



AGENDA
CITY COUNCIL
Work Session – October 17, 2016, 5:00 p.m.
Council Chambers

1368 Research Park Dr
Beavercreek, Ohio

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. DISCUSSION ITEMS
 - A. Keary McCarthy, Ohio Mayors Alliance
 - B. PACE Financing – Mall at Fairfield Commons
 - C. Medical Marijuana
- V. COUNCIL COMMITTEE/EVENT UPDATES
- VI. ADJOURNMENT

MEMORANDUM

TO: Mayor and City Council

CC: Michael A. Cornell, City Manager
Bill Kucera, Financial Administrative Services Director
Diane Gould, Administrative Assistant

FROM: Stephen M. McHugh, Law Director

DATE: October 13, 2016

RE: Mall at Fairfield Commons/Energy SID (PACE Financing)

MX 10/13/16

Attached is a brief summary of the process to create an energy Special Improvement District (SID). The Mall owners are seeking this to provide funding for energy improvements to the Mall. The debt incurred for the energy improvements is not City debt and the City will have no obligation to pay the debt.

Representation will be in attendance Monday night to provide additional information.

PACE Financing Process Overview

Why?

- Special assessments are used to secure financing to fund improvements without requiring the property owner to directly take on debt.
- Long-term, fixed rate financing at favorable rates is available.
- Special assessment payments can be passed through to tenants; depending on lease terms.
- Energy savings resulting from improvements often fully offset the special assessments.
- Nonprofit and most governmental entities may use PACE, even though they otherwise may be exempt from real property taxes and charges on real property.

I. Overview of City Procedures

- a. Review Petition and Authorize Project
- b. Levying Special Assessments
- c. Approve Agreements Regarding Special Assessments
- d. Assessment Administration by creating an ESID

II. Authorizing Project

- a. Property owner submits a petition and required (ORC C. 1710) energy plan to the City for approval.
- b. The Petition and Plan:
 - i. Describe the energy special improvement project to be completed;
 - ii. Set forth the special assessments requested in order to pay the costs of the project; and
 - iii. Request that the City levy the special assessments on the property.
- c. Following the City's approval, the Petition and Plan are submitted to the City Council and chief executive of the City.
- d. The City Council reviews the petition and plan and must either approve or disapprove of them by legislation within 60 days.
- e. Once the project is authorized, the City moves to levy the special assessments described in the petition and plan.

III. Levying Special Assessments

- a. Under Ohio Revised Code Chapter 727, the legislative authority of the City must pass three pieces of legislation to levy the special assessments:
 - i. Resolution of Necessity
 - ii. Ordinance to Proceed
 - iii. Ordinance Levying Special Assessments
- b. Once passed, the City must certify each of the pieces of legislation to the County Auditor and receive a receipt of each piece of legislation from the County Auditor.

IV. Agreements Regarding Special Assessments

- a. In order to describe the financing, and secure the special assessments and pledge them to a lender (e.g. port authority) in exchange for up-front financing to pay the costs of a project, the City that levied the special assessments, the County Treasurer, the project owner, and the lender or lenders enter into a "Cooperative Agreement."
- b. This agreement assigns the special assessments from the City to the lender.
- c. It also provides the mechanism by which the County Treasurer pays the special assessments to the City for transfer to the lender, or the mechanism by which the County Treasurer pays the special assessments directly to the lender.
- d. The agreement contains provisions regarding the foreclosure process in the event the property owner does not pay the special assessments.
- e. The agreement reinforces that the City's obligation with respect to the transaction is limited to only the special assessments it actually collects. It is non-recourse to the City.
- f. The property owner also indemnifies the City with regard to the special assessments and the related proceedings.

V. Special Assessment Administration

- a. In order to administer the process set up in the Cooperative Agreement, the City that levied the special assessments takes certain administrative actions.
- b. It creates an energy special improvement district (ORC Section 1710.02).
- c. If it is to actually receive special assessment collections and transfer them, it may have to set up an account (could be an agency account with automatic distribution) for the collection and transfer of the special assessments to the lender.
- d. Energy SID has 5 board members, being the Mayor, one more appointed by the City, and 3 appointed by property owner.
- e. Energy SID meets annually thereafter.

CITY OF BEAVERCREEK
RESOLUTION NO. 16-_____

SPONSORED BY COUNCIL MEMBER _____ ON THE _____ DAY OF _____,
2016.

**A RESOLUTION APPROVING A PETITION, ARTICLES OF
INCORPORATION, AND INITIAL PLAN FOR THE CITY OF
BEAVERCREEK (GREENE COUNTY), OHIO ENERGY SPECIAL
IMPROVEMENT DISTRICT.**

WHEREAS, Ohio law was amended by Ohio House Bill 1 of the 128th General Assembly, effective October 15, 2009 and Ohio Senate Bill 232 of the 128th General Assembly effective June 17, 2010, to authorize the creation of Special Improvement Districts (the "District") under Chapter 1710 of the Ohio Revised Code (collectively, the "Act") to allow property owners to petition for special assessments to be levied to pay costs of developing and implementing plans for public improvements and public services that benefit the District, including as provided for in the Act, special energy improvement projects which are defined in Ohio Senate Bill 232 to mean "any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photovoltaic project, a solar thermal energy project, a geothermal energy project, a customer-generated energy project, or an energy efficiency improvement, whether such real or personal property is publicly or privately owned"; and

