

**REGULAR PIQUA CITY COMMISSION MEETING  
TUESDAY, OCTOBER 1, 2013  
7:30 P.M. – COMMISSION CHAMBER – 2<sup>nd</sup> FLOOR  
201 WEST WATER STREET  
PIQUA, OHIO 45356**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PROCLAMATION - Community Planning Month in the City of Piqua**

*Accepting – Mr. Chris Schmiesing, City Planner*

**PROCLAMATION - Domestic Violence Awareness Month in the City of Piqua**

**RESIDENCE PRIDE AWARDS**

Jerry & Terre Bailey	1816 Wilshire Drive
Clarice Carpenter	1400 Severs Drive
Fred & Pauline Plunkett	1607 Haverhill Drive
Lynn & Nancy Sever	107 Blackwell Drive
Bob & Ruth Tilton	1304 Brook Street

**REGULAR CITY COMMISSION MEETING**

**CONSENT AGENDA**

1. **APPROVAL OF MINUTES**  
Approval of the minutes from the September 17, 2013 Regular City Commission Meeting

**OLD BUSINESS**

2. **ORD. NO. 14-13 (2<sup>nd</sup> Reading)**  
An Ordinance amending Sections 151.35, 151.70, 151.71, and 151.73 of Chapter 151 of the City of Piqua Code of Ordinance to establish construction performance requirements for subdivision improvements

**NEW BUSINESS**

3. **RES. NO. R-127-13**  
A Resolution requesting authorization to purchase the real property located at 102 S. Main Street, Parcel ID No. N44-001240
4. **RES. NO. R-128-13**  
A Resolution authorizing the City Manager to enter into the LPA Federal Local-Let Project Agreement with the Ohio Department of Transportation (ODOT) for the Safe Routes to School (SRTS) Non-Infrastructure program

**OTHER**

**PUBLIC COMMENT**

(This is an opportunity for citizens to address the City Commission regarding issues or to provide information. Comments are requested to be limited to five (5) minutes and specific questions should be addressed to the City Manager's office.)

**CITY MANAGER'S REPORT**

**COMMISSIONERS COMMENT**

**ADJOURNMENT**

**MINUTES  
PIQUA CITY COMMISSION  
Tuesday September 17, 2013  
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Fess called the meeting to order. Also present were Commissioners Terry, Wilson, Vogt, and Martin.

**REGULAR CITY COMMISSION MEETING**

**PROCLAMATION: CRIME STOPPERS MONTH IN THE CITY OF PIQUA**

Mayor Fess read the proclamation and presented it to Police Chief Bruce Jamison and Piqua Area Chamber of Commerce Director Kathy Sherman.

**Consent Agenda**

Approval of the minutes from the September 3, 2013 Regular Piqua City Commission Meeting.

**RES. NO. R-119-13**

A Resolution appointing a member to the Stormwater Utility Board

City Manager Huff stated Resolution No. R-119-13 appoints Jesse Dotson to the Stormwater Utility Board for a 3 year term to expire on August 1, 2016.

**RES. NO. R-120-13**

A Resolution appointing a member to the Stormwater Utility Board

City Manager Huff stated Resolution No. R-120-13 appoints Stacy Stang to the Stormwater Utility Board for a 1 year term to expire on August 1, 2014

Moved by Commissioner Martin, seconded by Commissioner Wilson, to approve the Consent Agenda. Voice vote, Aye: Martin, Fess, Vogt, Terry, and Wilson. Nay: None. Motion carried unanimously.

**New Business**

**ORD. NO. 14-13** (1st Reading)

An Ordinance amending Section 151.135, 151.70, 151.71, and 151.73 of Chapter 151 of the City of Piqua Code of Ordinance to establish construction performance requirements for subdivision improvements

Chris Schmiesing, City Planner gave a brief overview of reason for the changes at this time. This will amend the subdivision regulations to include construction performance requirements for subdivision improvements. The proposed amendments will provide a means for ensuring that the approved subdivision improvements will be constructed within a reasonable timeframe and that all of the work items incidental to the approved improvement will be complete prior to any individual lot improvements being permitted.

Mr. Schmiesing stated the Piqua Planning Commission held a Public Hearing on September 10, and hearing no objections unanimously recommended the amendments be made to Code Section 151.35, 151.70, 151.71 and 151.73 at this time.

Several questions were raised concerning the changes including the timeframe and fees. Commissioner Martin inquired if field tiles are cut who is responsible for repairing them? Mr. Schmiesing explained, further stating that if the field tiles are cut that it is covered under the drainage calculations that are submitted by the contractor.

City Manager Huff stated this is extremely important as the performance bond enables the City to complete the project if the contractor fails to do so.

**Public Comment**

No one came forward to speak for or against Ordinance No. 14-13.

After a brief discussion Ordinance No. 14-13 was given a first reading.

**RES. NO. R- 121-13**

A Resolution requesting authorization to enter into an agreement with LJB Inc. for the Right-of-Way Acquisition Services for the Garnsey Street/Commercial Street Corridor Neighborhood Connector Project

Amy Havenar, City Engineer, explained in June of 2009 the City Commission approved the submission of the Garnsey Street/Commercial Street Corridor Neighborhood Connector Project to the Miami Valley Regional Planning Commission for funding under the Congestion Mitigation/Air Quality (CMAQ) program, and was selected.

We are at the point now to proceed with the right-of-way acquisitions. LJB, Inc. is currently working on the engineering design of the project with one of the major focuses being the right-of-way contract, identifying/defining the right-of-way in the vicinity of Garnsey/ Commercial/College/Roosevelt intersection, as well as showing ownership of the portion of Commercial Street that was once owned by the railroad (between Wood Street & Grant Street).

This project will be funded with 100% local funds. The City received \$421,462 in grant funding from the MVRPC for the construction of the project, with the total cost of the construction estimated at \$527,000, stated Ms. Havenar.

Several questions were raised concerning how much of the properties would be needed, and how the property owners would be compensated. It was noted there are three different railroads companies involved in this along with some city property that would need to be addressed.

**Public Comment**

No one came forward to speak for or against Resolution No. R-121-13.

Moved by Commissioner Terry, seconded by Commissioner Wilson, that Resolution No. R-121-13 be adopted. Roll call, Aye: Wilson, Fess, Vogt, Terry, and Martin. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-121-13 adopted.

**RES. NO. R-122-13**

A Resolution approving the Tax Rates for the City as determined by the Miami County Budget Commission

City Manager Huff explained that every year about this time, the Finance Department requests an approval of the certified tax rates which will be used to levy property tax on all general duplicates for 2013 to be collected in 2014. These certified rates require the approval of the City Commission and certification to Miami County before October 1, 2013.

Commissioner Wilson stated there are no changes, this is just a continuation of the current tax.

**Public Comment**

No one came forward to speak for or against Resolution No. R-122-13.

Moved by Commissioner Wilson, seconded by Commissioner Martin, that Resolution No R-122-13 be adopted. Roll call, Aye: Vogt, Terry, Martin, Wilson, and Fess. Nay, None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-122-13 adopted.

**RES. NO. R-123-13**

A Resolution approving the fiber connectivity to various power system sites and other municipal sites

City Manager Huff stated on February 5, 2013 Resolution No, R-157-12 was approved by the City Commission to retain the services of Efaces/ACS as a professional firm to design, install and maintain a fiber optic network for Supervisory Control and Data Acquisition (SCADA) Connectivity to electric substations and other municipal sites for the Power System and the City.

IT Director Dean Burch provided a brief overview of the project stating Efaces/ACS is currently installing a fiber optic network for Supervisory Control and Data Acquisition (SCADA) Connectivity. The approved Phase 2 connection being proposed in 2013 are:

Golf Club House; Fire Department; Hetzler Road Water Pump Station; Police Department; Street/Sanitation; Wastewater Plant; Ziegler Road Water Pump Station; and Redundant Ring Connectivity. Additional Power System connections are being proposed in 2013 with equipment to eliminate leased lines for the four DP&L SCADA/metering locations saving money.

There were several questions raised by the Commissioners regarding the fiber optics and reason for the use of fiber optics versus the use of wireless. This project is a continuation of laying the groundwork for the use of the network for City facilities and for non-City entities to use the high speed fiber network, stated IT Director Dean Burch. Commissioner Martin raised several questions and expressed his concern over the use of fiber optics versus wireless in several of the City departments, including the Golf Course.

**Public Comment**

Mark Kiner, Boone Street, came forward stating he just moved to the City of Piqua, and he is happy to see the fiber optics network coming to the City of Piqua at this time.

Steve Yenney, Echo Lake came forward and voiced his opinion on the use of fiber optics versus wireless within the City departments and especially at the Golf Course. Mr. Yenney does not believe it is necessary to have that type of connection at the Golf Course and be spending the amount of money they are for the connection. City Manager Huff explained the reason for the connection to the Golf Course. Mr. Yenney stated he read the narrative on the report and has a lot of questions regarding the use of the fiber optics versus the wireless connection. Assistant Power System Director Nick Berger provide further information regarding the fiber optics system and the use with the SCADA System. Mr. Yenney continued to voice his opinions regarding the use of fiber optics. City Manager Huff, IT Director Dean Burch, and Assistant Power Systems Director Nick Berger provided the necessary information that was being requested.

Craig Grissom, Piqua resident and owner of Skynet, came forward and loudly voiced his opinion and asking questions concerning the Golf Course use of fiber optics and other issues with the fiber optics system and its use. Mr. Grissom continued by asking the commissioners what speed their internet connection is. Mr. Grissom was politely asked to set down.

After a lengthy discussion Commissioners moved by Commissioner Wilson, seconded by Commissioner Terry, to adopt Resolution No. R-123-13. Roll call, Aye: Vogt, Terry, Wilson, and Fess. Nay, Martin. Motion carried on a 4-1 vote.

**RES. NO. R-124-13**

A resolution of intent to vacate public Right-of-Way

City Planner, Chris Schmiesing explained Resolution No. R-124-13 is a resolution requesting the vacation of a portion of platted public right-of-way know as Hardin Road Alternate (Old State Route

66). The subject right of way is located within the boundaries of the new Water Treatment Plant construction site. The time frame for this project includes the City Commission declaring the intent to vacate the property, the Planning Commission will review this at their next meeting, and will come back to the City Commission in the form of an ordinance for final approval, stated Mr. Schmiesing.

Several questions were raised concerning the two home owners still living on the road, and if they would still have access to St. Rt. 66. Mr. Schmiesing explained.

Law Director Stacy Wall further stated she would be filing the annexation paperwork on this property on Wednesday, September 18, 2013 with the Miami County Recorder's office.

