



# CITY OF FAIRVIEW PARK CITY COUNCIL MEETING AGENDA

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MONDAY, MARCH 18, 2019  
REGULAR COUNCIL MEETING

6:30 p.m. - Study Session – Council Caucus Room  
7:00 p.m. - Council Meeting – Council Chambers

Meeting Called to Order

Moment of Silent Prayer | Pledge of Allegiance

Roll Call

Disposition of Minutes

Regular Meeting of Council March 4, 2019

~ *LEGISLATIVE AGENDA* ~

Legislation on for First Reading

COUNCILMAN WOJNAR

Ord. 19-\_\_ | Increasing Expenditure to Cuini and Panichi for 2018 Audit

Audience Input on Legislation Up for Passage

Legislation on for Passage Without Three Readings

COUNCILMAN WOJNAR

Ord. 19-\_\_ | Amendment to Purchase Agreement for Sale of Property at 20520 Lorain Road

Reports and Communications from Mayor, Directors and Other City Officials

Public Session

Miscellaneous Business and Reports from Council

Adjournment

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*Agenda continued on back →*

## **UPCOMING MEETINGS OF COUNCIL**

MON., MAR 25	Council Committee	7:00 p.m.	Council Caucus Room
MON., APR 1	Council Meeting	7:00 p.m.	Council Chambers
MON., APR 8	Council Committee	7:00 p.m.	Council Caucus Room
MON., APR 15	Council Meeting	7:00 p.m.	Council Chambers
MON., APR 22	Council Committee	7:00 p.m.	Council Caucus Room

1  
2 **MINUTES OF THE REGULAR MEETING OF FAIRVIEW PARK CITY COUNCIL**  
3 **MONDAY, MARCH 4, 2019**  
4

5 The regular meeting of Council was called to order by Council President Kilbane at 7:00 p.m.

6 MOMENT OF SILENT PRAYER

7 PLEDGE OF ALLEGIANCE

8 ROLL CALL | PRESENT:

9 Council - B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith

10 Administration - Mayor Patton, Director Cingle, Director Gibbons, Engineer Mackay

11  
12 THE CHAIR made a motion to excuse Councilman Wojnar from the meeting.

13 Moved and Seconded.

14 ROLL ON MOTION: Vote: YES-6, NO-0 | Motion carried.

15 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith

16  
17 THE CHAIR made a motion to approve the minutes of the regular meeting of February 18, 2019.

18 Moved and Seconded.

19 ROLL ON MOTION: Vote: YES-6, NO-0 | Motion carried.

20 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith

21  
22 **COMMITTEE REPORTS**

23 COUNCILMAN SMITH reported that the Finance Committee met on Monday, February 25<sup>th</sup> to discuss  
24 Ordinance 19-10 for Appropriations for the City of Fairview Park for the year 2019. Finance Director  
25 Cingle went over the amendments to the budget since introduction including corrections of typos, for  
26 personnel expenses for the Building Department and membership expenses for the Mayor’s Office,  
27 adjustments for refunds for economic development grants and cost for the note issuance for the Gemini  
28 roof repair. The total impact of the adjustments to the budget is a \$ 7,550 increase. A motion to amend on  
29 passage and placed up for third and final reading passed by a vote of 6-0.  
30

31 COUNCILMAN MINEK reported that the Environment, Public Works, Planning, Zoning & Development  
32 Committee met on Monday, February 25, 2019 at 7:00 pm to discuss: Ordinance 19-07 Plans &  
33 Specifications for 2019 Street Repair Program Year 30 and companion Ordinance 19-08 Bids & Contract  
34 for 2019 Street Repair Program Year 30. Public Service/Development Director Leininger was in  
35 attendance and provided an update to the 2019 program. Eaton Road between W. 210 St. to W. 213 St.  
36 was added for chip seal & asphalt overlay. Due to the addition both ordinances would have to be  
37 amended. The proposed amendment to Ordinance 19-07 would be in Section 2 changing the dollar amount  
38 from \$48,000 to \$53,000 and inserting and from the Street Maintenance & repair Fund (Fund 210).  
39 Amendment to Ordinance 19-08 would also be in Section 2 changing the dollar amount from \$483,000.00  
40 to \$534,000.00 and inserting and from the Street Maintenance & Repair Fund (Fund 210). The  
41 amendments would be made prior to the call for passage of each ordinance. Motion that Ordinance 19-07  
42 & 19-08 be placed on third reading and up for passage was approved 6-0.  
43