WHEREAS, specifically, the Act provides that a District may be created by petition of the owners of real property within the proposed District. No District may include any property of federal or state government or a county, City or municipal corporation, unless the county, City or municipal corporation specifically requests in writing that the property be included in the District. The Act further provides that any District created may contain non-contiguous parcels of real property if all parcels of real property included in the District contain at least one special energy improvement project and 100% of the owners of the parcels of real property in the District sign a petition requesting inclusion in the District. District boundaries can include parcels of real property located in multiple municipal corporations or townships, so long as each of the municipal corporations or townships is contiguous to one another; and

WHEREAS, MFC Beaver creek, LLC, the owner of real property in the City of Beaver creek, Greene County, Ohio known as the The Mall at Fairfield Commons has executed and delivered a petition attached hereto and addressed to the City Council of the City of Beaver creek, Greene County, Ohio and has submitted with the petition, articles of incorporation and an initial plan for the establishment of a special improvement district under the Act; and

WHEREAS, adoption of this legislation represents the first legislative step in the process of creating the City of Beavercreek (Greene County), Ohio Energy Special Improvement District ("ESID"). The Articles of Incorporation for the ESID provide that the initial participating political subdivision of the ESID will be the City of Beavercreek, Greene County, Ohio; and

WHEREAS, the Act requires that the City Council of the City of Beavercreek, Greene County, Ohio act on the petition within 60 days of the submission. This resolution therefore approves the Petition, the Articles of Incorporation, and the initial plan of the ESID, which approvals will permit the initial special energy improvement project petitioned for by MFC Beavercreek, LLC to be developed in the ESID.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAVERCREEK, GREENE COUNTY, OHIO, that:

SECTION I.

The City Council of the City of Beavercreek, Greene County, Ohio (the "City") hereby approves the Petition that has been submitted to the City on October __, 2016 and executed and delivered by MFC Beavercreek, LLC, the owner of real property in the City known as the The Mall at Fairfield Commons as the initial parcels of real property to be included in the ESID. The Petition includes a listing of the parcels of real property owned by MFC Beavercreek, LLC to be included in the ESID. The name of the non-profit corporation that will govern the ESID approved hereunder and shown on the articles of incorporation submitted with the petition is "City of Beavercreek (Greene County), Ohio Energy Special Improvement District, Inc."

SECTION II.

The City also hereby approves the Articles of Incorporation of the City of Beavercreek (Greene County), Ohio Energy Special Improvement District, Inc. submitted to the City on October __, 2016, and included with said Petition. The City hereby appoints _____ to the Board of Directors of the ESID. The City authorizes the City Council to submit the Articles of Incorporation, the Petition, and this Resolution to the Ohio Secretary of State pursuant to Ohio Revised Code Section 1710.02.

SECTION III.

The City also hereby approves the Initial Plan for the ESID submitted to the City on October __, 2016, included with said Petition (the "Initial Plan") and finds that the public improvements of said Initial Plan will benefit the ESID and will promote the welfare of the people of the City by providing energy efficiency improvements and promoting energy efficiency.

SECTION IV.

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, except as otherwise provided by Ohio Revised Code Section 121.22, all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements. This Resolution shall become effective immediately upon its passage.

SECTION V.

This Resolution shall become effective immediately upon its passage.

THIS RESOLUTION IS ADOPTED BY THE Council of the City of Beavercreek, Ohio this ___ day of _____, 2016.

Bob Stone, Mayor

ATTEST:

Dianne Lampton, Clerk of Council

CITY OF BEAVERCREEK

RESOLUTION NO. 16-___

SPONSORED BY COUNCIL MEMBER _____ ON THE ___ DAY OF _____,
2016.

**A RESOLUTION DECLARING THE NECESSITY OF ACQUIRING AND
CONSTRUCTING CERTAIN PUBLIC IMPROVEMENTS IN
COOPERATION WITH THE CITY OF BEAVERCREEK (GREENE
COUNTY), OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT AND
THE GREENE COUNTY PORT AUTHORITY.**

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 a special improvement district pursuant to Ohio Revised Code Chapter 1710 shall levy said special assessments pursuant to Ohio Revised Code Chapter 727; and

WHEREAS, MFC Beaver Creek, LLC (the "Owner") petitioned for the creation of the the City of Beaver Creek (Greene County), Ohio Energy Special Improvement District (the "ESID") pursuant to Ohio Revised Code Chapter 1710 in part in order to finance the costs of its project, which consists of acquiring, constructing, equipping, improving, and installing energy efficiency improvements on its real property, including, without limitation, the replacement of approximately 400,000 square feet of roofing, installation of approximately 21 energy efficient rooftop HVAC units and related improvements (the "Project"); and

WHEREAS, the City Council (the "Council") of the City of Beaver Creek (the "City") has, by Resolution No. _____, adopted on October __, 2016, approved the initial petition (the "Petition"), the articles of incorporation, and the initial plan (the "Plan") for, and approved the creation of, the ESID; and