#### **Public Comment**

John Owsiany, Shawnee Trail came forward and asked for clarification on the property being vacated. Mr. Schmiesing clarified the properties that are being vacated at this time and where they are located. Mr. Owsiany thanked Mr. Schmiesing for the clarification.

Moved by Commissioner Martin, seconded by Commissioner Wilson, that Resolution No R-124-13 be adopted. Roll call, Aye: Martin, Wilson, Fess, Vogt, and Terry. Nay: None. Motion carried unanimously.

#### **RES. NO. R-125-13**

A Resolution authorizing the City Manager to apply for, accept, and enter into an Ohio Water Development Authority (OWDA) Fresh Water Loan Program Loan Fund Agreement on behalf of The City of Piqua for planning, design, and/or construction of water facilities; and designating a dedicated repayment source for the loan

City Manager Huff explained based on the age of the current Water Treatment Plant, and its inability to maintain compliance with the current and future Ohio EPA regulations, the City Commission authorized staff to proceed with a new Water Treatment Plant. The first step includes a detailed design of a new Water Treatment Plant which is being completed by CDM Smith. Funding for the design is estimated to be \$2.2 million. Currently the interest rate on the loan we are apply for is 4.24% and may change from now until the loan is actually awarded in December of 2013, stated City Manager Huff.

#### **PUBLIC COMMENT**

No one came forward to speak for or against Resolution No. R-125-13.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Resolution No R-125-13 be adopted. Roll call, Aye: Wilson, Fess, Vogt, Terry, and Martin. Nay: None. Motion carried unanimously.

#### **RES. NO. R-126-13**

A Resolution authorizing a purchase order to Germain Ford for the purchase of two Ford Police Interceptor Utility vehicles

Police Chief Bruce Jamison explained it has been over five years since the long term capital improvement fleet replacement program was abandoned. The City purchased five used vehicles last year to help save money in the budget. The plan is to purchase two police utility vehicles to replace two 2005 Ford Expeditions that have over 140,000 miles on them those are used by supervisors. The new plan would increase the total life expectancy of vehicles to five years. Other departments the same size as Piqua are currently using the utility vehicles and are very pleased with them. No other responses were received to the bid requests to see if we could do any better than the state contract, stated Chief Jamison.

Commissioners asked several questions regarding the old vehicles, and what the plans were for the vehicles.

**PUBLIC COMMENT**

No one came forward to speak for or against Resolution No. R-126-13.

Moved by Commissioner Martin, seconded by Commissioner Terry, that Resolution No R-126-13 be adopted. Roll call, Aye: Vogt, Terry, Martin, Wilson, and Fess. Nay: None. Motion carried unanimously.

**PUBLIC COMMENT**

No one came forward to speak at this time.

**City Manager's Report – Police Department Update- Chief Bruce Jamison**

Police Chief Bruce Jamison presented a brief presentation on Crime Stopper tips to help citizens better understand how they can help the Police Department. Chief Jamison provided information on how the Crime Stopper tips are used in solving crime, and how important the tips provided by citizens are to the Police Department. Information and forms are available on the City webpage under the Police Department, and all information and tips provided are kept confidential, stated Chief Jamison.

City Manager Huff stated there are a lot of construction projects going on in the City of Piqua. They include: Improvements to the Rt 36 Interchange; County Road 25A Reconstruction Project; College Street Signalization Project; Fountain Park Bridge Replacement; and the Phase 1 Project at the Power Plant. City Manager Huff further stated they have received numerous comments about all of the projects going on at the same time making travel around the city difficult. City Manager Huff explained when the City is using Federal and State grant money they dictate when the project has to be done and completed by in order to utilize the funding.

City Manager Huff announced the City received a \$148,000 grant for the Riverfront Project, and a \$20,000 grant for a Handicapped Accessible Playground, which must be used for that project only. It was also noted that the Arrowhead Subdivision street has been paved.

**Commissioners Comments**

Commissioner Wilson stated he received an email regarding the fire pit presentation recently, and asked that he remind citizens to make sure they put the campfire out completely before going in. Commissioner Wilson stated the Piqua Area Chamber of Commerce Steak Fry will take place on Thursday, September 19<sup>th</sup>. Also on Saturday, September 21 Dancing in the Moonlight will take place Downtown Piqua with a Car Show beginning at 5:00 P.M. downtown, the Moonlight Stride and Ride along the river on the Path will begin at 7:45, and a Chili Cook-Off is planned. Mark your calendars to attend the downtown Piqua festivities on Saturday for a fun filled evening.

Commissioner Martin inquired where the Corporation limits are located going west on High Street. City Planner, Chris Schmiesing explained where the Corporation limits are located.

Commissioner Vogt stated he attended the Energy Board Meeting and they have approved the fiber optics system. The energy Board stated they wanted all the work to be completed by the same company. By having the same company do all of the various components of the project, this insures

Adjournment to Executive Session to consider the purchase or sale of property for public purposes.

Moved by Commissioner Vogt, seconded by Commissioner Martin, to adjourn from the Regular Piqua City Commission Meeting and move into Executive Session at 8:45 P.M. Voice vote, Aye: Terry, Martin, Fess, Wilson, and Vogt. Nay: None. Motion carried unanimously.

Convened into Executive Session at 8:52 P.M. Roll call, Aye, Terry, Martin, Fess, Wilson, and Vogt. Nay: None.

Moved by Commissioner Vogt, seconded by Commissioner Martin, to adjourn from the Executive Session at 9:35 P.M. Voice vote, Aye: Martin, Wilson, Terry, Vogt, and Fess. Nay, None.

Moved by Commissioner Vogt, seconded by Commissioner Wilson, to adjourn from the Regular Commission Meeting at 9:38 P.M. Voice vote, Aye: Martin, Wilson, Terry, Vogt, and Fess. Nay, None.

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

REBECCA J. COOL  
CLERK OF COMMISSION

**ORDINANCE NO. 14-13**

**AN ORDINANCE AMENDING SECTIONS 151.35, 151.70, 151.71, AND 151.73 OF CHAPTER 151 OF THE CITY OF PIQUA CODE OF ORDINANCES TO ESTABLISH CONSTRUCTION PERFORMANCE REQUIREMENTS FOR SUBDIVISION IMPROVEMENTS**

WHEREAS, the Planning Commission has studied a proposed amendments to sections 151.35, 151.70, 151.71, and 151.73 of the Subdivision Regulations, Chapter 151 of the City of Piqua Code of Ordinances, as shown in Exhibit 'A' included herewith, to establish construction performance requirements for subdivision improvements; and

WHEREAS, the Planning Commission has conducted a public hearing, made a report of the findings, and submitted a recommendation to the City Commission; and

WHEREAS, the proposed amendments to sections 151.35, 151.70, 151.71, and 151.73 of the Subdivision Regulations are included herewith as Exhibit 'A';

NOW THEREFORE, BE IT ORDAINED BY the Piqua City Commission, a majority of its members concurring that:

SEC. 1. That the City of Piqua hereby amends sections 151.35, 151.70, 151.71, and 151.73 of the Subdivision Regulations, Chapter 151 of the City of Piqua Code of Ordinances, as shown in Exhibit 'A' included herewith, to establish construction performance requirements for subdivision improvements.

SEC. 2. All other sections of Chapter 151 of the City of Piqua Code of Ordinances not amended herein shall remain in effect as is.

SEC. 3. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

**1<sup>st</sup> Reading 9-17-13**

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

REBECCA J. COOL  
CITY COMMISSION CLERK



# Commission Agenda Staff Report

Item# 2

<b>MEETING DATE</b>	September 11, 2013			
<b>REPORT TITLE</b>	AN ORDINANCE AMENDING SECTIONS 151.35, 151.70, 151.71, AND 151.73 OF CHAPTER 151 OF THE CITY OF PIQUA CODE OF ORDINANCES TO ESTABLISH CONSTRUCTION PERFORMANCE REQUIREMENTS FOR SUBDIVISION IMPROVEMENTS			
<b>SUBMITTED BY</b>	Chris Schmiesing, City Planner			
	Development Department			
<b>AGENDA CLASSIFICATION</b>	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Regular
<b>APPROVALS/REVIEWS</b>	<input checked="" type="checkbox"/> City Manager		<input type="checkbox"/> Asst. City Manager/Finance	
	<input checked="" type="checkbox"/> Asst. City Manager/Development		<input checked="" type="checkbox"/> Law Director	
	<input checked="" type="checkbox"/> City Planner		<input checked="" type="checkbox"/> Planning Commission	
<b>BACKGROUND</b> (Description, background, justification)	This legislation will amend the subdivision regulations to include construction performance requirements for subdivision improvements. The proposed amendments will provide a means for ensuring that the approved subdivision improvements will be constructed within a reasonable timeframe and that all of the work items incidental to the approved improvements will be completed prior to any individual lot improvements being permitted.			
<b>BUDGET/FINANCIAL IMPACT</b> (Project costs and funding sources)	Budgeted \$:	0		
	Expenditure \$:	0		
	Source of Funds:	N/A		
	Narrative:			
<b>OPTIONS</b> (Include deny /approval option)	1.	Adopt the ordinance to accept the recommended amendments.		
	2.	Deny the ordinance to reject the recommended amendments.		
<b>PROJECT TIMELINE</b>	Sept 10, 2013 – PC hearing Sept 17, Oct 1, Oct 15, 2013 – CC hearings			
<b>STAFF RECOMMENDATION</b>	Approve the ordinance.			
<b>ATTACHMENTS</b>	PC Resolution 12-13			

RESOLUTION No. PC 12-13

WHEREAS, the Planning Commission has submitted a request to amend the zoning code to amend Chapter 151: Subdivision Regulations; and,

WHEREAS, sections 151.141 of the City of Piqua Code of Ordinances provides the procedure for considering an amendment to the zoning code; and,

WHEREAS, the Planning Commission has studied the request, included herein as exhibit 'A', and conducted a public hearing concerning this matter;

NOW THEREFORE BE IT RESOLVED, board member Mr. Oda hereby moves to recommend (approving) (denying) the request made, as described by this resolution, the testimony provided, and the documents attached hereto as Exhibit 'A', and the motion is seconded by board member Mr. Koenig, and the voting record on this motion is hereby recorded as follows.

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	AYE	NAY	ABSTAIN	ABSENT
Mr. Jim Oda	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Gary Koenig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Mike Taylor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mrs. Cindy Pearson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Mark Spoltman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# CHAPTER 151: SUBDIVISION REGULATIONS

## GENERAL PROVISIONS

### § 151.01 PURPOSE.

These rules and regulations are adopted to secure and provide for the following.