44 **AUDIENCE INPUT ON LEGISLATION UP FOR PASSAGE**

45  
46 **LEGISLATION ON FOR PASSAGE WITHOUT THREE READINGS**

47 COUNCILMAN SMITH placed the following legislation up for emergency passage:

48 ORDINANCE NO. 19-12

49 REQUESTED BY: ERICH UPPERMAN, POLICE CHIEF

50 SPONSORED BY: COUNCILMAN WOJNAR

51 *AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT THROUGH THE*  
52 *OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES (ODAS) COOPERATIVE PURCHASING*  
53 *PROGRAM WITH LEBANON FORD FOR THE ACQUISITION OF THREE (3) FORD POLICE*  
54 *INTERCEPTOR K8A CRUISERS, AND ACCESSORIES AND EQUIPMENT FOR SAID CRUISERS, FOR*  
55 *THE POLICE DEPARTMENT AND DECLARING AN EMERGENCY.*

56 THE CHAIR asked for any further discussion before passage.  
57 COUNCILMAN SMITH made a motion to suspend the Charter Provision and Rule 49 requiring three  
58 readings.

59 Moved and Seconded.  
60 ROLL ON MOTION: Vote: YES-6, NO-0 | Motion carried.

61 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith  
62 COUNCILMAN SMITH made a motion to dispense Rule 53 requiring reference to Committee.

63 Moved and Seconded.  
64 ROLL ON MOTION: Vote: YES-6, NO-0 | Motion carried.

65 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith  
66 THE CHAIR asked for any further discussion before passage. No Discussion.

67 ROLL ON PASSAGE: Vote: YES-6, NO-0 | Motion carried, Ordinance 19-12 passes.  
68 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith

69

70 **LEGISLATION ON FOR THIRD READING AND FINAL PASSAGE**

71 COUNCILMAN MINEK placed the following legislation up for third reading and final passage:  
72 ORDINANCE NO. 19-07

73 REQUESTED BY: SHAWN LEININGER, DIRECTOR OF PUBLIC SERVICE & DEVELOPMENT  
74 SPONSORED BY: COUNCILMAN MINEK

75 *AN ORDINANCE AUTHORIZING THE CITY ENGINEER TO PREPARE PLANS AND*  
76 *SPECIFICATIONS AND PROVIDE CONSTRUCTION ADMINISTRATION SERVICES FOR THE*  
77 *REPAIR AND RECONSTRUCTION OF CITY STREETS IN YEAR 30 OF THE STREET REPAIR*  
78 *PROGRAM AND DECLARING AN EMERGENCY*

79 THE CHAIR asked for any further discussion before passage.  
80 COUNCILMAN MINEK made a motion to amend Ordinance 19-07 in Section 2 to change dollar amount

81 from \$48,000 to \$53,000 and add the Street Maintenance and Repair Fund (Fund 210).  
82 Moved and Seconded.

83 THE CHAIR asked for any discussion on the motion. No Discussion.  
84 ROLL ON MOTION: Vote: YES-6, NO-0 | Motion carried.

85 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith  
86 THE CHAIR asked for any further discussion before passage. No Discussion.

87 ROLL ON PASSAGE: Vote: YES-6, NO-0 | Motion carried, Ordinance 19-07 Amended passes.  
88 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith

89

90 ORDINANCE NO. 19-08  
91 REQUESTED BY: SHAWN LEININGER, DIRECTOR OF PUBLIC SERVICE AND DEVELOPMENT

92 SPONSORED BY: COUNCILMAN MINEK  
93 *AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE AND DEVELOPMENT TO*

94 *ADVERTISE FOR BIDS AND THE MAYOR TO ENTER INTO A CONTRACT WITH THE LOWEST*  
95 *RESPONSIVE AND RESPONSIBLE BIDDER AS DETERMINED BY THE BOARD OF CONTROL FOR*  
96 *THE WORK TO BE PERFORMED IN YEAR 30 OF THE STREET REPAIR PROGRAM AND*  
97 *DECLARING AN EMERGENCY*

98 THE CHAIR asked for any further discussion before passage.  
99 COUNCILMAN MINEK made a motion to amend Ordinance 19-08 in Section to change dollar amount

100 from \$483,000 to \$534,000 and add the Street Maintenance and Repair Fund (Fund 210).