WHEREAS, the Petition, which is attached hereto as Exhibit A and made a part hereof, has been signed by the Owner, who owns one hundred percent (100%) of the real property affected by the Petition (as further described in Exhibit B to the Petition, the "Assessed Properties"), which Petition proposes the necessity of acquiring, constructing, and improving the Project and financing the Project through revenue bonds to be issued by the Greene County Port Authority (the "Authority"); and

WHEREAS, in the Petition the Owner requests that the Project be paid for by special assessments assessed upon the Assessed Properties (the "Special Assessments") in an amount sufficient to pay the costs of the Project, which is estimated to be \$3,025,900, and other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on bonds issued by the Authority to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Authority administrative fees and expenses, and requests that the Project be undertaken cooperatively by the City, the ESID, and the Authority in accordance with a Cooperative Agreement, expected to be dated as of November 1, 2016, by and among the City, the Authority, the ESID, the Owner and The Huntington National Bank, as trustee, (the "Cooperative Agreement"); and

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BEAVERCREEK, GREENE COUNTY, OHIO, that:

SECTION I.

It is hereby declared necessary, and a vital and essential public purpose of the City, to improve the Assessed Properties, which are located at 2727 Fairfield Commons Drive, Beavercreek, Ohio 45431, by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition, and providing for the payment of principal and interest on bonds issued by the Authority to pay the costs of the Project and other related interest, financing, credit enhancement, and issuance expenses and trustee fees and Authority ongoing administrative fees and expenses, all as more fully described in the Petition, the Cooperative Agreement, and the Plan, profiles, specifications, and estimates of cost of the Project, all of which are on file with the Clerk of Council and open to the inspection of all persons interested.

SECTION II.

It is hereby determined that the elements of the Project are so situated in relation to each other that in order to complete the acquisition and improvement thereof 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 elements of the Project shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09 and said improvements shall be treated as a joint improvement to be undertaken cooperatively by the City, the Authority, and the ESID pursuant to Ohio Revised Code Sections 4582.43 and 4582.431.

SECTION III.

The City has previously determined and hereby 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(1); 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 ESID and the Authority, for the acquisition, construction, and improvement of the Project in the manner contemplated by the Petition, the Plan and the Cooperative Agreement. It is hereby determined and declared that the Project is conducive to the public peace, health, safety and welfare of the City and the inhabitants thereof.

SECTION IV.

The plans, specifications, profiles and estimate of cost of the Project are hereby approved subject to changes as provided for in the Cooperative Agreement and as permitted by Ohio Revised Code Chapter 727 and Ohio Revised Code Chapter 1710.

SECTION V.

Pursuant to and subject to the provisions of a valid Petition signed by one hundred percent (100%) of the property owners of the Assessed Properties, which Petition is hereby accepted, the entire cost of the Project shall be paid by the Special Assessments levied against the Assessed Properties, which are the benefited properties. The provisions of the Petition are

hereby ratified, adopted, approved and incorporated into this Resolution as if set forth in full herein.

This Council hereby 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 any applicable laws, resolutions, or rules of the City, and consents to the immediate imposition of the Special Assessments upon the Assessed Properties. 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 Council 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 ordinance under Ohio Revised Code Section 727.26; and
- (ix) Any and all procedural defects, errors or omissions in the Special Assessment process.

SECTION VI.

The method of levying the Special Assessments shall be in proportion to the benefits received, equally on a gross per acre basis of the Assessed Properties, as set forth in the Petition.

SECTION VII.

The lots or parcels of land to be assessed for the Project shall be the Assessed Properties, described in Exhibit B to the Petition, all of which lots and lands are hereby determined to be specially benefited by the Project.

SECTION VIII.

The cost of the Project to be paid for directly or indirectly, in whole or in part, by funds derived from the Special Assessments may include, but are not limited to: (a) the cost of creating and operating the ESID, including creating and operating a nonprofit organization, hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment; (b) the cost of planning, designing, and implementing the Project, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses; (c) the cost of printing, serving, and publishing notices, resolutions, and ordinances; (d) the cost of all Special Assessment proceedings; (e) the cost of labor and material, whether furnished by contract or otherwise, in connection with the Project; (f) interest on bonds or notes issued in anticipation of the levy and collection of the Special Assessments; (g) Debt Service Charges and Administrative Expenses, each as defined in the Cooperative Agreement; (h) the total amount of damages and interest thereon, resulting from the Project and assessed in favor of any owner of lands affected by the Project, and any court costs incurred by the district in implementing the Project; (i) the cost incurred in connection with the preparation, levy, and collection of the Special Assessments, including legal expenses incurred by reason of the Project; (j) the costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the Project; and (k) incidental costs directly connected with the Project.

SECTION IX.

The Special Assessments shall be levied and paid in thirty (30) semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition, with interest on the deferred payments at the same rate and for the same period as the bonds or notes to be issued by the Authority to pay the costs of the Project as provided in the Petition; provided that the owner of any property assessed may, at its option, pay the Special Assessment in cash within thirty (30) days after the first publication of the notice of the assessing ordinance.