- (A) The proper arrangement of streets or highways in relation to existing or planned streets or highways, or to the official thoroughfare plan.
- (B) Adequate and convenient open spaces for vehicular and pedestrian traffic, utilities, access of fire-fighting apparatus, recreation, light and air.
- (C) The avoidance of congestion of population.
- (D) The establishment of standards for the construction of any and all improvements as herein required.
- (E) Conformance with the existing zoning ordinance.
- (F) To facilitate the orderly and efficient layout and the appropriate use of the land.
- (G) To provide for the accurate surveying of land, preparing and recording of plats and the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and subdividers.
- (H) Protection against floodplain encroachment and possible future flood damage.

(‘97 Code, § 152.11) (Ord. 42-96, passed 9-17-96)

### § 151.02 JURISDICTION.

The subdivision regulations contained herein shall apply within the corporate limits of the city, and shall apply to all unincorporated areas within three miles of the corporate limits of the city, as to streets, road location, right-of-way, and specifications for construction. Street and road location shall be governed by the master plan for thoroughfares, as adopted by the city. The city may regulate the disposal of putrid or offensive substances, injurious to health, into its water supply for a distance of 20 miles beyond the municipal corporation limits.

(‘97 Code, § 152.12) (Ord. 42-96, passed 9-17-96)

### § 151.03 INTERPRETATION.

The provisions of these regulations shall be held as the minimum requirements adopted for the promotion of health, safety, and welfare of the people of the city. The regulations are not intended to repeal, abrogate, or in any manner interfere with any existing laws, covenants, or rules provided, however, where these regulations impose a greater restriction than is required by the existing laws, covenants, or rules, the provisions of these regulations shall govern.

('97 Code, § 152.13) (Ord. 42-96, passed 9-17-96)

#### **§ 151.04 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ARTERIAL.** A street of considerable continuity which serves, or is to serve as a major thoroughfare for communication. Arterial street right-of-way width shall be 80 feet, roadway pavement width shall be 59 feet back to back of curb.

**COLLECTOR.** A street which serves, or is proposed to service as a traffic way for a neighborhood, and as a feeder to a thoroughfare. Collector street right-of-way width shall be 60 feet, roadway pavement width shall be 37 feet back to back of curb.

**CUL-DE-SAC or DEAD-END STREET.** A minor street with only one outlet and with a minimum radius of 50 feet to right-of-way line.

**LOT SPLIT.** The division of a parcel of land into two smaller parcels; or the replat of two adjacent parcels involving changing their common boundary.

**LOT WIDTH.** The width of the lot measured at right angles to its depth at the front building line.

**MINOR.** A street that is to provide access primarily to the properties abutting thereon. Minor street right-of-way width shall be 50 feet, roadway pavement width shall be 31 feet back to back of curb.

**MINOR SUBDIVISIONS.** The division of a lot, tract, or parcel of land into five or less lots, sites, or other division of land with no improved street or dedicated rights-of-way. Minor subdivisions may be reviewed and approved by the City Engineer.

**PLAT** A map of a tract or parcel of land.

#### **SUBDIVISION.**

(1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership; provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or

easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or

(2) The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.

(R.C. § 711.001) ('97 Code, § 152.20) (Ord. 42-96, passed 9-17-96; Am. Ord. 18-99, passed 7-6-99)

## **PRELIMINARY PLAT**

### **§ 151.15 PURPOSE.**

The purpose of the preliminary plat is to show on a map all the facts which may enable the Planning Commission to determine whether the proposed layout of land is satisfactory from the standpoint of public interest. The plat shall be prepared by a registered surveyor in the state.

('97 Code, § 152.31) (Ord. 42-96, passed 9-17-96)

### **§ 151.16 APPLICATION.**

The subdivider shall prepare and file application for preliminary approval with the Secretary of the Planning Commission at least 14 days in advance of the meeting. The subdivider shall file copies of the proposed subdivision as determined by the Public Works Director with the application.

('97 Code, § 152.32) (Ord. 42-96, passed 9-17-96)

### **§ 151.17 PRELIMINARY PLAT FORM.**

The preliminary plat shall be clearly and legibly drawn. The size of the map shall not be less than 18 inches by 24 inches. The map of a subdivision containing six acres or less shall be drawn to a scale of one inch equals 50 feet. All other subdivisions shall be drawn to a scale of one inch equals 100 feet.

('97 Code, § 152.33) (Ord. 42-96, passed 9-17-96)

### **§ 151.18 CONTENTS.**

The preliminary plat shall clearly show the following features and information.

- (A) The proposed name of the subdivision. The name shall not duplicate or closely approximate the name of any other subdivision, be the same in spelling, or alike in pronunciation with any other recorded subdivision in Miami County.
  - (B) The tract designation, according to the real estate records of the Auditor and Recorder of Miami County, plat shall also show section, town, range, township, county and state if the subdivision is within the three-mile limits of the city.
  - (C) The names and addresses of the subdivider, owner, and surveyor.
  - (D) The scale of the plat, north point, and date.
  - (E) The boundaries of the subdivision, indicated by a heavy line, and the approximate acreage.
  - (F) The location and names of adjacent subdivisions, and the names and owners of adjacent acreages.
  - (G) The location, width, and names of all existing or platted streets and railroad rights-of-way, easements, parks, permanent buildings, section and corporation lines, watercourses, and exceptional topography.
  - (H) Existing sewers, water mains, culverts, and other underground structures, within the tract and immediately adjacent thereto.
  - (I) Zoning districts.
  - (J) Existing contours with intervals of not more than five feet where the slope is greater than 10%, and not more than two feet where the slope is less than 10%. Elevations are to be based on sea level datum.
  - (K) The vicinity sketch shown on the preliminary plan.
  - (L) The proposed layout of streets including names, widths, sidewalks, and easements.
  - (M) The number of lots and approximate (average) dimensions.
  - (N) The proposed centerline profile for each street, if requested.
  - (O) The proposed drainage plan for tract.
- ('97 Code, § 152.34) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

**§ 151.19 PUBLIC HEARING.**

(A) The Planning Commission, on its own initiative, or upon petition by any citizen or neighboring property owner, may, prior to acting on a preliminary map of a subdivision, hold a hearing thereon at such time, and upon such notice as the Planning Commission may designate.

('97 Code, § 152.35)

(B) The Planning Commission shall act upon the preliminary plat after first hearing the report of the City Engineer. The Planning Commission shall act on the plat by one of the following three methods. The subdivider will be notified of whether the action of the Planning Commission is approval, approval with modifications or disapproval.

('97 Code, § 152.36) (Ord. 42-96, passed 9-17-96)

## **FINAL PLAT**

### **§ 151.30 FINAL PLAT REQUIRED.**

The subdivider, having received approval of the preliminary plat of the proposed subdivision, shall submit a final plat of the subdivision and drawings and specifications of the improvements required therein. The final plat shall have incorporated all changes in the preliminary plat required by the Planning Commission. Otherwise it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. The final plat and the supplementary information shall be prepared by a qualified registered engineer/surveyor, and shall conform to the minimum standards for boundary surveys in the State of Ohio.

('97 Code, § 152.41) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.31 APPLICATION.**

(A) After receiving notice of action of the Planning Commission, the subdivider may proceed to file the following.

- (1) Copies of the final map as may be required.
- (2) A written application for final approval.
- (3) Cross-sections and profiles of streets, profiles of sanitary sewers, and all other construction drawings related to the improvements to be constructed in the subdivision.

(B) The subdivider shall submit prints of the final subdivision and complete sets of construction prints as determined by the Public Works Director to the City Engineer at least 14 days in advance of the Planning Commission meeting. The City Engineer shall recommend changes or suggestions and return to the subdivider a complete marked set with the changes noted thereon; also, a letter listing contingencies, so that the subdivider may correct the final tracing and submit it for final approval.

(C) The final tracing shall be submitted at least 14 days prior to the meeting at which the plat is to be considered by the Planning Commission.

('97 Code, § 152.42) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.32 FINAL PLAT FORM.**

The final plat shall be clearly and legibly drawn in waterproof ink on tracing cloth or other material of equal permanence. The size of the map shall be 18 inches by 24 inches. The map of a subdivision containing six acres or less shall be drawn to a scale of one inch equals 50 feet. All other subdivisions shall be drawn to a scale of one inch equals 100 feet.

('97 Code, § 152.43) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **151.33 CONTENTS.**

The final plat shall contain the following information.

(A) The name of the subdivision, scale, date, north point location as to outlot(s), if within the corporate limits. If within the three-mile limit, the final plat shall also contain the section, town, range, township, county, and state.

(B) All plat boundaries with length of courses to 1/100 feet, and bearings to half minute, with a relative error of closure consistent with minimum standards for boundary surveys in the state, as set forth by the State Board of Registration for professional engineers and surveyors.

(C) The names of all streets.

(D) The length of all areas, chords, chord bearings, radii internal angles, points of curvature, and tangent bearings.

(E) All easements for rights-of-way provided for public services, or utilities, and any limitations of easements and adjacent easements.

(F) All lot numbers and lines, with accurate dimensions in feet and hundredths, and with bearings or angles to street and alley, or crosswalk way lines.

(G) Accurate location of all monuments.

(H) Accurate description of any areas to be dedicated or reserved for public use, with the purpose indicated thereon.

(I) Building setback lines with dimensions.

(J) Protective covenants shall be shown on the plat.

(K) Certification by a registered surveyor in the state to the effect that the plat represents a survey made by him or her and that all monuments shown thereon actually exist, and that their location is correctly shown.

(L) An acknowledgment by the owner or owners of his or her, or their, adoption of the plat, and dedication of streets and other public areas.

(‘97 Code, § 152.44) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.34 APPROVAL.**

The Planning Commission shall take action on the final plat in the form of a tracing, within 30 days after it has been officially filed; otherwise, the plat shall be deemed to have been approved. The certificate of the Planning Commission as to the date of the submission of the plat for approval, and the failure to take action within that time, shall be sufficient in lieu of the written endorsement, or evidence of approval, herein required. If disapproved, the ground for disapproval of the final plat shall be stated on the record of the Planning Commission, including the reference to the regulations violated by the plat and written response given to subdivider. If approved by the Planning Commission, it shall be referred to the City Commission for final acceptance.

