

ORDINANCE NO. 056-20

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING SPECIFIC PUBLIC INFRASTRUCTURE IMPROVEMENTS MADE, TO BE MADE, OR IN THE PROCESS OF BEING MADE, THAT DIRECTLY BENEFIT, OR THAT ONCE MADE WILL DIRECTLY BENEFIT, THE PARCELS FOR WHICH IMPROVEMENT IS DECLARED TO BE A PUBLIC PURPOSE; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, 5709.832 AND 5709.85; AND APPROVING COMPENSATION AGREEMENTS WITH THE BOARDS OF EDUCATION OF THE NAPOLEON AREA CITY SCHOOL DISTRICT AND THE LIBERTY CENTER LOCAL SCHOOL DISTRICT; AND DECLARING AN EMERGENCY

WHEREAS, Ohio Revised Code ("R.C.") Sections 5709.40(B), 5709.42 and 5709.43 provide that this Council of the City of Napoleon (the "City") may declare any "improvement" (as defined R.C. Section 5709.40) to one or more parcels of real property located in the City to be a public purpose, thereby exempting those improvements from real property taxation for a period of time, specify public infrastructure improvements made, to be made, or in the process of being made that directly benefit, or that once made will directly benefit, those parcels, provide for the making of service payments in lieu of taxes by the owners thereof, provide for the distribution of the applicable portion of those service payments to the overlapping city, local or exempted village school districts and joint vocational school district, and establish a municipal public improvement tax increment equivalent fund into which the balance of such service payments are to be deposited; and,

WHEREAS, the real property shown in Exhibit A hereto and incorporated herein by reference (the "Property") is located in the State of Ohio (the "State"), County of Henry (the "County"), and the City, with each parcel of the Property referred to herein as a "Parcel" (whether as presently appearing on County tax duplicates or as subdivided or combined and appearing on future tax duplicates); and,

WHEREAS, pursuant to R.C. Section 5709.40(D)(2), said exemption may be for up to one hundred percent (100%) of such improvement for up to thirty (30) years with agreed upon payments to the Napoleon Area City School District (the "Napoleon CSD") and the Liberty Center Local School District (the "Liberty Center LSD" and collectively with the Napoleon CSD, the "School Districts") and the Four County Career Center (the "JVSD"); and,

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the City to provide for service payments in lieu of real property taxes ("Service Payments," as further defined herein) with respect to the Property pursuant to R.C. Section 5709.42; and,

WHEREAS, the City desires to facilitate the completion of the public infrastructure improvements described in Exhibit B attached hereto and incorporated herein by this reference (the “Public Infrastructure Improvements”); and,

WHEREAS, notice of this proposed Ordinance has been delivered to each of the Boards of Education of the School Districts and the Board of Education of the JVSD in accordance with and within the time periods prescribed in R.C. Sections 5709.40 and 5709.83; and,

WHEREAS, pursuant to (a) Resolution No. R20:061, adopted on October 21, 2020, by the Napoleon CSD Board of Education and (b) Resolution No. 107-20, adopted October 26, 2020 by the Liberty Center LSD, the School Districts have approved the substance of this Ordinance and waived the notice requirements of R.C. Sections 5709.40(D) and 5709.83, contingent upon the execution of compensation agreements with the City (as further defined below, the “School Compensation Agreements”) pursuant to which the City would make semi-annual payments to the School Districts equal to 25% of real property taxes that the School Districts would have received from the Improvement had that Improvement not been exempted from real property taxation until such time as the Oakwood/American Project (as defined in the School Compensation Agreements) is complete, and thereafter 100% of real property taxes that the School Districts would have received from the Improvement had that Improvement not been exempted from real property taxation pursuant to this Ordinance; and,

WHEREAS, pursuant to R.C. Section 5709.40(D), if the City agrees to compensate the School Districts in connection with the exemption provided in this Ordinance, it also must provide compensation to the JVSD at the same rate and under the same terms as the compensation received by the School Districts; **Now Therefore**,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the Public Infrastructure Improvements described in Exhibit B hereto made, to be made, or in the process of being made by the City are hereby designated as public infrastructure improvements that directly benefit, or once made will directly benefit, the Property.

Section 2. That, one hundred percent (100%) of the increase in the assessed value of the Property after the effective date of this Ordinance (which increase in assessed value is an “Improvement” as defined in R.C. Section 5709.40) shall be a public purpose and shall be exempt from real property taxation commencing on a Parcel-by-Parcel basis the earlier of (i) when there is an increase in fair market value of \$500,000 for that Parcel, or (ii) the first day of tax year 2028 and ending on a Parcel-by-Parcel basis the earlier of (i) thirty (30) years after such commencement or (ii) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of R.C. Sections 5709.40, 5709.42 and 5709.43.