The capital cost of the Project is estimated to be \$3,025,900. Each semi-annual Special Assessment payment represents the payment of a portion of the principal of and interest on the Authority's revenue bonds and the scheduled amounts payable as the Authority administrative fee, and the trustee fee. In addition to the Special Assessments, the County Auditor of Greene 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 County Auditor of Greene County, Ohio.

SECTION X

. Bonds of the Authority, acting on behalf of the City and the ESID pursuant to the Cooperative Agreement, shall be issued and served by the levy and collection of the Special Assessments by installments and in an amount equal thereto.

SECTION XI.

The Financial Services Administrative Director is hereby authorized and directed to cause to be prepared and filed in the office of the Clerk of Council the estimated Special

Assessments for the cost of the Project in accordance with the method of assessment set forth in the Petition and this Resolution, showing the amount of the assessment against each lot or parcel of land to be assessed.

SECTION XII.

Upon the filing of the estimated Special Assessments with the Financial Services Administrator Director, notice of the adoption of this Resolution and the filing of the estimated Special Assessments shall be served upon the Owner of the Assessed Properties, 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 XIII.

The City Council and the Fiscal Officer are each 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 XIV.

The Special Assessments will be used by the City to meet its obligations under the Cooperative Agreement and are hereby appropriated for such purposes.

SECTION XV.

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, except as otherwise provided by Ohio Revised Code Section 121.22, all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION XVI.

This Resolution shall become effective immediately upon its passage.

THIS RESOLUTION IS ADOPTED BY THE Council of the City of Beavercreek, Ohio
this ____ day of _____, 2016.

Bob Stone, Mayor

ATTEST:

Dianne Lampton, Clerk of Council

CITY OF BEAVERCREEK, OHIO

ORDINANCE NO. 16-__

SPONSORED BY COUNCIL MEMBER _____ ON THE ____ DAY OF _____, 2016.

AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT, OF CERTAIN PUBLIC IMPROVEMENTS IN COOPERATION WITH THE CITY OF BEAVERCREEK (GREENE COUNTY), OHIO ENERGY SPECIAL IMPROVEMENT DISTRICT AND THE GREENE COUNTY PORT AUTHORITY AND DECLARING AN EMERGENCY.

WHEREAS, this City Council (the "Council") of the City of Beavercreek, Ohio (the "City") duly adopted Resolution No. _____ on October __, 2016 (the "Resolution of Necessity") (i) declaring the necessity of acquiring, constructing, and improving energy efficiency improvements, including, without limitation, the replacement of approximately 400,000 square feet of roofing, installation of approximately 21 energy efficient rooftop HVAC units and related improvements (the "Project", as more fully described in the Petition referenced below) located on real property owned by MFC Beavercreek, LLC (the "Owner") and located at 2727 Fairfield Commons Drive, Beavercreek, Ohio 45431 (the "Assessed Properties", as further described in Exhibit B to the Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition (as that term is defined in the Resolution of Necessity), and the Cooperative Agreement, expected to be dated as of November 1, 2016, by and among the City, the Authority, the ESID, the Owner and The Huntington National Bank, as trustee (the "Cooperative Agreement"), including by levying and collecting special assessments to be assessed upon the Assessed Properties (the "Special Assessments") in an amount sufficient to pay the capital costs of the Project, which is estimated to be \$3,025,900, plus other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on bonds issued by the Authority to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Authority administrative fees and expenses; (iii) accepting the Petition; and (iv) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City, the ESID, and the Authority; and

WHEREAS, 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 RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAVERCREEK, GREENE COUNTY, OHIO, that:

SECTION I.

It is hereby declared to be the intention of this Council to proceed with the acquisition, construction, and improvement of the Project, as such are described in the Petition and the Resolution of Necessity.

SECTION II.

The Project shall proceed in accordance with the provisions of the Resolution of Necessity, and in accordance with the plans, specifications, profiles and estimate of cost of the Project set forth in the Petition now on file in the office of the Clerk of Council and approved pursuant to the Resolution of Necessity.

SECTION III.

The Special Assessments, in an amount sufficient to pay the capital costs of the Project, which is estimated to be \$3,025,900, plus other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on bonds issued by the Authority to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Authority administrative fees and expenses, shall be assessed on the Assessed Properties in the manner and in the number of semi-annual installments as provided in the 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 the Authority's revenue bonds and the scheduled amounts payable as the Authority administrative fee, and the trustee fee. In addition to the Special Assessments, the County Auditor of Greene 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 Auditor of Greene County, Ohio.

SECTION IV.

The estimated Special Assessments, heretofore prepared and filed in the office of the Clerk of Council, in accordance with the Resolution of Necessity, are hereby adopted.

SECTION V.

In compliance with Ohio Revised Code Section 319.61, the Clerk of Council is hereby directed to deliver a certified copy of this Ordinance to the County Auditor of Greene County, Ohio within fifteen (15) days after the date of adoption hereof.

SECTION VI.

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 and the Cooperative Agreement, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

SECTION VII.

It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council and that, except as otherwise provided by Ohio Revised Code Section 121.22, all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION VIII.

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety of the inhabitants of this City, and for the further reason that this Ordinance is required to be immediately effective to provide for the acquisition, construction, and improvement of the Project to enhance energy efficiency and to better provide for the health of the residents of the City.