(‘97 Code, § 152.45) (Ord. 42-96, passed 9-17-96)

### **§ 151.35 RECORDING OF PLAT.**

The subdivider shall be notified of the final action of the City Commission, and he or she shall record the final plat in the office of the County Recorder within 60 days after the date of approval; otherwise, the plat shall be considered void. ~~The subdivider shall furnish the city with photolith prints of the recorded plat, and all approved construction drawings.~~

(‘97 Code, § 152.46) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

## **SUBDIVISION DESIGN STANDARDS**

### **§ 151.45 CONFORMITY.**

The arrangement, character, extent, width, and location of major, secondary, and minor streets or highways for the city and the surrounding three-mile unincorporated area shall conform to the recommendation of the Planning Commission, based on existing and planned streets, topography, public safety and convenience, and proposed use of land.

(‘97 Code, § 152.51) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.46 ARRANGEMENT.**

(A) Residential streets shall be designed to discourage through traffic, which may otherwise use secondary thoroughfare or major highways, and whose origin and destination are not within the subdivision.

(B) As far as practical, all proposed streets shall be continuous and in alignment with existing, planned, or platted streets with which they are connected. Proposed streets shall extend to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the Planning Commission, the extension is not necessary or desirable for the coordination of the layout of the subdivision, or the most advantageous future development of adjacent tracts.

('97 Code, § 152.52) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.47 ALIGNMENT.**

(A) *Vertical.* For arterials, profile grades shall be connected by vertical curves of a minimum length equivalent to 15 times the algebraic difference in the rate of grade expressed in feet per 100; for collector and minor streets, 7½ times. Minimum length of vertical shall be 50 feet.

(B) *Minimum horizontal.* The radii of curvature on the centerline shall be as follows.

(1) Arterial: 300 feet

(2) Collector: 225 feet

(3) Minor: 150 feet

(C) *Visibility requirements.* The minimum horizontal visibility shall be as follows.

(1) Arterial: 300 feet

(2) Collector and minor: 200 feet

(D) *Street grades.* Grades shall not exceed the following maximum percentages.

(1) Arterial: 7%

(2) Collector and Minor: 10%

(E) *Minimum grade.* Minimum grade shall be 0.5%.

('97 Code, § 152.53) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.48 INTERSECTIONS.**

Streets shall intersect one another at an angle as near to a right angle as possible. Street curb intersections shall be rounded, with a radius of a minimum of 20 feet when the intersection occurs at right angles. The Planning Commission can require a larger radius if the volume and type of traffic justifies.

('97 Code, § 152.54) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### § 151.49 LOCATION.

When a proposed subdivision lies within the three-mile limit, under territorial rights, and is adjacent to, or contains a state highway, the subdivider shall show evidence that the Ohio Department of Highways, Division Seven, Sidney, Ohio, has checked the highway as to alignment and width.

('97 Code, § 152.55) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### § 151.50 CUL-DE-SACS.

(A) A cul-de-sac shall not exceed 600 feet in length, and shall be provided with a turnaround, having a minimum radius of 50 feet to the right-of-way line. The pavement within a turning circle shall have a minimum outside radius of 35 feet, measured to face of curb.

(B) The Planning Commission may approve a "T" or "Y" in lieu of the circle, if, in their opinion, it will be more advantageous to the public in general. The Planning Commission may also approve a temporary "T," circle, or "Y" at the end of a proposed street, if, in their opinion, the street shall be extended beyond the limits of the proposed subdivision, but is not in the plan stage for development.

('97 Code, § 152.56) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### § 151.51 RIGHT-OF-WAY, PAVEMENT, SIDEWALK AND TREE LAWN WIDTH.

Right-of-way, pavement, sidewalk and tree lawn widths shall be as follows.

Type	Right-of-Way	Pavement Back-Back Curb	Sidewalk (each side)	Tree Lawn (each side)
Arterial	80 feet	59 feet	4 feet	6 feet
Collector	60 feet	37 feet	4 feet	6 feet
Minor	50 feet	31 feet	4 feet	5 feet

('97 Code, § 152.57) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### § 151.52 STREET NAMES.

Name of streets shall not duplicate existing or platted streets. New streets which are the extension of, or in alignment with existing streets, shall bear the name of the existing street. Street name signs shall be furnished and installed by the city.

('97 Code, § 152.58) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.53 DEDICATION.**

Approval of a plat shall not be an acceptance by the public of dedication of any street or other ground as shown on the plat.

('97 Code, § 152.59) (Ord. 42-96, passed 9-17-96)

### **151.54 HALF STREETS; ALLEYS.**

(A) Should there be along the adjoining boundary line of another plat, a half-width street or alley, duly transferred, or dedicated and recorded, the other half-width of the street or alley must be dedicated on the proposed plat to make the same complete.

(B) Half streets shall be discouraged at all times.

(C) Alleys shall not be permitted.

('97 Code, § 152.510) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.55 EASEMENTS.**

(A) Whenever a subdivision is planned within the corporate limits of the city or within the three-mile limit of the city, the subdivider shall provide easements along the front lot lines, rear lot lines and side lot lines where necessary, to permit the city to expand its utilities in a systematic order. These easements shall be determined by the utilities upon review of the planned subdivision. The subdivider shall be responsible for clearing all easements for construction.

(B) All easements shall have a minimum width as follows.

(1) *Electrical.*

(a) *Overhead system.* Main lines planned and located by the Municipal Power Plant, or any other electrical utility, 20 feet in width total; side yard easements shall be 12 feet total, six feet on each side of property line. Main lines planned and located along a boundary line, of which the area adjacent to the proposed subdivision is not in any planning stage of development, or the area adjacent will be unable to be expanded, the minimum width of the proposed easement shall be 20 feet total, ten feet on each side of the property.

(b) *Underground system.* Whenever a subdivider proposes any underground electrical system and the system has been checked by the electrical utility, the utility shall control the width of easements necessary to maintain such a system.

(2) *Sanitary, storm, gas, and water easement.* Whenever additional easements are required within a proposed subdivision for any or all of the above mentioned items, an easement shall be set aside along the rear of side lot lines with a minimum width of 20 feet total, ten feet on each side of the new property line.

('97 Code, § 152.511) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.56 LOTS.**

(A) The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivisions and for the type of development contemplated.

(B) All lots shall abut by their full frontage on a public street.

(C) The size of all lots shall be as specified in the zoning code.

(D) All corner lots shall have frontage on both streets at least one and one-half times the minimum frontage for the zoning district.

(E) Lots fronting on two streets, other than corner lots, shall be discouraged.

(F) Side lot lines shall be approximately at right angles to the street, or radial to curved streets. Lot lines shall be kept straight except when indicated by topography.

(G) All lot split and minor subdivision drawings shall be approved by the City Engineer and assigned new lot numbers.

('97 Code, § 152.512) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.57 BLOCKS.**

(A) Blocks shall be of sufficient width to provide for two tiers of lots of appropriate depth.

(B) Blocks shall not exceed 1,600 feet in length.

(C) The number of intersecting streets along a thoroughfare shall be held to a minimum; wherever practical, blocks along such trafficways should be not less than 1,200 feet in length.

('97 Code, § 152.513) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.58 DRAINAGE.**

All drainage design shall be in accordance with the city's stormwater regulations.

(Am. Ord. 13-05, passed 8-1-05)

## REQUIREMENTS FOR CONSTRUCTION OF IMPROVEMENTS

### § 151.70 GENERAL.

The minimum requirements for which a subdivider will be required to make in a subdivision prior to the acceptance of any streets, sewer, water line, electric, street lighting, or dedicated public use, shall conform to the city standard drawings and specifications. The city standard drawings and specifications shall consist of those drawings and specifications which have been ~~recommended by the Public Works Director, Power System Director adopted by reference, as described in Chapter 153, City Planning Commission, Fire Chief, and approved by ordinance of the City Commission.~~ All of these improvements shall be carried out in full compliance with the drawings and specifications for each of the various units of work as separately required by Chapters 151 and 153 the City Engineer or Power Plant Director.

('97 Code, § 152.61) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### § 151.71 PLANS.

(A) All plans shall carry the signature of a registered professional engineer in the state, the approval of the City Engineer, and the approval of the Planning Commission before construction may begin.

(B) All grades for curb, gutter, and sidewalk shall be approved by the City Engineer.

(C) Sidewalks shall be required on both sides of every street.

(D) All streets shall have curb and gutter.

~~(E) The developer shall furnish the city with reproducible "as built" drawings of all construction work that will be under the jurisdiction of the city within 60 days of completion of the project and before the city will accept the work.~~

('97 Code, § 152.62) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### § 151.72 SURVEY MONUMENTS.

(A) A complete survey shall be made by a registered surveyor in the state. All work shall meet the minimum standards for boundary surveys in the state as set forth by the State Board of Registration for Professional Engineers and Surveyors.

(B) Iron pin monuments shall be -inch in diameter (solid) and 30 inches long and marked. All pin monuments shall be set and marked before final acceptance of the subdivision by the city.

(‘97 Code, § 152.63) (Ord. 42-96, passed 9-17-96) Penalty, see § 10.99

### **§ 151.73 AGREEMENTS AND GUARANTEES.**

(A) Intent. The intent of this section is to establish construction performance requirements for subdivision improvements to ensure the completion of the authorized improvements in a judicious and proper manner.

(B) General Provisions. The provisions contained in this section shall apply to all subdivision improvements subject to conformance with Chapter 151.

(1) Performance Guarantee. The appropriate performance guarantee covering the costs of the proposed improvements shall be submitted with the construction plans and final plat for a subdivision, or any portion or section thereof, being presented for consideration by the Planning Commission. Such guarantee shall assure either the performance of the proposed improvements or payment of the estimated costs to the City if such improvements have not been installed and completed or if construction has not commenced within one year after the date of the Planning Commission approval of the construction plans and final plat for the proposed improvements or the agreed upon start and completion date(s) approved by the Planning Commission, whichever comes first.

(a) Guarantee Form. The performance guarantee shall be in the form of a property bond, surety bond, a cash bond, or negotiable United States Treasury Certificates of the kind approved by law for securing deposits of public money. The guarantee shall be executed by the subdivider as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the State of Ohio. The guarantee shall be an obligation for the faithful performance of any and all work and the construction and installation of all improvements required to be done by the subdivider. The guarantee shall contain the further condition that should the subdivider fail to complete all work and improvements required to be done by him within 24 consecutive calendar months of the date of approval of the final plat, or within a mutually agreed-on extension, not to exceed 12 consecutive calendar months, the city may, at its option, cause all required work to be done and improvements constructed at the expense of the executor of the Guarantee. The parties executing the guarantee shall be firmly bound for the payment of all necessary costs therefore.