101 Moved and Seconded.  
102 THE CHAIR asked for any discussion on the motion. No Discussion.  
103 ROLL ON MOTION: Vote: YES-6, NO-0 | Motion carried.  
104 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith  
105 THE CHAIR asked for any further discussion before passage. No Discussion.  
106 ROLL ON PASSAGE: Vote: YES-6, NO-0 | Motion carried, Ordinance 19-08 Amended passes.  
107 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith  
108  
109 COUNCILMAN SMITH placed the following legislation up for third reading and final passage:  
110 ORDINANCE NO. 19-09  
111 REQUESTED BY: SHAWN LEININGER, DIRECTOR OF PUBLIC SERVICE AND DEVELOPMENT  
112 SPONSORED BY: COUNCILMAN WOJNAR  
113 *AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ACCEPT THE 2019 NORTHEAST*  
114 *OHIO PUBLIC ENERGY COUNCIL ENERGIZED COMMUNITY GRANT TO PROVIDE FINANCIAL*  
115 *ASSISTANCE FOR ENERGY EFFICIENCY PROJECTS OR ENERGY INFRASTRUCTURE*  
116 *IMPROVEMENTS AND AUTHORIZING THE MAYOR TO FILE ALL DOCUMENTS AND EXECUTE*  
117 *ALL AGREEMENTS NECESSARY TO RECEIVE ANY AWARDED GRANT FUNDS AND DECLARING*  
118 *AN EMERGENCY*  
119 THE CHAIR asked for any discussion on the motion. No Discussion.  
120 ROLL ON PASSAGE: Vote: YES-6, NO-0 | Motion carried, Ordinance 19-09 passes.  
121 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith  
122  
123 ORDINANCE NO. 19-10  
124 ORIGINATED BY: GREG CINGLE, FINANCE DIRECTOR  
125 REQUESTED BY: MAYOR EILEEN ANN PATTON  
126 SPONSORED BY: COUNCILMAN WOJNAR  
127 *AN ORDINANCE APPROPRIATING FUNDS FOR CURRENT EXPENSES AND OTHER*  
128 *EXPENDITURES OF THE CITY OF FAIRVIEW PARK, OHIO FOR THE PERIOD COMMENCING*  
129 *JANUARY 1, 2019 AND ENDING DECEMBER 31, 2019 AND DECLARING AN EMERGENCY*  
130 THE CHAIR asked for any further discussion before passage.  
131 COUNCILMAN SMITH made a motion to amend Ordinance 19-10 to incorporate the changes of Exhibit  
132 A for General Fund accounts 4520, 7710, 7790, and for Funds 230, 300, 772 and 811, as discussed in  
133 committee.  
134 Moved and Seconded.  
135 THE CHAIR asked for any discussion on the motion. No Discussion.  
136 ROLL ON MOTION: Vote: YES-6, NO-0 | Motion carried.  
137 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith  
138 THE CHAIR asked for any further discussion before passage. No Discussion.  
139 ROLL ON PASSAGE: Vote: YES-6, NO-0 | Motion carried, Ordinance 19-10 Amended passes.  
140 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith  
141  
142 **REPORTS AND COMMUNICATION FROM THE MAYOR, DIRECTORS, AND OTHER CITY**  
143 **OFFICIALS**  
144 MAYOR PATTON reported that work began today at the intersection of Clifford and West 227<sup>th</sup> St,  
145 which will remain closed until at least Friday, March 8 and a second crew will work west toward West  
146 229<sup>th</sup> Street. She also announced that a new business called Omar's Pizza and Mediterranean Food in the  
147 former Anna's Sewing Center on Lorain Road. MAYOR PATTON said that the Police Department has an  
148 immediate need for school guards and are taking applications. She welcomed the six new auxiliary  
149 officers that were sworn in today. The city has received 3 grants so far this year that will aid in hosting the  
150 annual shredding and hazardous household waste events, purchasing body armor for the police and for

151 construction of the bathroom under the Community Development Block Grant. MAYOR PATTON was  
152 sorry to report that the city has been in ongoing contact of the owners of the Fairview Sides to Go  
153 Barbecue location, and unfortunately the business is now closed due to an ongoing dispute with the  
154 landlord regarding necessary improvements to the building, which began with the build out of the space  
155 prior to opening and precipitated into this action being taken. They could not continue to support the  
156 needed costs and permanent improvements to the building without the assistance of the landlord. She also  
157 reminded everyone of the Lorain Road Corridor Study Public Workshop, which will be held on  
158 Wednesday, March 6 at the Gemini Center from 7 to 8:30 pm and all are encouraged to attend.