WHEREFORE, this Ordinance shall take effect and be in force from and immediately upon its adoption.

ADOPTED by the Council of the City of Beavercreek, Ohio this ____ day of _____, 2016.

Bob Stone, Mayor

ATTEST:

Dianne Lampton, Clerk of Council

CITY OF BEAVERCREEK, OHIO

ORDINANCE NO. 16-__

SPONSORED BY COUNCIL MEMBER _____ ON THE ____ DAY OF _____,
2016.

**AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE
PURPOSE OF ACQUIRING, CONSTRUCTING, AND IMPROVING
CERTAIN PUBLIC IMPROVEMENTS IN COOPERATION WITH
THE CITY OF BEAVERCREEK (GREENE COUNTY), OHIO
ENERGY SPECIAL IMPROVEMENT DISTRICT AND THE GREENE
COUNTY PORT AUTHORITY AND DECLARING AN EMERGENCY.**

WHEREAS, this City Council (the "Council") of the City of Beavercreek, Greene County, Ohio (the "City") duly adopted Resolution No. _____ on October __, 2016 (the "Resolution of Necessity") and declared the necessity of acquiring, constructing, and improving certain public improvements consisting of energy efficiency improvements, including, without limitation, the replacement of approximately 400,000 square feet of roofing, installation of approximately 21 energy efficient rooftop HVAC units and related improvements (the "Project") as described in the Resolution of Necessity and accepted the Petition, as that term is defined in the Resolution of Necessity, by the owners as of the date of this Ordinance of real property designated as Greene County Auditor Parcel Number _____ and being located at the commonly used mailing address 2727 Fairfield Commons Drive, Beavercreek, Ohio 45431 (as further described in Exhibit B to the Petition, the "Assessed Properties") requesting the Project; and

WHEREAS, the Council duly adopted Ordinance No. _____ on October __, 2016 (the "Ordinance to Proceed") 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 Council pursuant to the Resolution of Necessity;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAVERCREEK, GREENE COUNTY, OHIO, that:

SECTION I.

The list of Special Assessments to be levied and assessed on the Assessed Properties in an amount sufficient to pay the costs of the Project, which is estimated to be \$3,025,900, and other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on bonds issued by the Authority to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Authority administrative fees and expenses, which costs were set forth in the Petition and previously reported to this Council and are now on file in the office of the Clerk of Council, is hereby adopted and confirmed, and that there are hereby levied and assessed the Special Assessments on the Assessed Properties. The list of Special Assessments to be levied and

assessed against the Assessed Properties and the schedule of the Special Assessments are attached to this Ordinance as Exhibit A.

SECTION II.

This Council hereby finds and determines that the Special Assessments are in proportion to the benefits received by the Assessed Properties as set forth in the Petition.

SECTION III.

The Owner (as defined in the Resolution of Necessity) has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments thereof shall be certified by the Clerk of Council or the Financial Services Administrative Director to the County Auditor of Greene County, Ohio as provided by law to be placed by him on the tax duplicate and collected when other property taxes are collected and as set forth in the Petition. The Special Assessments shall be used by the City to meet its obligations under the Cooperative Agreement (as defined in the Resolution of Necessity) and are hereby appropriated for such purposes.

SECTION IV.

This Council hereby establishes a special fund for the collection of the Special Assessments, denominated the "Fairfield Commons Special Assessment Fund," as a separate fund maintained on the books and records of the City and to be held in the custody of a bank with which the City maintains a depository relationship. All Special Assessments and all monies related to the Special Assessments paid to the City shall be deposited into the Fairfield Commons Special Assessment Fund and pursuant to the Cooperative Agreement and the appropriation of the Special Assessments by this Council in Section 3 of this Ordinance, the City shall pay the Special Assessments deposited into the Fairfield Commons Special Assessment Fund to The Huntington National Bank, as trustee (the "Trustee") under the Trust Agreement, dated as of November 1, 2016, between the Greene County Port Authority (the "Authority") and the Trustee.

To the extent permitted by law, to secure the City's obligations under the Cooperative Agreement, so long as any bonds shall be outstanding under the Trust Agreement and amounts shall be due and owing under the Trust Agreement, the City assigns to the Authority all of its right, title and interest in and to, and grants to the Authority a security interest in, the Special Assessments received by the City and in the Fairfield Commons Special Assessment Fund, and acknowledges that, pursuant to the Trust Agreement, the Authority grants to the Trustee all right, title and interest of the Authority in and to the Special Assessments, the Fairfield Commons Special Assessment Fund, and in any other property received or to be received from the City under the Cooperative Agreement.

SECTION V.

In compliance with Ohio Revised Code Section 319.61, the Clerk of Council is hereby directed to deliver a certified copy of this Ordinance to the County Auditor of Greene County, Ohio within twenty (20) days after its passage.

SECTION VI.

It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council and that, except as otherwise provided by Ohio Revised Code Section 121.22, all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION VII.

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety of the inhabitants of this City, and for the further reason that this Ordinance is required to be immediately effective to provide for the acquisition, construction, and improvement of the Project to enhance energy efficiency and to better provide for the health of the residents of the City.

WHEREFORE, this Ordinance shall take effect and be in force from and immediately upon its adoption.