Section 3. That, as provided in R.C. Section 5709.42, the owner of any Parcel with an Improvement is required hereby to make annual payments in lieu of taxes to the Henry County Treasurer (the “County Treasurer”) on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation (the payments in lieu of tax, including any penalties and interest, the “Service Payments”). The County Treasurer shall remit all Service Payments to the City for deposit in the Oakwood/American Napoleon Municipal Public

Improvement Tax Increment Equivalent Fund (the "Fund") established in Section 5 hereof that are not required to be distributed to the School Districts and the JVSD pursuant to Section 4. This Council hereby authorizes the Mayor, the City Manager, or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those Service Payments and to make such arrangements as are necessary and proper for payment of the Service Payments. Any late payments shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time. The Service Payments shall be allocated and deposited in accordance with Section 4 and Section 5 of this Ordinance.

No owner shall, under any circumstances, be required for any tax year to both pay Service Payments with respect to an Improvement and reimburse local taxing authorities for the amount of real property taxes that would have been payable to local taxing authorities had the Improvement not been exempted from taxation pursuant to this Ordinance.

Section 4. That, the County Treasurer is requested to distribute the Service Payments as follows:

- (i) to the School Districts and the JVSD for their respective amounts due in accordance with the School Compensation Agreements; and
- (ii) to the City, all remaining amounts for further deposit into the Fund.

Section 5. That, this Council hereby establishes, pursuant to and in accordance with the provisions of R.C. Section 5709.43, the Fund, into which shall be deposited all of the Service Payments distributed to the City with respect to the Improvement to the Property by or on behalf of the County Treasurer, as provided in R.C. Section 5709.42, and hereby appropriates all of the moneys deposited in the Fund from time to time to pay, semi-annually, amounts in the following order:

- (i) if the County Treasurer does not proceed in accordance with Section 4, to make the payments set forth in Section 4 to the School Districts and the JVSD; and
- (ii) for any costs associated with the Public Infrastructure Improvements, including, but not limited to, the "costs of permanent improvements" described in R.C. Section 133.15(B), and
- (iii) to the City to be utilized at its discretion for any purpose permitted by applicable law.

The Fund shall remain in existence so long as Service Payments are collected and used for the aforesaid purposes, subject to the limits set forth in Section 3 hereof, after which said Fund shall be dissolved in accordance with R.C. Section 5709.43(D). Upon dissolution, any incidental surplus money remaining in the Fund shall be disposed of as provided in R.C. Section 5709.43(D).

Section 6. That, the School Compensation Agreements by and between the City and each School District, substantially in the form attached hereto as Exhibit C and incorporated herein by reference, are hereby approved, with such changes that are not inconsistent with this Ordinance, are not substantially adverse to the City and are approved by the City Manager and Law Director, all of which shall be evidenced conclusively by the execution of the School Compensation Agreements by the City. The School Compensation Agreements shall govern the payment of compensation to the School Districts in connection with this Ordinance and the JVSD pursuant to R.C. Sections 5709.40(D) and 5709.82.

Section 7. That, this Council hereby authorizes the Mayor, the City Manager, or other appropriate officers of the City to take such actions as are necessary or appropriate to implement the transactions contemplated by this Ordinance, including the filing of one or more applications for exemption and any related forms in accordance with R.C. Section 5709.911. The Mayor, the City Manager, or other appropriate officers of the City are each authorized and directed to sign any other documents, instruments, or certificates and to take such actions as are necessary or appropriate to consummate or implement the actions described herein, or contemplated by this Ordinance.

Section 8. That, the City's Tax Incentive Review Council (the "TIRC") shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other matters as may properly come before that TIRC, all in accordance with Section 5709.85 of the Ohio Revised Code.


Section 9. That, pursuant to R.C. Section 5709.40(I), the Mayor or the City Manager is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency ("DSA") within fifteen (15) days after its passage. On or before March 31 of each year that the exemption set forth in Section 3 hereof remains in effect, the Mayor, City Manager or other authorized officer of this City shall prepare and submit to the Director of DSA the status report required under R.C. Section 5709.40(I).

Section 10. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

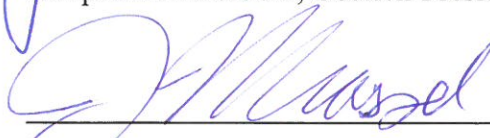
Section 11. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 12. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time because this Ordinance provides for the timely process creating the TIF District, which is related to public peace, health or safety; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for proper payment of current expenses, and for further reasons as stated in the Preamble hereof.

Passed: December 7, 2020

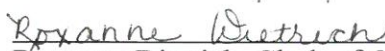

Joseph D. Bialorucki, Council President

Approved: December 7, 2020


Jason P. Maassel, Mayor

VOTE ON PASSAGE 7 Yea 0 Nay 0 Abstain

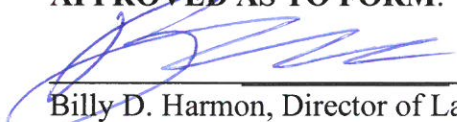
Attest:


Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 056-20 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 12th day of December, 2020; and I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.