(b) Guarantee Amount. The performance guarantee amount shall equal the construction estimate for the total costs of the proposed improvements. The construction estimate shall be prepared by a registered professional engineer licensed by the State of Ohio and include all anticipated costs incidental and necessary to the completion of the proposed improvements, including:

- 1) Labor and Materials. The labor and materials costs shall be calculated based upon the most current unit cost information available from the Ohio Department of Transportation Division of Planning Office of Estimating. The labor and material costs shall include all labor and material costs and equipment, overhead

and profit incidental and necessary to the completion of the proposed improvements.

- 2) Contingency. An amount equal to ten-percent (10%) of the total labor and material cost shall be added to the total labor and material costs to cover unanticipated items of work that may become necessary to the completion of the proposed improvements.
- 3) Construction Engineering. An amount equal to ten-percent (10%) of the total labor and material cost plus the contingency amount shall be added to the sum of the total labor and material costs and the contingency amount to cover inspection and testing services necessary to the completion of the proposed improvements.

(c) Guarantee Termination. Upon the submittal and acceptance of a maintenance guarantee in accordance with §151.73(B)(3) the subdivider may terminate performance guarantee.

(2) Construction Agreement. The work to be performed shall be in accordance with the construction plans and final plat for the subdivision, or any portion or section thereof, as approved by the Planning Commission. The construction estimate prepared in accordance with § 151.73(B)(1)(b) shall provide further indication of the work necessary and essential to complete the proposed improvements. The cost to install and or oversize water main and or sewer main necessary and incidental to the proposed improvements shall be in accordance with the provisions of § 51.47 and § 53.49. Any cost to be incurred by the city to oversize the water main and or sewer main necessary and incidental to the proposed improvements shall be shown as a separate line item on the construction estimate and included in the total labor and material costs used to determine the contingency, construction engineering, and total guarantee amounts.

(3) Maintenance Guarantee. The appropriate maintenance guarantee covering the costs of repairing defects that may appear in the work shall be submitted to the city upon the City Engineer finding the work to be substantially complete. Such guarantee shall assure either the performance of the necessary repair or replacement of defective conditions or payment of the estimated costs to the City if such defective conditions have not been repaired or replaced within one year after the date of the acceptance of the improvements.

(a) Guarantee Form. The maintenance guarantee shall be in the form of a property bond, surety bond, a cash bond, or negotiable United States Treasury Certificates of the kind approved by law for securing deposits of public money. The guarantee shall be executed by the subdivider as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the State of Ohio. The guarantee shall be an obligation for the faithful performance of the repair or replacement of defective conditions that may appear following the completion the work by the subdivider and acceptance of the same by the city. The guarantee shall contain the further condition that should the subdivider fail to repair or replacement all defective work within 30 consecutive calendar days after being notified of the condition, or within a mutually agreed-on extension, not to exceed 90 consecutive calendar days, the city may, at its option, cause all required repair and replacement work to be done. The parties executing the guarantee shall be firmly bound for the payment of all necessary costs therefore.

(b) Guarantee Amount. The maintenance guarantee amount shall equal ten percent (10%) of the performance guarantee amount.

(c) Guarantee Termination. Twelve months after the acceptance of the improvements as complete and upon the successful completion of any and all repair or replacement of defective conditions in accordance with of § 151.73(B)(3) the subdivider may terminate maintenance guarantee.

(4) Completion of Work and Acceptance. For the purposes of this section, the guidelines for substantially complete, and acceptance shall be as follows:

(a) Substantially Complete. Work on improvements will be considered substantially complete upon each of the following conditions being satisfied:

1) City utilities (water, sewer, storm sewer) have been installed and inspected and approved by the Utilities Director, and all other non-city underground utilities (gas, telephone, and cable television, etc.) have been installed by the responsible party.

(2) Curb and gutter and sidewalk has been constructed in accordance with construction plans and inspected and approved by the City Engineer.

(3) Street base and final surface materials have been installed and inspected and approved by the City Engineer.

(b) Acceptance. Work on improvements will be considered accepted upon each of the following conditions being satisfied:

1) All required maintenance guarantee work has been satisfactorily completed.

2) Subdivider has provided city with electronic record drawings stamped by a registered professional engineer or surveyor verifying the accuracy of the drawings and showing the completed state of all improvements.

3) Subdivider has provided city with affidavit stating all parties with payment due as a result of the performance or work or providing of materials or services necessary and incidental to the construction of the improvements have been paid in full.

(5) Commencement of Lot Development. The issuance of zoning or building permits necessary and incidental to improvements to be located on building lots established by the approval of the final plat of a subdivision, or any portion of section thereof, shall not be issued until the subdivider has submitted and the city has accepted the maintenance guarantee for that portion or section of the subdivision in which the lot is located.

## APPENDIX: TABLES

**TABLE A: FEE SCHEDULE**

All subdivision regulation fees shall be collected by the Planning and Zoning Office at the rates established as follows:

Item	Fee
Annexation Plat	\$0

EXHIBIT 'A'

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Lot Split/Replat	\$100
Major Subdivision	
Preliminary Plat	\$150
Final Plat	\$150
Construction Plans	\$150
Minor Subdivision	
Preliminary Plat	\$100
Final Plat	\$100
Construction Plans	\$100

(Ord. 1-07, passed 2-5-07)

**RESOLUTION NO. R-127-13**

**A RESOLUTION REQUESTING AUTHORIZATION TO PURCHASE THE REAL PROPERTY LOCATED AT 102 S. MAIN STREET, PARCEL ID NO. N44-001240**

WHEREAS, the City of Piqua desires to redevelop the downtown riverfront area; and

WHEREAS, the owner of the property located at 102 S. Main Street desires to sell the property to the City of Piqua for \$1 (one dollar), and

WHEREAS, the acquisition of the property and demolition of the existing improvements will support the desired redevelopment of the downtown riverfront area, and

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto, concurring that:

SEC. 1: The City Manager is hereby authorized to purchase the said real property located at 102 S. Main Street, Parcel ID No. N44-001240, in the amount of \$1 (one dollar), in accordance with the terms of the attached option agreement.

SEC. 2: The Finance Director is hereby authorized to draw her warrants from the appropriate account of the city treasury in payment according to the agreement terms.

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION



# Commission Agenda Staff Report

Item # 3

<b>MEETING DATE</b>	September 26, 2013		
<b>REPORT TITLE</b> (Match resolution/ordinance title)	A RESOLUTION REQUESTING AUTHORIZATION TO PURCHASE THE REAL PROPERTY LOCATED AT 102 S. MAIN STREET, PARCEL ID NO. N44-001240		
<b>SUBMITTED BY</b>	Chris Schmiesing, City Planner		
	Development Department		
<b>AGENDA CLASSIFICATION</b>	<input type="checkbox"/> Consent	<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Regular
<b>APPROVALS/REVIEWS</b>	<input checked="" type="checkbox"/> City Manager		<input type="checkbox"/> Asst. City Manager/Finance
	<input checked="" type="checkbox"/> Asst. City Manager/Development		<input type="checkbox"/> Law Director
	<input checked="" type="checkbox"/> City Planner		<input type="checkbox"/> Planning Commission
<b>BACKGROUND</b> (Description, background, justification)	The property is situated within the Riverfront District planning Area and the current owner of the property desires to donate the property to the City.		
<b>BUDGET/FINANCIAL IMPACT</b> (Project costs and funding sources)	Budgeted \$:	0	
	Expenditure \$:	1	
	Source of Funds:	N/A	
	Narrative:	Approving the resolution will authorize proceeding with the taking possession of ownership of the subject property. Gaining control of property will result in the demolition of the existing improvements by the City to make the site redevelopment ready.	
<b>OPTIONS</b> (Include deny /approval option)	1.	Adopt the resolution to accept the opportunity to acquire ownership interest in the property.	
	2.	Defeat the resolution and reject the opportunity to acquire ownership interest in the property.	
<b>PROJECT TIMELINE</b>	October 2013 – Accept property. 2014 – Complete environmental remediation and demolition work.		
<b>STAFF RECOMMENDATION</b>	Approve the proposed resolution.		
<b>ATTACHMENTS</b>	Option Agreement		

## OPTION AGREEMENT

SMU 11-14-12  
November 14, 2012  
THIS OPTION AGREEMENT ("Agreement"), dated this 13<sup>th</sup> day of ~~October~~ 2012 between Darren J. Blanton ("Seller"), and the City of Piqua, Ohio, an Ohio municipality ("Buyer").

### WITNESSETH:

In consideration of the mutual covenants and promises herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Grant of Option. Seller hereby grants and conveys to Buyer the exclusive option ("Option") and right to acquire all of Seller's right, title, estate and interest in and to that certain real property containing approximately 0.112 acres of land located in the City of Piqua, County of Miami and State of Ohio, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference, together with all buildings, improvements, appurtenant rights, privileges and easements, including all right, title and interest of Seller in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining said real property, to the centerline thereof (the "Property"), all subject to and in accordance with the terms and conditions of this Agreement. Buyer shall pay to Seller the option price of One Dollar (\$1.00) upon the execution of this Agreement.

2. Term of Exercise. The Option shall be exercisable by Buyer until sixty (60) days after Buyer has received the written report of the findings of an environmental assessment of the Property from the State of Ohio Environmental Protections Agency ("Ohio EPA") targeted brownfield assessment program ("Option Period"), unless extended by mutual agreement by the parties hereto. Buyer shall notify Seller immediately upon receipt of such written verification. Seller reserves the right to terminate the Option if Buyer's application for Ohio EPA targeted brownfield services is denied or if Buyer fails to receive written verification from the State of Ohio of approval of the targeted brownfield assessment services by December 31, 2012. Buyer may exercise the Option by giving Seller written notice of such exercise (the "Option Notice"), which written notice may be given at any time after the date of this Agreement and prior to 11:59 p.m. (EST) on the last day of the Option Period. Buyer may terminate this Agreement at any time and for any reason during the Option Period upon forty-five (45) days prior written notice to Seller, provided such termination shall not entitle Buyer to a refund of the option payment.

If the Buyer does not have written verification as to whether the targeted brownfield services have been awarded by December 31, 2012, the parties may extend this Option upon a written request from the Buyer for such an extension with the said extension period being designated in writing.