ADOPTED by the Council of the City of Beavercreek, Ohio this ____ day of _____, 2016.

Bob Stone, Mayor

ATTEST:

Dianne Lampton, Clerk of Council

EXHIBIT A

LIST OF SPECIAL ASSESSMENTS AND SCHEDULE OF SPECIAL ASSESSMENTS

LIST OF SPECIAL ASSESSMENTS

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessment</u>
MFC Beaver creek, LLC	Greene County Parcel Number: _____	100%	\$5,203,492.08

SCHEDULE OF SPECIAL ASSESSMENTS
FOR GREENE COUNTY PARCEL NO. _____

The following schedule of Special Assessment charges shall be certified for collection in thirty (30) semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2017 through 2031:

<u>Parcel Number**</u>	<u>Semi-Annual Payment*</u>
_____	\$____.____

* The County Auditor of Greene County, Ohio may impose a special assessment collection fee with respect to each semi-annual Special Assessment payment. If imposed, this special assessment collection fee will be added by the County Auditor of Greene County, Ohio to each semi-annual Special Assessment payment.

** As identified in the records of the County Auditor of Greene County, Ohio as of October __, 2016.

CITY OF BEAVERCREEK, OHIO

ORDINANCE NO. 16-__

SPONSORED BY COUNCIL MEMBER _____ ON THE _____ DAY OF _____, 2016.

AUTHORIZING THE CITY'S PARTICIPATION IN FINANCING SPECIAL ENERGY IMPROVEMENT PROJECTS IN COOPERATION WITH THE PORT AUTHORITY; AUTHORIZING THE EXECUTION OF DOCUMENTS TO EFFECTUATE SUCH FINANCING; AND DECLARING AN EMERGENCY.

WHEREAS, MFC Beaver creek, LLC (the "Owner") intends to construct special energy improvement projects, as that term is used in Ohio Revised Code Chapter 1710, on certain real **property** located within The City of Beaver creek, Greene County, Ohio (the "City"), including an energy-efficiency grade roof, energy efficient HVAC systems and related improvements (the "Project"); and

WHEREAS, this City Council (the "Council") of the City, the Greene County Port Authority (the "Port Authority"), and the City of Beaver creek (Greene County), Ohio Energy Special Improvement District (the "ESID") each have determined that the most efficient and effective way to implement the financing, acquisition, construction, equipment, improvement, and installation of the Project is through the Cooperative Agreement expected to be dated as of November 1, 2016, to be entered into by and among the Port Authority, the City, the ESID, the Owner, and The Huntington National Bank, as trustee for the Port Authority's bonds issued to finance the Project (the "Cooperative Agreement"); and

WHEREAS, the City has determined, as requested in the Owner's petition, to undertake the Project in cooperation with the Port Authority and the Owner pursuant to the Cooperative Agreement, and the City has undertaken to adopt or pass all legislation required by Ohio Revised Code Chapter 727 and Ohio Revised Code Chapter 1710 in order to levy special assessments on the Owner's property; and

WHEREAS, the Port Authority has determined to issue port authority revenue bonds payable from special assessments to finance the costs of the Project and otherwise assist in, acquiring, constructing, and improving the Project, which bonds shall be payable from Port Authority revenues, limited to the Special Assessments (as defined in the Cooperative Agreement) transferred by the City.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of
Beavercreek, Ohio, that:

SECTION I.

The City Council of the City of Beavercreek, Greene County, Ohio, hereby approves the Petition that has been submitted to the City on October __, 2016 and executed and delivered by the Owner of 100% of the real property included in the ESID.

SECTION II.

The City Council of the City of Beavercreek, Greene County, Ohio hereby designates the ESID as its agent that may automatically convey the Project materials to the Owner without additional consideration. The Council of the City determines that the Project is not required to be owned by the City or its agent and that the Project will promote the welfare of the people of the City by providing energy efficiency improvements and promoting energy efficiency.

SECTION III.

The financing documents necessary to effectuate the City's participation in the Project, including the Cooperative Agreement, Tax Lien Agreement, and any other documents deemed necessary by the City Manager each in substantially the form presently on file with the Clerk of Council, with such changes as are requested by the City Manager or the Law Director and with only such other changes as are approved by the City Manager and the Law Director, are hereby approved and the City Manager, the Mayor and the Financial Administrative Services Director are hereby authorized to enter into and execute said financing documents and all necessary closing certificates and to take whatever other action is necessary to complete and perform this transaction as determined by the City Manager.

SECTION IV.

Upon the terms contained in the Cooperative Agreement, the City hereby assigns the Special Assessments to the Port Authority, such assignment to take effect upon execution of the Cooperative Agreement.

SECTION V.

The obligations of the City under this Ordinance do not and shall not represent or constitute a debt or pledge of the full faith and credit or the taxing power of the City and no member of Council, officer, official, employee, agent, or legal representative of the City shall be liable personally for any obligations under this Ordinance or the Cooperative Agreement.

SECTION VI.

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, except as otherwise provided by Section 121.22 of the Ohio Revised Code, all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION VII.

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety of the inhabitants of this City, and for the further reason that this Ordinance is required to be immediately effective to provide for the acquisition, construction, and improvement of the Project to enhance energy efficiency and to better provide for the health of the residents of the City.