Roxanne Dietrich, Clerk of Council

APPROVED AS TO FORM:


Billy D. Harmon, Director of Law

12/7/20
Date

EXHIBIT A to TIF ORDINANCE

DESCRIPTION OF THE PROPERTY

The Property is the real estate situated in the City of Napoleon, County of Henry and State of Ohio consisting of the parcels which have been assigned the tax year 2019 parcel numbers by the Henry County Auditor set forth below and identified on the map attached hereto (and including any subsequent combinations and/or subdivisions of the current parcel numbers), but, in accordance with R.C. Section 5709.40(B), does not include any Parcel used or to be used for residential purposes for as long as that Parcel is used or to be used for residential purposes:

270693030020
270600160500
270600160700
270600080000
270600080200
270693050020
270600140200
270693020060
270693020040
270693020020
270693040020
270600140000
270693010020
270600160200
270600160400
270600180300
280700820000
280700900000
411201520000
411291540020
411291540040
411201500000
410100260200
410100260300
410100260000
410100300100
410100300000
410100280100
410100240000
410100240600
410100240500

EXHIBIT B to TIF ORDINANCE

DESCRIPTION OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under RC 5709.40(A)(8) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in RC 133.15(B)):

- **Roadways.** Construction, reconstruction, extension, opening, improving, maintaining, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto, including, without limitation, improvements to Oakwood Avenue between Freedom Drive and American Road, and American Road between Oakwood Avenue and Industrial Drive and construction of publicly accessible roadways (whether publicly or privately owned) within or adjacent to the Parcels.
- **Parking.** Construction, reconstruction, improving, and equipping of surface or structured public parking facilities, including surface and on-street parking facilities along the Roadways described above.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), waste treatment, water retention, water and fire protection systems, and all appurtenances thereto.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above and facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater, wetland and flood remediation projects and facilities (including without limitation erosion control, storm drainage and earthwork), both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.

- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in "Roadways" above.
- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research, including acquisition of interests in the Parcels by one or more public or private entities necessary for redevelopment of the Parcels.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

EXHIBIT C
COMPENSATION AGREEMENTS

STATE OF OHIO
COUNTY OF HENRY

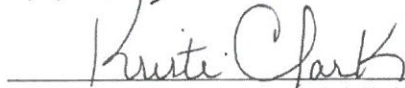
Sally Heaston, being first duly sworn, states that she is the General Manager of The Bryan Publishing Company, owner of The Northwest Signal, a daily newspaper, published and of general circulation in the county of Henry aforesaid, and that the annexed notice was published in one issue in said paper, on the 12 day of December, 2020.



Sally Heaston

Subscribed and sworn to before me this

12 day of December, 2020



Kristi Clark

Notary Public,

State of Ohio

My Commission

Expires October 25, 2025

Printer's Fee: \$262.00

Notary Fee: \$ 8.00

Summary of Ordinance No.(s) 054-20, 056-20, 073-20
and Resolution No. 055-20

(PURSUANT TO ARTICLE II, SECTION 2.15 OF THE CITY CHARTER, CHAPTER 121 OF THE CODE OF ORDINANCES AND COUNCIL RULE 6.2.4.1, AS WELL AS APPLICABLE PROVISIONS OF ORC CHAPTER 731)

NOTICE

A copy of the complete text of the above named Ordinance(s) and Resolution(s) are on file in the office of the City Finance Director and may be viewed or obtained during business hours of 7:30 AM to 4:00 PM, Monday through Friday, at the office of the Finance Director, the location being 255 West Riverview Avenue, Napoleon, Ohio. A copy of all or part of the above named Ordinances and Resolutions, or any item mentioned in this notice, may be obtained from the City Finance Director upon the payment of a reasonable fee therefore.

Ordinance No. 054-20

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 955 OF THE CODIFIED CODE OF ORDINANCES OF THE CITY OF NAPOLEON, OHIO, SPECIFICALLY SECTION 955.16, REGARDING CURRENT MUNICIPAL SWIMMING POOL ADMISSION RATES, ALSO ADDING SECTION 955.16(G) REGARDING CORPORATE MEMBERSHIP POOL ADMISSION RATES

In this legislation, the City of Napoleon amended Section 955.16 of the City Codified Ordinances regarding municipal swimming pool admission rates.

Ordinance No. 056-20

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In this legislation, the City of Napoleon authorized the improvement of certain parcels of real property, requiring annual service payments in lieu of taxes, and approved compensation agreements with the Boards of Education of the Napoleon Area City School District and the Liberty Center Local School District.

Ordinance No. 073-20

AN ORDINANCE SUPPLEMENTING THE ANNUAL APPROPRIATION MEASURE (SUPPLEMENT NO. 7) FOR THE YEAR 2020; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon supplemented the annual appropriation measure for the year 2020.

Resolution No. 055-20

A RESOLUTION AUTHORIZING A COMMUNITY REINVESTMENT AREA (CRA) AGREEMENT BETWEEN THE CITY OF NAPOLEON, OHIO AND MSG INVESTMENTS, LTD. WITHIN NAPOLEON CRA #6; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon authorized a CRA agreement with MSG Investments, LTD within Napoleon CRA #6.

The above summaries are approved as to form and correctness by Billy D. Harmon, City Law Director

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