159  
160 DIRECTOR CINGLE thanked Council and the Administration for passage of items on agenda and  
161 reported that the 2018 audit began last week and will keep everyone apprised as it moves forward.

162 THE CHAIR thanked Director Cingle and all Directors on all their hard work that was done on the budget,  
163 and said that it was a very informative process.

164  
165 DIRECTOR GIBBONS reported that he attended a seminar with Police Chief Upperman in Columbus  
166 regarding the issue of Medical Marijuana and Employers. He said that the new law, like many others,  
167 creates new issues and unintended consequences. The seminar which was sponsored by the Bureau of  
168 Workers Compensation and showed that cities may need to look at their existing policies to see how they  
169 comport with the new laws on medical marijuana. Complicating it further is that science is not entirely  
170 clear as to the effects on the body. He said that the city will be looking at its current policy and discussing.  
171 DIRECTOR GIBBONS reported that the Charter Review Commission will be meeting March 5 at 6:30  
172 pm in the Dunson Community room and are open for the public to attend. He anticipates that they will be  
173 reviewing the issues raised by the Commission and those that have potential of being recommendations  
174 for changes to the Charter.

175  
176 ENGINEER MACKAY reported that plans for the Campus and West 210<sup>th</sup> Street water main plans  
177 continue and expects that it will be bid this spring. He said that they are also working closely with ODOT  
178 to complete plans for the Lorain Road slide area and will provide updates as they are available. He  
179 thanked council for approving the 2019 street legislation and said that plans will begin immediately on  
180 them.

181  
182 **PUBLIC SESSION**

183 MR. RAY HAMMERLE – 22326 Haber Drive – MR. HAMMERLE said that he has lived here many  
184 years and that the town is running smoothly as evidenced by him not speaking of any problems. He said he  
185 has seen many councils and many ups and downs and is happy with the way the city is currently and said  
186 to keep up the good work.

187  
188 JOHN TAYLOR -22405 Macbeth Ave – MR. TAYLOR expresses concern with homes putting trash and  
189 recycling out earlier than the times allowed, especially with the high winds we had last week. He said that  
190 maybe there should be a friendly reminder on the boards/marquee. He said also noticed that ODOT got  
191 several of the lights lit up on West 220<sup>th</sup> Street, so now you can see the speed bumps on the bridge. They  
192 have one more to go, as does First Energy at the intersection. He said he will follow-up with Director  
193 Leininger on the lights at Nelson Russ Park, and mentioned it has been nice to see families using the all-  
194 season equipment at the park, but he noticed walking his dog on the leash that others were letting their  
195 dogs have free reign and thinks that there should be some signage regarding lease laws and reminders to  
196 clean up after them as well, as it is a recreational park.

197 MAYOR PATTON said that she thinks once the park is utilized more and signage is up, people will patrol  
198 other people as well.

199

200 MR. BRIAN GIBBONS – 19510 Lorain Road – MR. GIBBONS reminded everyone that on March 8-11  
201 and again from March 15-17, the Girl Scouts will be selling cookies in front of the Giant Eagle Store and  
202 asked everyone to support their sales.

203

204 MR. ERIC KERECH – 20921 Westwood Ave – MR. KERECH said that he and his girlfriend moved to  
205 Fairview Park about a year and half ago, but unfortunately they have been having some issues with a  
206 neighbor in regard to dog waste which has made them unable to fully enjoy their residence and  
207 approaching the point where it can become hazardous to their health. Fencing the dogs is also an issue, as  
208 dogs are able to jump that. He said they have been given date to handle issues by March 6, and  
209 understands that there is a process to these things and hopes that it is resolved soon.

210 MAYOR PATTON stated that this has been an ongoing problem for most of the year, and the Building  
211 department, court system and health department are all included in this issue, and they have until March 6  
212 to address it. She said that when you have a resident that is uncooperative and leads into the legal court  
213 system, it gets tied up in that system. She said that the city is on top of this, and it is an unfortunate  
214 situation.

215 MR. KERECH said that they will take it day by day and he looks forward to seeing what happens.

216

217 **MISCELLANEOUS BUSINESS AND COMMENTS BY MEMBERS OF COUNCIL**

218 COUNCILMAN MCDONOUGH spoke about and congratulate the success of the Fairview Park Boys  
219 basketball team and their advancement to the sectional District finals, with game on Wednesday, March  
220 6<sup>th</sup> at North Ridgeville High School. He encouraged everyone to attend and cheer on the team who is  
221 playing in their first conference championship since 1962.