WHEREFORE, this Ordinance shall take effect and be in force from and immediately upon its adoption.

ADOPTED by the Council of the City of Beavercreek, Ohio this ____ day of _____, 2016.

Bob Stone, Mayor

ATTEST:

Dianne Lampton, Clerk of Council

MEMORANDUM

TO: Mayor and City Council

CC: Michael A. Cornell, City Manager
Dennis Evers, Police Chief
Jeffrey M. McGrath, Planning Director

FROM: Stephen M. McHugh, Law Director

DATE: October 13, 2016

RE: Sub. H.B. 523/Medical Marijuana Bill

JAC 10/13/16

The law is unique in that Section 3796.29 provides cities an opportunity to prohibit or limit the number of cultivating, processing or retail sale locations within the city. City council's cannot prohibit these activities when they are tied to research.

Zoning can also address where and how these activities take place. Many locations within the City will be excluded due to the law prohibiting these activities within 500 feet of schools, churches, and parks. If City Council does not want the cultivation, processing or sale of medical marijuana in the City of Beavercreek, I recommend an ordinance be adopted prohibiting these activities.

Below is a brief summary of some of the highlights of the new law:

THE MEDICAL MARIJUANA CONTROL PROGRAM AND SOME HIGHLIGHTS OF THE NEW LAW

- The Ohio Department of Commerce and the Ohio Board of Pharmacy will be responsible for administering the Medical Marijuana Control Program (the "MMCP"). Within one (1) year of the effective date of the law, the Ohio Department of Commerce and Ohio Board of Pharmacy must separately adopt rules regarding standards and procedures for the portion of the MMCP that each entity is responsible for administering. The MMCP must be fully operational within two (2) years of the effective date of the law. In addition, the Department of Commerce must have rules adopted regarding the licensure of cultivators within two hundred forty (240) days of the law's effective date.
 - The Ohio Board of Pharmacy is responsible for the registration of patients and caregivers and for issuing licenses to medical marijuana retail dispensaries.
 - The Ohio Board of Pharmacy must also adopt rules regarding the number of licenses available at any one time for retail dispensaries.

- The Ohio Department of Commerce is responsible for issuing licenses to cultivators, processors, and testing laboratories.
 - The Ohio Department of Commerce must also adopt rules establishing the number of cultivator licenses permitted at any one time, among other things.
- The new law permits a patient, only upon the recommendation of a physician, to treat qualified medical conditions with marijuana.¹
 - Qualified medical conditions include the following: AIDS, amyotrophic lateral sclerosis, Alzheimer’s disease, cancer, chronic traumatic encephalopathy, Crohn’s disease, epilepsy or other seizure disorders, fibromyalgia, glaucoma, hepatitis C, inflammatory bowel disease, multiple sclerosis, pain that is chronic and severe or intractable, Parkinson’s disease, positive status for HIV, post-traumatic stress disorder, sickle cell anemia, spinal cord disease or injury, Tourette’s syndrome, traumatic brain injury, and ulcerative colitis.
- The Ohio Medical Board issues certificates to physicians who seek to recommend treatment of patients with medical marijuana.
- The new law specifically prohibits the cultivation of medical marijuana for personal, household, or family use, and it specifically prohibits the smoking or combustion of medical marijuana.²
 - Medical marijuana must be in one of the following forms, unless another form is specially approved by the Ohio Board of Pharmacy: oils, edibles, tinctures, plant material, patches.
- All patients who seek to use medical marijuana (and caregivers seeking to assist patients with their use of medical marijuana) must apply to the Board of Pharmacy for registration.
 - A physician who holds a “certificate to recommend” issued by the Medical Board and is treating a patient must submit an application on the patient or caregivers behalf. The physician must certify that certain criteria have been met in order to have the patient or caregiver registered.
- No more than a 90-day supply, as specified by the Board of Pharmacy, can be in the possession of a registered patient or caregiver.

¹ An individual may petition the Medical Board to add a disease or condition to the list of qualified conditions. The Medical Board must then take various steps, including but not limited to consultation with one or more experts, before denying or approving the new condition.

² An individual may petition the Board of Pharmacy to approve an additional form or method of using medical marijuana. The Board must then take various steps, including but not limited to consultation with one or more scientific experts, before approving or denying the petition.

