

Ordinance No. 7522

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH MANNIK AND SMITH GROUP FOR DETAILED ENGINEERING OF IMPROVEMENTS TO SOUTH CLINTON STREET

WHEREAS, Council employed a competitive process to select the Mannik & Smith Group as the firm best suited to design proposed improvements to State Route 111, South Clinton Street, that then included a proposal to lower the grade of the street to create greater vertical clearance between the pavement and the CSX Transportation viaduct and various safety improvements extending from the viaduct south to a point south of the Downs Street intersection; and,

WHEREAS, Preliminary engineering studies undertaken by the Mannik & Smith Group have determined that the project is unaffordable as originally conceived; and,

WHEREAS, CSX Transportation, Inc., has declined an invitation to contribute additional funds to enable the City to increase vertical clearance at the rail crossing; and,

WHEREAS, The Ohio Department of Transportation has agreed to participate in the construction of improvements south of the rail crossing to include, without limitation: widening of State Route 111 to facilitate left turn movements that presently impede traffic and contribute to an unacceptably high incidence of collisions, realignment of cross street intersections, and improved traffic signalization and has further agreed to increase the amount reserved for payment of the State's share of the cost of these improvements in light of current expectations that those costs will be higher than originally estimated; and,

WHEREAS, The Ohio Department of Transportation will require the City to pay 100% of engineering and right-of-way acquisition costs and 20% of construction costs, all of which are presently speculative but estimated to be \$640, 275 in addition to such sums as have heretofore been spent for preliminary engineering;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City Administrator is authorized to enter into such contracts or contractual addenda as may be appropriate to authorize Mannik & Smith Group to proceed with final design of the improvements to State Route 111 for which the Ohio Department of Transportation has pledged partial construction funding. The contractual arrangements authorized by this Section shall not commit the municipality to an expenditure of more than \$250,000 without prior approval of Council.

Section 2: The City Administrator is directed to notify the Ohio Department of Transportation that the City is proceeding to design and intends to construct the improvements to South Clinton Street enumerated in Section 1. The City Administrator is directed to inform the Ohio Department of Transportation and CSX Transportation, Inc., that the City will not proceed with proposals to lower the grade of South Clinton Street to improve vertical clearance at the grade separated rail crossing.

Section 3: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 4: This Ordinance shall be effective on the earliest date permitted by law.

Passed: August 6, 2013

Tim Holtsberry

President of Council

Attest: Tim Holtsberry, Acting Clerk

Approved: August 6, 2013

Bob Armstrong

Mayor

RESOLUTION No. 2449

A RESOLUTION DECLARING THE SERVICES TO BE PROVIDED TERRITORY PROPOSED FOR ANNEXATION, ESTABLISHING ZONING RESTRICTIONS PERTAINING THERETO AND DECLARING AN EMERGENCY

Whereas, On July 26, 2013, the City received notice of the filing of a Petition seeking the annexation of 4.165 acres located in the Northwest Quarter of Section 30, Richland Township, Defiance County, Ohio, and comprised of Lots 9 through 26 (inclusive) in Block No. 2 of the Enterprise Addition to East Defiance; and,

Whereas, Revised Code Section 709.03(D) requires Council to adopt a Resolution declaring the services to be provided territory proposed for annexation and to file the same with the Clerk of the Board of County Commissioners not later than the 20th day preceding the date on which the Board of County Commissioners is scheduled to conduct hearings on the Petition; and,

Whereas, The Board of County Commissioners has assigned the Petition for hearing on September 30, 2013;

Now therefore, be it resolved by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City of Defiance consents to approval of the aforesaid Petition by the Board of County Commissioners.

Section 2: Upon annexation, lands described by the Petition will be provided all customary general governmental services in the same manner and on the same terms and conditions as are applicable to the provision of like-kind services to other lands within the territorial boundaries of the municipality.

