plan and Commercial-Industrial Services Plan*; and,

WHEREAS, Following such approval, the Northeast Ohio Advanced Energy District (the “AED”), an energy special improvement district under the laws of the State of Ohio, and its Board of Directors (the “Board”) were formed in accordance with Ohio Revised Code Chapters 1702 and 1710; and,

WHEREAS, Bernadette A. Kim (the “Owner”), as the owner of certain real property located within the City of Fairview Park, Ohio (the “City”), has identified certain real property owned by the Owner located at 21531 Lorain Road (the “Project Site”), as an appropriate property for a special energy improvement project pursuant to Ohio Revised Code Chapter 1710; and,

WHEREAS, The Owner has submitted to the AED, and the Board, as the governing body of the AED in accordance with Ohio Revised Code Chapter 1710, has approved a *Petition to Add Territory to Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the “Project Petition”), which Project requests that the Project Site be added to the AED and that the City levy special assessments on the Project Site to pay the costs of a special energy improvement project to be provided on the Project Site, all as described more particularly in the Project Petition (the “Project”); and,

WHEREAS, On [_____], pursuant to Ohio Revised Code Chapter 1710, the Owner submitted the Project Petition to the City, and said Project Petition is on file with the Clerk of the Council; and,

WHEREAS, Said Project Petition is for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2o of Article VIII of the Ohio Constitution, including, without limitation, the Project, and further, the Project Petition identifies the amount and length of the special assessments to be imposed with respect to the Project; and,

WHEREAS, This Council, as mandated by Ohio Revised Code Section 1710.06, must approve or disapprove the Project Petition within 60 days of the submission of the Project Petition; and,

WHEREAS, This Council has determined to approve the Project Petition; and,

WHEREAS, This Council, pursuant to Ohio Revised Code Section 1710.02(G)(4), has determined that the energy special improvement project to be constructed and implemented on the Project Site is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City as those that will promote the welfare of the people of the City; to improve the quality of life and the general and economic well-being of the people of City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources.

THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. Approval of Project Petition. That this Council approves the Project Petition in substantially the form now on file with the Clerk of the Council.

SECTION 2. Transfer of Energy Special Improvement Project. That pursuant to Ohio Revised Code Section 1710.02(G)(4), this Council determines that the Project is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City, as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources. This Council accordingly authorizes the Board to act as its agent to sell, transfer, lease, or convey the Project. The consideration the Board must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project on the Project Site is any consideration greater than or equal to One Dollar and Zero Cents (\$1.00).

SECTION 3. Compliance with Public Meetings Requirements. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 4. Effective Date. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and to accommodate the seasonal constraints of outdoor construction, and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 05.02.16
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK
RESOLUTION NO. 16-05
REQUESTED BY: MAYOR EILEEN ANN PATTON
SPONSORED BY: COUNCILWOMAN CLEARY

A RESOLUTION APPROVING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF FAIRVIEW PARK, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY SPECIAL IMPROVEMENT DISTRICT AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code Section 1710.06(C) provides that a political subdivision which has approved a petition for special assessments for public improvements in an energy special improvement district and a plan pursuant to Ohio Revised Code Sections 1710.02(F) and 1710.06 shall levy the requested special assessments pursuant to Ohio Revised Code Chapter 727; and,

WHEREAS, Bernadette A. Kim (the “Owner”) petitioned to add property owned by it to the Northeast Ohio Advanced Energy District (the “AED”) pursuant to Ohio Revised Code Chapter 1710 in order to finance the costs of a special energy improvement project to be constructed on the property, which special energy improvement project consists of acquiring, constructing, equipping, improving, and installing energy efficiency improvements on its real property, including, without limitation, a new HVAC, new insulated roof system, new LED lighting, new hot water heater, new windows and doors, insulation of exterior walls, and related improvements (the “Project”), as fully described in the Project Petition; and,

WHEREAS, The Council (“Council”) of the City of Fairview Park, Ohio (the “City”) has, by Resolution No. _____, adopted on _____, approved the *Petition to Add Territory to Northeast Ohio Advanced Energy District and for Special Energy Improvement Project* (the “Project Petition”) in accordance with Ohio Revised Code Section 1710.02; and,

WHEREAS, The Project Petition, which is on file with the Clerk of the Council, has been signed by the Owner, as the owner of one hundred percent (100%) of the real property that is located at 21531 Lorain Road in the City and affected by the Project Petition (the “Property”), and proposes the necessity of acquiring, constructing, and improving the Project and financing the Project through the cooperation of the AED; and,

WHEREAS, In the Project Petition, the Owner requests that the Project be paid for by special assessments assessed upon the Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Project (which is estimated to be \$126,075.00), and other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and AED administrative fees and expenses, and requests that the Project be undertaken cooperatively by the City, the AED, and such other parties as the City may deem necessary or appropriate.

THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. Definitions. That each capitalized term not otherwise defined in this Resolution or by reference to another document shall have the meaning assigned to it in the Project Petition.