222

223 COUNCILWOMAN WERING said that she appreciates all the residents that came and spoke tonight. She  
224 said that nothing can be done without knowing how the residents are thinking and feeling. She welcomed  
225 and appreciates all of the comments, and said she hopes that it continues, and thanked them for being  
226 involved residents.

227

228 COUNCILMAN SMITH said that there will be a band concert tomorrow at the high school for grades 5<sup>th</sup>  
229 through 12<sup>th</sup>. He also encouraged everyone to pop into the Lorain Road Corridor meeting on Wednesday  
230 to provide input on the future of Lorain Road. He commended Director Cingle, the Administration,  
231 Directors and Council on the passage of the budget. He said that he believes that everyone has done a  
232 fabulous job with the citizen's money and spent very wisely. COUNCILMAN SMITH commended the  
233 Police Department for a recent arrest which was posted on the Facebook page a couple days ago, and the  
234 great work they do behind the scenes. He also acknowledged the great work of the Service Department in  
235 cleaning up after the storm that came through with the high winds and the cleanup afterwards.

236

237 THE CHAIR entertained a motion to adjourn the regular meeting with no further business.

238 Moved and Seconded.

239 ROLL ON MOTION: Vote: YES-6, NO-0 | Meeting adjourned at 7:35 p.m.

240 YES: B. McDonough, B. Minek, M. Kilbane, S. Wering, A. Russo and T. Smith

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242

243

244 \_\_\_\_\_  
Michael P. Kilbane, President of Council

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248 \_\_\_\_\_  
Eileen Ann Patton, Mayor

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\_\_\_\_\_  
Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK  
ORDINANCE NO. 19-  
REQUESTED BY: FINANCE DIRECTOR GREG CINGLE  
SPONSORED BY: COUNCILMAN WOJNAR

AN ORDINANCE AUTHORIZING THE MAYOR TO ENGAGE CIUNI & PANICHI INC. TO PROVIDE ADDITIONAL SERVICES AS PART OF THE 2018 FISCAL YEAR AUDIT AND DECLARING AN EMERGENCY

WHEREAS, the City of Fairview Park is required to have an independent audit of its financial records each year; and

WHEREAS, Ordinance 15-52, passed by Council on authorized the Mayor to enter into an extension agreement with Ciuni and Panichi, Inc. to audit the basic financial statements of the City of Fairview Park for Fiscal Years 2015 through 2018; and

WHEREAS, it is necessary for the independent audit to include an audit modification of the implementation of Government Accounting Standards Board (GASB) Statement No. 75 which was not a part of the initial contracted hours with Ciuni and Panichi, Inc. GASB Statement No. 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions, addresses reporting by governments that provide Ohio Postemployment Benefit Plans Other Than Pension Plans (OPEB) to their employees and for governments that finance OPEB for employees of other governments.

WHEREAS, it is necessary to amend the extension agreement with Ciuni and Panichi, Inc. to include services pertaining to GASB 75.

**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 amendment of the extension agreement with Ciuni & Panichi, Inc. in the amount of One Thousand Two Hundred Seventy-four Dollars (\$1,274.00), to provide additional services to include an audit of modification of the implementation of GASB 75.

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 m emergency measure necessary for the preservation of the public peace, health, safety and welfare and to immediately begin the FY 2018 audit process, and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be h force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law,

PASSED:  
APPROVED:

1<sup>st</sup> reading:  
2<sup>nd</sup> reading:  
3<sup>rd</sup> reading:

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Michael P. Kilbane, President of Council

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Eileen Ann Patton, Mayor

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Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK  
ORDINANCE NO. 19-  
REQUESTED BY: MAYOR EILEEN ANN PATTON  
SPONSORED BY: COUCILMAN WOJNAR  
CO-SPONSORED BY: COUNCILMAN MINEK

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO THE FIRST AMENDMENT TO THE PURCHASE AGREEMENT WITH POMPDENT, LLC FOR THE PURCHASE OF THE PROPERTY LOCATED AT 20520 LORAIN ROAD, FAIRVIEW PARK, OHIO, AND DECLARING AN EMERGENCY

WHEREAS, the City of Fairview Park owns the property located at 20520 Lorain Road, Fairview Park, Ohio; and

WHEREAS, PompDent, LLC has offered to purchase the property located at 20520 Lorain Road, Fairview Park, Ohio; and