Section 3: The City will not extend water service to any lot or parcel of land within the annexation territory that is not connected to the municipal water distribution system on the effective date of this Resolution until such time as that land is annexed to the City. Uninterrupted water service will be provided to each lot and parcel within the annexation territory that is presently supplied with potable water drawn from municipal mains provided that all owners of the lot or parcel served are Petitioners for Annexation on the day following the last day on which an owner is permitted to remove his or her signature from the Petition pursuant to Ohio Revised Code §709.03(B)(2). Non-resident water service will be provided pursuant to this Section on the terms and conditions of service and at the rates established by general Ordinance for non-resident consumers purchasing like quantities for so long as the annexation proceeding is pending before the Board of County Commissioners, City Council or any Court. Non-resident water service will be suspended to any lot or parcel within the annexation territory that is owned, in whole or in part, by a person that is not a Petitioner for Annexation on the aforesaid date and will not be reinstated until such time as the land is annexed to the City.

Section 4: Upon annexation, each lot or parcel of land within the annexation territory that is then connected to the municipal distribution system will be supplied with potable water on the terms and conditions of service and at the rates established by general Ordinance for in-city consumers purchasing like quantities. As to each lot and parcel, the rate change will take effect on the first day of the first billing cycle beginning after completion of the annexation proceedings.

Section 5: Upon annexation, each lot or parcel of land within the annexation territory that is not then connected to the municipal distribution system will be supplied with potable water on the terms and conditions of service and at the rates established by general Ordinance for in-city consumers purchasing like quantities upon the consumer's installation of a supply line and all necessary connections in conformity with general regulations and at the consumer's expense.

Section 6: Upon annexation, each lot or parcel of land within the annexation territory that is then connected to a municipal sewer will be furnished wastewater collection, treatment and disposal services at rates established by general Ordinance for in-city consumers discharging like-kind wastes to public facilities. As to each lot and parcel, the rate change will take effect on the first day of the first billing cycle beginning after completion of the annexation proceedings. Any lot or parcel of land within the annexation territory that is not then connected to the municipal sewage system will be denied wastewater collection, treatment and disposal services until such time as an accessible collection main is installed and all necessary connections to that facility are made in conformity with general

regulations and at the consumer's expense. The cost to install public sewers and drainage facilities will be subject to assessment in accordance with general law. Wastewater collection, treatment and disposal services will thereafter be furnished to such properties on the terms and conditions of service and at rates established by general Ordinance for in-city consumers discharging like-kind wastes to public facilities.

Section 7: Annexed properties supplied potable water pursuant to Section 4 or 5 of this Resolution will be subject to inspection to verify compliance with applicable regulations of the Ohio Basic Building Code, Ohio Residential Building Code, EPA Regulations, Ohio Fire Code, general Ordinances and other general laws pertaining to:

- (1) elimination of potential cross-connections between the municipal water distribution system and facilities supplying water from other sources;
- (2) collection and disposal of wastewater;
- (3) fire detection and suppression; and,
- (4) property maintenance.

Deficiencies shall be remedied at the property owner's expense within a reasonable period following inspection as determined in accordance with the applicable regulation. Commencement of services otherwise pledged by this Resolution may be postponed until such time as deficiencies are corrected.

Section 8: In the event land within the annexation territory is accorded a municipal zoning designation that permits the land to be used in a manner that is clearly incompatible with uses permitted by township zoning of adjacent lands, Council will provide for the establishment of a buffer conforming to the requirements of Ohio Revised Code Section 709.23(C) in the Ordinance establishing the municipal zoning district.

Section 9: It is found and determined that all legislative actions pertaining to the adoption of this Resolution and all deliberations that affected or influenced all such legislative acts, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 10: This Resolution is declared to be an emergency measure necessary to the preservation of the health, safety and welfare of the community for the reason that statutory law requires this Resolution to be filed with the Board of County Commissioners on or before September 10, 2013. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: August 6, 2013

Tim Holtsberry
President of Council

Votes Approving Adoption: 7

Votes Opposing Adoption: 0

Attest: Tim Holtsberry Acting Clerk

Approved: August 6, 2013

Bob Armstrong
Mayor