SECTION 2. Public Necessity of Special Assessments. That this Council declares necessary, and a vital and essential public purpose of the City, to improve the Property, which is located at 21531 Lorain Road in the City, by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Project Petition, and providing for the payment of the costs of the project, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner or otherwise to pay costs of the Authorized Improvements in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and AED administrative fees and expenses; together with all other necessary expenditures, all as more fully described in the Project Petition and profiles, specifications, and estimates of cost of the Project, all of which are on file with the Director of the Department of Finance and open to the inspection of all persons interested.

SECTION 3. One Project. That this Council determines that the Project's elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Project's elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner; and that the Project's elements shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09, and the Project's elements shall be treated as a joint improvement to be undertaken cooperatively by the City and the AED pursuant to Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

SECTION 4. Approval of Plans. That the Plans and Specifications and total cost of the Project now on file in the office of the Clerk of the Council are approved, subject to changes as permitted by Ohio Revised Code Chapter 727. The Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Project.

SECTION 5. Public Necessity of Project. That this Council has previously determined and by this Resolution ratifies and declares that the Project is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project, as defined in Ohio Revised Code Section 1710.01(I); and that in order to fulfill that essential and vital public purpose of the City, it is necessary and proper to provide, in cooperation with the AED, for the acquisition, construction, and improvement of the Project in the manner contemplated by the Project Petition.

This Council determines and declares that the Project is conducive to the public peace, health, safety and welfare of the City and the inhabitants of the City.

SECTION 6. Allocation of Costs of Project. That pursuant to and subject to the provisions of a valid Petition signed by the owners of one hundred percent (100%) of the Property, the entire cost of the Project shall be paid by the Special Assessments levied against the Property, which is the benefited property. The provisions of the Project Petition are ratified, adopted, approved and incorporated into this Resolution as if set forth in full in this Resolution. The portion of the costs of the Project allocable to the City will be zero percent (0%). The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

SECTION 7. Assessment Method. That the method of levying the Special Assessments shall be in proportion to the benefits received, allocated among the parcels constituting the Property as set forth in the Project Petition.

SECTION 8. Property. That the lots or parcels of land to be assessed for the Project shall be the Property, described in Exhibit A to the Project Petition, all of which lots and lands are determined to be specially benefited by the Project.

SECTION 9. Assessment Schedule. That the Special Assessments shall be levied and paid in _____ semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Project Petition, and the Owner has waived its option to pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing Resolution.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is \$126,075.00. Each semi-annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and of administrative expenses. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City. In addition to the Special Assessments, the Fiscal Officer of Cuyahoga County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount will be added to the Special Assessments by the Fiscal Officer of Cuyahoga County, Ohio.

SECTION 10. Director of the Department of Finance to File Estimate of Special Assessments. That the Director of the Department of Finance or the Director of the Department of Finance's designee is authorized and directed to prepare and file in the office of the Clerk of the Council the estimated Special Assessments for the cost of the Project in accordance with the method of assessment set forth in the Project Petition and this Resolution, showing the amount of the assessment against each lot or parcel of land to be assessed.

SECTION 11. Notice to Property Owner. That upon the filing of the estimated Special Assessments with the Clerk of the Council, notice of the adoption of this Resolution and the filing of the estimated Special Assessments shall be served upon the Owner of the Assessed

Property, as provided in Ohio Revised Code Section 727.13. The appropriate officials of the City shall also comply with the applicable procedural requirements of Ohio Revised Code Chapter 727.

SECTION 12. Collection of Special Assessments. That the Director of the Department of Finance or the Director of the Department of Finance's designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

SECTION 13. Appropriation of Special Assessments. That the Special Assessments will be used by the City to provide the Authorized Improvements in cooperation with the AED in any manner, including assigning the Special Assessments actually received by the City to the AED or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

SECTION 14. Acceptance of Waiver of Process. That this Council accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Fairview Park, Ohio, and consents to the immediate imposition of the Special Assessments upon the Property. This waiver encompasses, but is not limited to, waivers by the Owner of the following rights:

- i. The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- ii. The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06;
- iii. The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- iv. The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- v. The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- vi. The right to notice that bids or quotations for the Project may exceed estimates by 15%;
- vii. The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251;
- viii. The right to notice of the passage of the assessing Resolution under Ohio Revised Code Section 727.26; and
- ix. Any and all procedural defects, errors, or omissions in the Special Assessment process.

SECTION 15. Agreements. That the City is authorized to enter into agreements by and among the City, the AED, and such other parties as the City may deem necessary or appropriate in order

to provide the Authorized Improvements, and that the Mayor is authorized to execute, on the City's behalf, such agreements.

SECTION 16. Compliance with Public Meetings Requirements. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 17. Effective Date. That this Resolution is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and to accommodate the seasonal constraints of outdoor construction, and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 05.02.16
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council