3. Consideration. The purchase price shall be One Dollar (\$1.00) (the "Purchase Price"), payable in case by Buyer.

4. Evidence of Title.

(a) Within sixty (60) days after the date of this Agreement, Buyer may obtain (and if so, deliver copies thereof to Seller) a Survey (as hereinafter defined) and a commitment ("Commitment") issued by a Title company of its choice (the "Title Company") for the issuance of an owner's fee policy of title insurance (the "Policy"), which Commitment shall show title in Seller free and clear of all liens and encumbrances except" (i) those created by or to be assumed by Buyer; (ii) zoning ordinances; (iii) general and special real estate taxes and assessments that are a lien on the date of Closing, but are not yet due and payable; (iv) legal highways; and (v) covenants, conditions, restrictions, agreements and easements of record that do not unreasonably interfere with the reasonable use of the Property. As used herein "Survey" means a plat of survey of the Property in form and of substance reasonably acceptable to Buyer prepared by a reputable surveyor or surveying firm, licensed by the state in which the Property is located, at the Seller's expense.

(b) Buyer shall have until the latter of (i) fifteen (15) days after receipt of the Commitment and the Survey or (ii) expiration of the Inspection Period (as hereinafter defined) (the "Title Review Period"), to advise Seller if Buyer either accepts the condition of title as stated therein or that the condition of title is unacceptable to Buyer. Buyer hereby acknowledges that the exceptions to title set forth in subsection (i) through (v) above shall not render title unacceptable. If Buyer notifies Seller that the condition of title is unacceptable, Seller shall have thirty (30) days to attempt to cure such defects. If said thirty (30) day period extends beyond the Closing Date (as hereinafter defined), the Closing Date shall be postponed to permit Seller a reasonable time within which to affect a cure of such defect. If Seller fails to cure such defects, then Buyer may elect either to terminate this Agreement without further liability of the parties hereunder or Buyer may accept such title as Seller is able to convey. If Buyer notifies Seller that title to the Property is acceptable or fails to notify Seller of any defects in title before the expiration of the Title Review Period, then Buyer shall be conclusively presumed to have waived such defects, provided those defects were stated in the Commitment, and Buyer will be presumed to have approved the condition of title and shall accept such title at Closing. Buyer shall not be presumed to waive any defects not stated in the Commitment.

(c) Seller hereby covenants that at Closing there shall have been no change in the condition of title as previously approved by Buyer.

(d) If defects in title not previously waived by Buyer, insured over or cured by Seller appear at Closing, and said defects have not been caused by Buyer, its agents, employees or contractors, Buyer may adjourn the Closing Date for a period of thirty (30) days to allow Seller to remedy the defects or waive such defects and accept conveyance of the Property. If Closing is adjourned and the defect or defects in title are not corrected within thirty (30) days, then Buyer may elect to take title as it is or may terminate this Agreement, in which event Buyer shall be entitled to the return of all monies paid hereunder, and this Agreement shall be of no further force and effect.

(e) After Closing, Buyer shall obtain the Policy, assuring that title to the Property is in the condition required by this Agreement. Buyer and Seller shall share equally the cost of the Commitment and the Policy.

5. Deed. Seller shall convey to Buyer marketable title to the Property in fee simple by transferable and recordable general warranty deed, free and clear of all liens and encumbrances except those set forth in Section 4.

6. Taxes, Assessments and Other Closing Costs. Seller shall be solely responsible for paying, and shall release and hold harmless Buyer from, any current (as of the date of Closing and thereafter) or delinquent taxes, including fees for recording the deed, real estate transfer taxes and conveyance fees, and any penalties and interest, and Buyer shall have no responsibility or liability for any such taxes or fees.

7. Inspection; Review. From and after the date of this Agreement and until the end of the Option Period or the termination of the Option, Buyer or its nominee, shall have full access to the Property for the purpose of making, at Buyer's sole cost and expense, surveys, soil tests, inspections and other investigations of the Property, described in Exhibit B, attached hereto and incorporated herein by reference. Buyer shall not damage the Property in any material respect during any inspection or other investigation done in accordance with this section. Seller shall cooperate with Buyer in its due diligence but shall not be obligated to incur any liability or expense in connection therewith.

8. Representations and Warranties of Seller. Seller represents and warrants to Buyer as follows:

(a) Seller is an Individual in good standing under the laws of the State of Ohio and is duly authorized and qualified to do all things required under this Agreement. Seller has full capacity and authority to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement and all agreements, instruments and documents necessary or desirable to consummate the transactions contemplated hereby to be executed by Seller are, and on the Closing Date will be, duly authorized, executed and delivered by, and binding upon, Seller.

(b) Seller has obtained all consents and permissions relating to the transactions contemplated hereby and required under any covenant, agreement, encumbrance, law or regulation to transfer title as set forth in this Agreement and to perform its obligations hereunder.

(c) Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will constitute a default under any term or provision of any agreement to which Seller is a party.

(d) The provisions of this Section 8 shall survive Closing.

9. Representations and Warranties of Buyer. Buyer represents and warrants to Seller as follows:

(a) Buyer is an Ohio municipality and is duly authorized to do all things required of it under this Agreement. Buyer has full capacity and authority to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement and all agreements, instruments and documents necessary or desirable to consummate the transactions contemplated hereby to be executed by Buyer are, and on the Closing Date will be, duly authorized, executed and delivered by, and binding upon Buyer, provided the City Commission has approved the necessary legislation.

(b) Buyer has obtained all consent and permissions relating to the transactions contemplated hereby and required under any covenant, agreement, encumbrance, law or regulation to acquire title as set forth in this Agreement and to perform its obligations hereunder.

(c) Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will constitute a default under any term or provision of any agreement to which Buyer is a party.

(d) Provisions of this Section 9 shall survive Closing.

10. Real Estate Commission. Buyer and Seller warrant and represent to each other that any services of a real estate licensee, agent or broker in connection with the purchase and sale of the Property, are of their own free will and doing and no broker's commission, finder's fee or other like charges are or shall be payable with respect to the transactions contemplated hereby. Each party hereby agrees to bear any costs associated with such fees that stem from their own activities. The provisions of this Section 10 shall survive Closing.

11. Closing. If Buyer exercises the Option in accordance with this Agreement, the consummation of the transaction contemplated by this Agreement (the "Closing") shall be completed when the parties have exchanged all documents

and funds required herein to be exchanged, and all conditions precedent set forth herein have been satisfied (the "Closing Date"). In no event shall the Closing Date occur later than forty-five (45) days after Seller shall receive the Option Notice from Buyer.

## 12. Instruments of Conveyance.

(a) Seller shall provide Buyer, on or prior to the Closing Date, the following fully executed documents:

(i) the deed, conveying title to the Property to Buyer;

(ii) a certificate in the form of Exhibit B, annexed hereto and incorporated herein by reference, as to the non-foreign status of Seller.

(iii) a certificate, in form reasonably satisfactory to Buyer ("Seller's Certificate"), dated as of the Closing Date and duly executed by Seller, stating that there is no default under the covenants, representations and warranties of Seller contained in this Agreement and, in addition, that all such representations and warranties are true and without exception as of the Closing Date as if made on and as of the Closing Date;

(iv) counterpart closing statements; and

(v) such other documents as are reasonably necessary for the Title Company to insure in Buyer fee simple title to the Property.

(b) Buyer shall provide Seller the following fully executed documents and funds on or prior to the Closing Date:

(i) the Purchase Price, subject to the closing adjustments contemplated hereby;

(ii) a certificate, in form reasonably satisfactory to Seller ("Buyer's Certificate"), dated as of the Closing Date and duly executed by Buyer, stating that there is no default under the covenants, representations and warranties of Buyer contained in this Agreement and, in addition, that all such representations and warranties are true and correct without exception as of the Closing Date as if made on and as of the Closing Date;

(iv) counterpart closing statements; and

(v) such other documents as are reasonably necessary for the Title Company to insure in Buyer fee simple title to the Property.

13. Conditions Precedent to Closing

(a) Buyer's obligations to perform hereunder are expressly contingent and conditional upon satisfaction of the following:

(i) the Title Company shall, at Closing, be ready, willing and able to issue to Buyer the Policy for the Property, insuring fee simple title to the Property in Buyer, subject, however, to the condition of title described in Section 4 hereof;

(ii) Seller shall have provided Buyer all documents required of Seller to be delivered hereunder; and

(iii) the representations and warranties of Seller set forth in Section 8 shall be true and correct as of the Closing Date.

(b) Seller's obligations to perform hereunder are expressly contingent and conditional upon satisfaction of the following:

(i) Buyer shall have provided Seller all funds required hereunder; and

(ii) the representations and warranties of Buyer contained in Section 9 shall be true and correct as of the Closing Date.

(c) The parties acknowledge that the conditions precedent set forth in subsection 13(a) above are for the benefit of Buyer and that the conditions precedent set forth in subsection 13(b) above are for the benefit of Seller. Unless otherwise specifically set forth herein, the date by which the conditions precedent must be satisfied shall be the Closing Date.

(d) In the event that any of the conditions precedent set forth in subsections 13(a) or 13(b) above are not satisfied on or before the Closing Date, the party for whose benefit the condition precedent exists shall have the right to terminate this Agreement by written notice of termination given to the other party within ten (10) days after the date by which the condition must be satisfied, in which event all documents and funds previously exchanged shall be returned to the party so providing same; provided however, that the party for whose benefit the condition precedent exists shall have the right to waive satisfaction thereof, in which event this Agreement shall proceed to Closing as otherwise provided herein.

14. Notices. All notices and demand required or permitted by either party under this Agreement shall be served upon the other party by personal delivery, by registered or certified United States Mail, postage prepaid, return receipt requested, or by nationally recognized overnight courier (such as Federal

Express or UPS), addressed to the respective parties at their respective addresses set forth below:

To Seller:           Darren J. Blanton  
                          505 Second Street  
                          Piqua, OH 4535

To Buyer:            The City of Piqua  
                          201 W. Water St.  
                          Piqua, OH 45356  
                          Attention: William Murphy  
                          Development Office

Delivery shall be deemed complete on the earlier of actual receipt if personally delivered two (2) postal delivery days after mailing or one (1) business day after deposit with an overnight courier. The addresses to which notices and demand shall be delivered or sent may be changed from time to time, by notice served as hereinabove provided by either party upon the other party.

15. Time of Essence. Time is of the essence hereof.

16. Damage or Eminent Domain. In the event of damage to or destruction of all or any part of the Property ("Damage"), or in the event of a taking of all or a portion of the Property in eminent domain proceedings, a sale in lieu thereof, or the threat thereof ("Taking"), prior to the Closing Date, the purchase and sale transaction contemplated hereby shall continue unaffected and on the Closing Date, Seller shall pay to Buyer, without diminution or offset, any insurance proceeds paid as a result of a Damage, less all expenses incurred by Seller in connection therewith, and any award or sale price paid as a result of a Taking, less all expenses incurred by Seller in connection therewith or, if applicable, Seller shall assign and transfer to Buyer the right to receive the same subject to Buyer's obligation to pay to Seller the expenses incurred by Seller in connection therewith.