WHEREAS, PompDent, LLC intends to build a new building on the property located at 20520 Lorain Road for its business operations; and

WHEREAS, on December 18, 2018, City Council approved Ordinance 18-60 an ordinance repealing and replacing Ordinance 18-30 Amended, authorizing the Mayor to enter into an Agreement with PompDent LLC for the purchase of the property located at 20520 Lorain Road, Fairview Park, Ohio; and

WHEREAS, in order to provide sufficient time to obtain financing approvals, the Purchaser has requested to amend the terms of the Agreement to modify the Review Period from sixty (60) days to 5:00 pm on May 17, 2019 and extend the closing date from no later than April 1, 2019 to July 1, 2019; and

WHEREAS, all other terms and conditions of the original Agreement shall remain in full force and effect; and

WHEREAS, it is in the best interest of the City of Fairview Park to sell the property at 20520 Lorain Road to PompDent, LLC under the terms and conditions herein.

**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 the First Amendment to the Purchase Agreement with PompDent, LLC, according to the terms and conditions contained herein and attached as Exhibit "A", and execute any and all necessary documents for the sale of the land located at 20520 Lorain Road, Fairview Park, Ohio.

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 committee 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 provide for the sale of the subject land in a timely fashion and as soon as possible, 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:

1<sup>st</sup> reading:  
2<sup>nd</sup> reading:  
3<sup>rd</sup> reading:

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Michael P. Kilbane, President of Council

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Eileen Ann Patton, Mayor

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Liz L. Westbrooks, Clerk of Council

## FIRST AMENDMENT TO PURCHASE AGREEMENT

**THIS FIRST AMENDMENT TO PURCHASE AGREEMENT** (this “First Amendment”) is dated as of this \_\_\_ day of March, 2019, by and between **City of Fairview Park, Ohio**, an Ohio municipal corporation (“Seller”), and **PompDent, LLC**, an Ohio limited liability company (“Purchaser”).

### WITNESSETH:

WHEREAS, Seller and Purchaser have previously executed and delivered that certain Purchase Agreement dated January 16, 2019 (the “Agreement”) for the sale and purchase of certain property located at 20520 Lorain Road, Fairview Park, Cuyahoga County, Ohio (the “Property”) including all land, improvements, appurtenant rights, easements, licenses, governmental permits and privileges as more particularly described in the Agreement;

WHEREAS, the Purchaser has determined that additional investigation of the Property is necessary to finalize Purchaser’s financing to complete the transaction contemplated under the terms of the Agreement;;

WHEREAS, Seller and Purchaser wish to amend the Agreement in certain respects.

NOW THEREFORE, for and in consideration of the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Seller and Purchaser hereby agree as follows:

**1. Capitalized Terms.** All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Agreement.

**2. Review Period.** The parties agree that the Review Period set forth in Section 5 (a) of the Agreement shall be extended to 5:00 p.m. (Cleveland, Ohio time) on May 17, 2019.

**3. Closing.** The Closing Date set forth in Section 7 of the Agreement is hereby extended to such time and place as Seller and Purchaser shall agree, but not later than July 1, 2019.

**4. Notices.** Notice to Seller under Section 15.2 of the Agreement shall require a copy of any notice to Seller to Joseph Gibbons as Law Director in lieu of William McGinty.

**5. Conflict.** In the event of any conflict between this First Amendment and the terms of the Agreement, the terms of this First Amendment shall control.

**5. Miscellaneous.** This First Amendment contains the entire agreement of the parties hereto with respect to the matters contained herein, and supersedes any prior or

contemporaneous discussions or negotiations between the parties hereto with respect to the matters contained herein. Except as otherwise provided herein, the Agreement shall remain in full force and effect according to its terms. This First Amendment may be executed in more than one counterpart, each of which shall be deemed an original, but all of which shall constitute one and the same agreement. Copies of signatures sent by facsimile or provided electronically by portable document format (“PDF”) shall be deemed originals for purposes of execution and proof of this First Amendment.

IN WITNESS WHEREOF, Seller and Purchaser have executed and delivered this First Amendment under seal as of the day and year first above written.

**SELLER:**

**City of Fairview Park, Ohio**, an Ohio municipal corporation

By: \_\_\_\_\_  
Eileen Ann Patton, Mayor

**PURCHASER:**

**PompDent, LLC**, an Ohio limited liability company

By: \_\_\_\_\_  
Mark Pompeani, Member