- A registered caregiver or patient is not subject to arrest or criminal prosecution for a registered patient using medical marijuana; obtaining or possessing medical marijuana, possessing specified paraphernalia and accessories; and in the case of a registered caregiver, from aiding in the administration of medical marijuana.
- The new law does not authorize a registered patient to operate a motor vehicle while under the influence of medical marijuana; however, one's status as a registered patient or caregiver is not sufficient basis to conduct a field sobriety test or to suspend a driver's license. To conduct a field sobriety test, an officer must have an independent, factual basis that gives reasonable suspicion that a person is operating a motor vehicle under the influence of marijuana.
- The new law prohibits use, possession and administration of medical marijuana on federal lands located in Ohio.
- The new law prohibits a physician from personally furnishing or dispensing medical marijuana. A physician seeking to recommend treatment with medical marijuana must apply to the Ohio Medical Board for a "certificate to recommend," and only a physician who holds this certificate may recommend a patient be treated with medical marijuana.
- An entity seeking a license to cultivate or process marijuana must submit an application for licensure to the Department of Commerce; an entity seeking a license to dispense medical marijuana must file an application for licensure with the Board of Pharmacy.
- There are conditions that must be met for licensure which include, *inter alia*, a criminal background check.
- The new law provides that a licensed cultivator may cultivate, deliver and sell medical marijuana to one or more licensed processors. A cultivator may not cultivate marijuana for personal, household, or family use, and a cultivator may not cultivate marijuana on public lands.
- The new law provides that a licensed processor may obtain marijuana from a licensed cultivator, may process medical marijuana in a form that can be dispensed, and may deliver medical marijuana to a licensed retail dispensary.
- The Ohio Automated Rx Reporting System (OARRS) is a drug database used to monitor misuse and diversion of controlled substances. Medical marijuana usage will be tracked using OARRS.

ZONING

- The new law authorizes the legislative authority of a municipal corporation to adopt regulations that specifically prohibit or limit the number of retail dispensaries.

- Prohibits a cultivator, processor, retail dispensary, or laboratory from being located or relocating within 500 feet of a public park, public playground, public library, school, or church.

THE CITY’S POWER TO PROHIBIT

- Pursuant to R.C. 3796.29: “The legislative authority of a municipal corporation may adopt an ordinance *** to prohibit, or limit the number of, cultivators, processors, or retail dispensaries licensed under this chapter within the municipal corporation or within the unincorporated territory of the township, respectively.” However, a municipal corporation may not adopt an ordinance that limits research related to marijuana conducted at a state university, academic medical center, or private research and development organizations.

EMPLOYMENT

- Nothing in the new law requires an employer to accommodate an employee’s use, possession, or distribution of medical marijuana and nothing prohibits an employer from taking adverse employment actions because of an employee’s use, possession, or distribution of medical marijuana.
- Nothing in the new law prohibits an employer from the establishment and enforcement of drug testing policies, zero-tolerance policies, drug-free workplace policies or interferes with federal restrictions on employment.

TAXATION

- The law requires that any land used for the purpose of cultivation or processing of marijuana be taxed on the fair market value of the property instead of the current agricultural use value (CAUV).



CITY COUNCIL
Regular Meeting – October 24, 2016 6:00 p.m.
Council Chambers

PROCLAMTIONS

- ◆ Retirement of DJ, K-9 Unit Beavercreek Police Department

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND PRAYER/MOMENT OF SILENCE – Council Member Wallace
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
- VI. PRESCHEDULED PRESENTERS
 - A. Issue 22 - Jeff Brock, Greene Memorial Hospital
- VII. PUBLIC HEARING PUD 16-1 SSP #1 Cottages of Beavercreek (Tabled from the October 10, 2016 meeting)
 - A. Council Input
 - B. Motion
- VIII. PUBLIC HEARING PUD 91-2 MOD 9/16 BSM Development
 - A. Application Presentation
 - B. Staff Presentation
 - C. Public Input
 - D. Council Input
 - E. Motion
- IX. ORDINANCES, RESOLUTIONS AND PUDS
 - A. Ordinance 16-22 Repealing Current Section 132.13 "Panhandling" and Adopting New Section 132.13 "Panhandling" (Second Reading)
 - B. Ordinance 16-23 Repealing Current Chapter 112 "Peddling, and Soliciting, and Distribution" and Adopting New Chapter 112 "Peddling, Soliciting, and Distribution" (Second Reading)
 - C. Ordinance 16-24 Adopting New Section 76.17 "Parking of Large and Oversize Vehicles on Streets (First Reading)
 - D. Ordinance 16-25 Repealing Current Section 70.01 "Definitions" and Adopting New Section 70.01 "Definitions" (First Reading)
 - E. Ordinance 16-26 Repealing Current Section 76.99 "Penalty" and Adopting New Section 76.99 "Penalty" (First Reading)
 - F. Ordinance 16-27 Additional Appropriations (Single Reading)
 - G. Resolution 16-25 Gum Appropriation Settlement
- X. CITY MANAGER'S REPORT
- XI. MAYOR'S REPORT
- XII. COUNCIL TIME
- XIII. CITIZEN COMMENTS
- XIV. EXECUTIVE SESSION
- XV. ADJOURNMENT



CITY COUNCIL
Regular Meeting – November 14, 2016 6:00 p.m.
Council Chambers

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND PRAYER/MOMENT OF SILENCE – Council Member Whilding
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
- VI. ORDINANCES, RESOLUTIONS AND PUDS
 - A. Ordinance 16-22 Repealing Current Section 132.13 “Panhandling” and Adopting New Section 132.13 “Panhandling” (Third Reading)
 - B. Ordinance 16-23 Repealing Current Chapter 112 “Peddling, and Soliciting, and Distribution” and Adopting New Chapter 112 “Peddling, Soliciting, and Distribution” (Third Reading)
- VII. CITY MANAGER’S REPORT
- VIII. MAYOR’S REPORT
- IX. COUNCIL TIME
- X. CITIZEN COMMENTS
- XI. EXECUTIVE SESSION
- XII. ADJOURNMENT

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