17. Default

(a) If Buyer defaults under this Agreement, Seller shall have the right to pursue any remedy available at law or in equity as a result of such default including, without limitation, the right to recover damages against Buyer for Buyer's default.

(b) In the event that Seller fails to consummate this Agreement for any reason other than Buyer's default, Buyer shall be entitled to enforce specific performance of Seller's obligation to execute the documents required to convey the Property to Buyer, it being understood and agreed that the

remedy of specific performance shall not be available to enforce any other obligation of Seller hereunder.

18. Governing Law. The parties hereto expressly agree that the terms and conditions of this Agreement, and the subsequent performance hereunder, shall be construed and controlled in accordance with the laws of the State of Ohio. The Miami County Court of Common Pleas shall be the proper forum for bringing an action to enforce or construe the provisions of this Agreement. If any provision of this Agreement is deemed invalid, such invalidity shall in no way affect the validity of the remainder of this Agreement.

19. Entire Agreement. This Agreement contains the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings of the parties with respect to the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof are merged herein. This Agreement may not be amended or modified except in writing signed by both parties hereto.

20. Ohio EPA Targeted Brownfield Assessment Application. Seller acknowledges that certain assistance will be sought under the Ohio EPA Targeted Brownfield Assessment program in connection with the sale of the Property to Buyer, and Seller hereby agrees that it shall exercise commercially reasonable efforts to provide to Buyer, or its nominee, in a timely manner, any information and documentation reasonably requested of Seller to facilitate the completion of the environmental assessment.

21. Assignment. This Agreement may be assigned by Buyer to any entity or individual that Buyer shall so designate. Seller may not assign this Agreement and any attempted assignment by Seller shall be void *ab initio*.

22. Sections Headings. All section headings and other titles and captions herein are for convenience only, do not form a substantive part of this Agreement and shall not restrict or enlarge any substantive provisions hereof.

23. Authority. The person executing this Agreement on behalf of each of the parties hereto warrants and represents to the other party that such person is duly authorized to execute this Agreement on behalf of such party, and that the execution hereof by such person on behalf of such party shall fully bind and obligate such party.

24. Pronouns. All pronouns and variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

25. Successors and Assigns. Subject to the provisions of Section 21 hereof, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

26. Recording of Memorandum. Buyer and Seller hereby agree to execute a Memorandum of Option Agreement substantially in the form attached hereto as Exhibit C and record the same in the Recorder of Deeds Office for Miami County, Ohio.

27. Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in providing this Agreement.

28. Further Assurances. Each party agrees that it will, without further consideration, execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. Without limiting the generality of the foregoing, Buyer shall, if requested by Seller, execute acknowledgments of receipt with respect to any materials delivered by Seller to Buyer with respect to the Property. The provisions of this Section 28 shall survive Closing.

29. As-Is Sale.

(a) Except for Seller's warranties of title in the deed delivered at the Closing and the representations set forth in Section 8 (the "Seller Warranties"), Seller hereby specifically disclaims any warranty (oral or written) concerning the Property, including but not limited to:

(i) the nature and condition of the Property and the suitability thereof for any and all activities and uses that Buyer elects to conduct thereon;

(ii) the manner, construction, condition and state of repair or lack of repair of the Property;

(iii) environmental conditions, including without limitation anything revealed by Buyer's inspection pursuant to Section 7;

(iv) the compliance of the Property or its operation with any laws, rules, ordinances or regulations of any government or other body; and

(v) any other matter.

Except for the Seller Warranties, the sale of the property as provided for herein is made on a strictly "as is" "where is" basis with all faults, latent and

patent, as of the closing date, and seller makes no warranty or representation, express or implied, or arising by operation of law, including, but in no way limited to, any warranty of quantity, quality, condition, habitability, merchantability, suitability or fitness for a particular purpose of the property, any improvements located thereon or any soil conditions related thereto or absence of defects or faults, absence of hazardous or toxic substances or petroleum, flooding, or compliance with laws and regulations (including, but in no way limited to, those relating to health, safety, and the environment).

(b) Buyer specifically acknowledges that Buyer is not relying on (and Seller hereby disclaims and renounces) any representations or warranties made by or on behalf of Seller of any kind or nature whatsoever, except for the Seller Warranties.

30. Release of Seller. If Buyer exercises the Option, Buyer shall take the Property subject to any and all environmental conditions and other information revealed by Buyer's inspection. In addition, upon exercise of the Option, Buyer releases Seller from any and all costs, losses, claims, liabilities, causes of action, and damages relating to or arising from any environmental or other condition of the Property, whether latent or patent and whether known at the time of exercising the Option or arising subsequently, except that Seller shall reimburse Buyer for any clean-up costs that may be negotiated. This release shall survive Closing.

31. Access to Property. Upon execution of this Option, Seller acknowledges and consents that Buyer and its representatives shall have the right and permission to enter upon the property to inspect the same and to conduct tests thereon or such other work as may be necessary to participate in the Ohio EPA Targeted Brownfield Assessment program; provided that, any such entry, inspection test or other work shall be at Buyer's sole risk. Buyer and its agents are permitted to have immediate and full access to the property for the purposes of conducting a due diligence for any and all parts of the programs identified herein.

32. Security. Given the disposition and hazards involved with the site, Seller acknowledges that security is a primary issue. Seller shall maintain fencing or adequate security around the premises during the period of this Agreement at Seller's expense.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.

SELLER:

DARREN J. BLANTON

By: Darren J Blanton  
Darren J. Blanton

Print Name: DARREN J BLANTON

Title: owner

BUYER:

CITY OF PIQUA, OHIO

[Signature]  
Gary A. Huff, City Manager

APPROVED AS TO FORM  
AND CORRECTNESS:

Stacy M. Wall  
City Law Director

## EXHIBIT 'A'

Situate in the State of Ohio. County of Miami, and City of Piqua, and more particularly described as follows:

Being part of Inlot No. Forty-four (44) and more particularly described as follows: Beginning at the Northeast corner of Inlot 44 and on the west line of Main Street; thence South 89 deg. 54' 20" West, with the North line of Inlot 44, a distance of 116 feet to a chisled cross set in concrete; thence due South a distance of 42.32 feet to an iron pin; thence North 89 deg. 52' 00" East, a distance of 117.24 feet to a point on the east line of Inlot 44 and the west line of Main Street; thence due North a distance of 42.24 feet to the place of beginning. Survey Referenced: Survey by Richard W. Anders, Professional Surveyor No. 5850, filed in Volume 17, Plat 4]. Miami County Engineer's Record of Lot Surveys.

## EXHIBIT 'B'

### Site Access Agreement

This Agreement is made and entered into by and between City of Piqua and Darren Blanton to provide City of Piqua with access to the property located at 102 South Main Street, Piqua, Ohio 45356 ("the property") to perform any and all activities specified in City of Piqua's application for targeted brownfield assessment work from Ohio Environmental Protection Agency (Ohio EPA).

#### I. Background Information

- A. City of Piqua will file an application for a targeted brownfield assessment, for which Ohio EPA would perform environmental assessment activities at the property.
- B. As one of the conditions of receiving targeted brownfield assessment work from Ohio EPA, City of Piqua must demonstrate that it can access the property to perform the activities specified in the application.
- C. City of Piqua and Darren Blanton wish to enter into an agreement to allow City of Piqua sufficient access to the property to perform the activities specified in City of Piqua's application for targeted brownfield assessment work.

#### II. Statement of the Agreement

NOW, THEREFORE, in consideration of the mutual covenants contained herein, City of Piqua and Darren Blanton agree as follows:

- A. [Subject to the restrictions set forth in Section II(B) and (C) of this Agreement]<sup>1</sup> Darren Blanton hereby gives City of Piqua and City of Piqua's agents, representatives, or subcontractors permission to access the property to conduct any and all activities specified in City of Piqua's application for targeted brownfield assessment work.<sup>2</sup>
- B. [reasonable advance notice requirement]<sup>1</sup>
- C. [reasonable limitation in the hours during which activities can be conducted]<sup>1</sup>
- D. [Despite those restrictions specified in Sections II(B) and (C) of this Agreement, Darren Blanton shall make reasonable efforts to ensure that access to the property is provided to City of Piqua and Ohio EPA such that Ohio EPA can perform all activities specified in City of Piqua's application for targeted brownfield assessment work from Ohio EPA.]<sup>1</sup>
- E. [clause dealing with liability for injury sustained while on the property]
- F. [clause dealing with liability for damage to the property and/or liability for damages caused as a result of applicant's negligent acts while conducting activities on the property .. ex: Darren Blanton assumes no liability for any actions taken by City of Piqua while conducting activities on the property pursuant to this Agreement.]
- G. Upon completion of the activities specified in City of Piqua's application for targeted brownfield assessment work, City of Piqua agrees to restore the property as near as practicable to its condition immediately prior to the commencement of such activities.
- H. This Agreement is intended to provide City of Piqua with access to the property only, and shall not be construed to provide City of Piqua with any other rights with respect to the property.

The parties have hereto caused this Agreement to be executed by their respective officers thereunto duly authorized on the day and year set forth below.

City of Piqua

By:

Title: Gary Huff, City Manager

Date: 11-13-12

Darren Blanton

By: Darren Blanton

Date: 11/9/12

<sup>1</sup> This provision is optional.

<sup>2</sup> In lieu of referring to the application, the parties to the agreement may wish to specifically list those activities specified within the application for targeted brownfield assessment work.

**RESOLUTION NO. R-128-13**

**A RESOLUTION AUTHORIZING THE CITY  
MANAGER TO ENTER INTO THE LPA FEDERAL  
LOCAL-LET PROJECT AGREEMENT WITH THE  
OHIO DEPARTMENT OF TRANSPORTATION  
(ODOT) FOR THE SAFE ROUTES TO SCHOOL  
(SRTS) NON-INFRASTRUCTURE PROGRAM**

WHEREAS, the National Transportation Act has made available certain Federal funding for use by local public agencies; and

WHEREAS, the City of Piqua has been awarded a portion of this funding through the Ohio Department of Transportation for the non-infrastructure improvement program in the City of Piqua as a part of the Safe Routes to School Program; and

WHEREAS, the Federal Highway Administration (FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs; and

WHEREAS, the City of Piqua and ODOT desire to enter into a Local Let Project Agreement regarding the MIA-SRTS Piqua Non-Infrastructure, PID 93736 Project; substantially in the form of Exhibit A attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The City Manager is hereby authorized to execute the MIA-SRTS Piqua Non-Infrastructure LPA Federal Local-Let Project Agreement substantially in the form attached hereto as Exhibit A and all documents, instruments and agreements contemplated thereby and to execute such amendments to the MIA-SRTS Piqua Non-Infrastructure LPA Federal Local-Let Project Agreement from time to time as contemplated by such Agreement.

SEC 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION



# Commission Agenda Staff Report

<b>MEETING DATE</b>	September 26, 2013		
<b>REPORT TITLE</b> (Should match resolution/ordinance title)	A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO THE LPA FEDERAL LOCAL-LET PROJECT AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE SAFE ROUTES TO SCHOOL (SRTS) INFRASTRUCTURE PROJECTS.		
<b>SUBMITTED BY</b>	Name & Title: Chris Schmiesing, City Planner		
	Department: Engineering		
<b>AGENDA CLASSIFICATION</b>	<input type="checkbox"/> Consent	<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Regular
<b>APPROVALS/REVIEWS</b>	<input checked="" type="checkbox"/> City Manager		<input type="checkbox"/> Asst. City Manager/Finance
	<input type="checkbox"/> Asst. City Manager/Development		<input type="checkbox"/> Law Director
	<input type="checkbox"/> Department Director		<input type="checkbox"/> Other:
<b>BACKGROUND</b> (Includes description, background, and justification)	In May of 2012, the City was notified of our award of a Safe Routes to School (SRTS) grant for the implementation of non-infrastructure programs. The projects will consist of working with Piqua City Schools and students and parents to conduct programming that will teach and encourage students to walk or bike safely to and from school.		
<b>BUDGETING AND FINANCIAL IMPACT</b> (Includes project costs and funding sources)	Budgeted \$:	N/A for this Legislation	
	Expenditure \$:	N/A for this Legislation	
	Source of Funds:	SRTS Federal Funding	
	<b>Narrative</b>	The total cost for the project is estimated to be \$37,000. ODOT will provide to the City 100% of the eligible costs, up to a maximum of \$37,000 in Federal funds.	
<b>OPTIONS</b> (Include Deny /Approval Option)	1.	Approve the resolution to enter into an agreement with ODOT.	
	2.	Deny the resolution and do not proceed with the program.	
<b>PROJECT TIMELINE</b>	The intent is to implement the programming during the 2013/2014 school year.		
<b>STAFF RECOMMENDATION</b>	Approve the resolution.		
<b>ATTACHMENTS</b>	LPA Federal Local-Let Project Agreement (Exhibit A)		

**CFDA 20.205**

## **SAFE ROUTES TO SCHOOLS PROGRAM AGREEMENT**

**THIS AGREEMENT** is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the City of Piqua, Ohio, hereinafter referred to as the Grantee, 201 West Water Street, Piqua, OH 45356.

### **1. PURPOSE**

- 1.1 The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) establishes the Safe Routes to School Program and provides federal funding to be used, in part, for noninfrastructure-related activities to encourage walking and bicycling to school. Funds apportioned to Ohio are administered by ODOT to provide financial assistance to state, local, and regional agencies, including nonprofit organizations that demonstrate an ability to meet program requirements.
- 1.2 Section 5501.03 (A)(3) of the Ohio Revised Code provides that ODOT may coordinate its activities with other appropriate authorities, and enter into contracts with such authorities to carry out its duties, powers and functions, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 Federal funding is provided to the Grantee for *Providing programs and events such as a Bicycle Rodeo, targeted enforcement campaigns, health and safety awareness, walking school bus and parent/student committees and provide portable bike racks.*, hereinafter referred to as the PROJECT.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the administration of the PROJECT.

### **2. LEGAL REFERENCES**

- 2.1 The Grantee shall comply with all applicable Federal and state laws, regulations, executive orders, and applicable ODOT manuals and guidelines.

### **3. FUNDING**

- 3.1 The total cost for the PROJECT is estimated to be \$37,000.00. ODOT shall provide to the Grantee 100 percent of the eligible costs, up to a maximum of \$37,000.00 in Federal funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager.
- 3.2 The Grantee shall provide all other financial resources necessary to fully complete the PROJECT, including all cost overruns.
- 3.3 The Agreement operates on a reimbursement basis only. The costs must first be incurred by the Grantee. Costs claimed for reimbursement are to be true costs incurred in executing the

PROJECT and to be eligible, allowable, allocable, reasonable, necessary, and consistent. Final determination of cost eligibility shall rest with ODOT.

- 3.4 Invoices for reimbursement may be submitted on a quarterly basis, unless other arrangements have been agreed upon by the parties. All invoices must include detailed expenditures and documentation as required by ODOT.
- 3.5 All invoices shall be paid within thirty (30) days following receipt. If any invoice is not acceptable, the time for prompt payment is suspended. ODOT will either promptly provide the Grantee with a clear statement regarding any specific cost in eligibility, or inform the Grantee of any invoice deficiencies that must be eliminated prior to acceptance, processing, or payment by ODOT. If notification is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.
- 3.6 Within thirty (30) days after completion of all work under this Agreement, the Grantee shall submit to ODOT a detailed final bill, based on work order accounting covering the actual costs of work performed, and showing where accounts may be audited.

#### 4. DEFAULT

- 4.1 Neglect or failure of the Grantee to comply with any of the terms, provisions or conditions of this Agreement entered into between ODOT and the Grantee or failure of any representation made to ODOT in connection with any Grant Agreement by the Grantee to be true shall be an event of default, provided that if by reason of force majeure the Grantee is unable in whole or in part to carry out its covenants contained herein, the Grantee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, Acts of God, strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State or any of their political subdivisions or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; partial or entire failure of utilities; or any other cause not reasonably in the control of the Grantee. The Grantee shall however, remedy with all reasonable dispatch each cause preventing the Grantee from carrying out its covenants contained herein.
- 4.2 No remedy herein conferred upon or reversed by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing as law or in equity.
- 4.3 No delay or omission to exercise any right or option accruing to ODOT upon any default by the Grantee shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

#### 5. FEDERAL COMPLIANCE

- 5.1 The Grantee shall fully comply with all federal, state, and local laws, regulations, executive orders, and other legal requirements as they apply to the performance of this Agreement.
- 5.2 All limits or standards set forth in this Agreement are minimum requirements. If there is a conflict among federal, state, or local requirements, the Grantee shall inform ODOT in writing so that a resolution may be arranged, if possible.
- 5.3 EQUAL EMPLOYMENT OPPORTUNITY:

(a) In connection with the carrying out of the Project, the Grantee shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, or national origin. The Grantee shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee shall insert the foregoing provision, modified only to show the particular contractual relationship, in all of its contracts in connection with the development or operation of the Project, except contracts for standard commercial supplies or raw materials, and shall require all contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

(b) If, as a condition of assistance, the Grantee has submitted, and the federal government has approved, an equal employment opportunity program that the Grantee agrees to carry out, such program is incorporated into this Agreement by reference. Such program shall be treated as a contractual obligation; and failure to carry out the terms of that equal employment opportunity program shall be treated as violation of this Contract. Upon notification to the Grantee of its failure to carry out the approved program, US DOT will impose such remedies as it may deem appropriate which remedies may include termination of this Contract.

5.5 No facilities or equipment shall be acquired, constructed, or improved as a part of the Project unless the Grantee obtains satisfactory assurances that they are (or will be) designed and equipped to limit air pollution in accordance with applicable Federal and State standards.

## 6. GENERAL PROVISIONS

6.1 Ohio Ethics Law: Grantee agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

Ohio Election Law: Grantee affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.

6.2 If any term, provision or condition contained in this Agreement is breached by either the Grantee or ODOT and thereafter such breach is waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

6.3 If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or enforceability of the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.

6.4 In no event shall the Grantee or any of its employees, agents, contractors, subcontractors be considered agents or employees of ODOT, the State or US DOT.

6.5 ODOT shall not be subject to any obligations or liabilities of the Grantee or its subcontractors or any other person not a party to this Agreement in connection with the performance of this Project without their express, written consent and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.

6.6 Each party agrees to be responsible for any personal injury or property damage caused solely by its own negligent acts or omissions as determined by a court of competent jurisdiction or as the parties may otherwise mutually agree.

- 6.7 Grantee shall not assign or subcontract, in whole or in part, or otherwise dispose of this Agreement without the prior written consent of ODOT and such written consent shall not release the Grantee from any obligations of this Agreement.
- 6.8 Grantee covenants and agrees to indemnify and hold ODOT, the State, and their agents harmless against any and all loss, claim, cause of action, damages, liability (including, with limitation, strict or absolute liability in tort or by statute imposed), charge cost or expense (including, without limitation, counsel fees to the extent permitted by law) caused by the Grantee's negligent, intentional, willful or wanton actions or inactions, including such actions or the failure to act of any subcontractors or other employees hired by the Grantee under this Agreement.
- 6.9 In the event of a dispute in the interpretation of the provisions of this Agreement, such dispute shall be settled through negotiation between ODOT and the Grantee. If no agreement can be reached, the dispute will be referred for resolution to the Director.
- 6.10 Grantee shall avail itself of all legal and equitable remedies with respect to any third party contract which relates to the Project and shall notify ODOT of any current or prospective litigation pertaining to any such third party contract.
- 6.11 The section captions in this Agreement are for the convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement of any part hereof and shall not be considered in any construction hereof.
- 6.12 Grantee agrees to comply with all applicable state and federal law regarding a drug-free workplace. Grantee shall make a good faith effort to ensure that its employees will not purchase, transfer, use, or possess illegal drugs, or abuse prescription drugs in any way.
- 6.13 This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the Grantee hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 6.14 Notice under this Agreement shall be directed as follows:
- IF TO GRANTEE:  
Chris Schmiesing – City Planner  
City of Piqua, Ohio  
201 West Water Street  
Piqua, OH 45356  
Phone: 937-778-2049
- IF TO ODOT:  
Julie Walcoff  
1980 West Broad Street  
Columbus, OH 43223  
Phone: 614-466-3049  
Email: Julie.walcoff@dot.state.oh.us
- 6.15 This Grant and each of its provisions shall be binding upon the parties and may not be waived, modified, amended, or altered except by a writing signed by ODOT and the Grantee.

6.16 Any person executing this Grant in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Grant on such principal's behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

**GRANTEE:** \_\_\_\_\_

**STATE OF OHIO**  
**Ohio Department of Transportation**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Jerry Wray  
Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_