

Ordinance No. 7652

AN ORDINANCE AUTHORIZING THE ENGAGEMENT OF BECKETT & RAEDER, INC. TO PROVIDE LANDSCAPE ARCHITECTURE, TRAFFIC MANAGEMENT AND RELATED CONSULTING SERVICES

WHEREAS, the Defiance Development and Visitors' Bureau solicited proposals to provide consulting services and recommends engagement of Beckett & Raeder, Inc., to assist with the design of gateway improvements to be constructed at the U.S. 24-North Clinton Street interchange and development of a comprehensive master plan for expansion of Kingsbury Park;

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

Section 1: The City Administrator is authorized to award a contract to Beckett & Raeder, Inc. for performance of the landscape architecture, traffic management and related consulting services detailed in parts 1 (Highway 24 Gateway) and 3 (Kingsbury Park) of the proposal dated July 11, 2014, now on file in the office of the City Administrator and at the proposed lump sum cost of \$25,175.00.

Section 2: The City Finance Director is authorized to pay costs arising under the approved contract from appropriated Capital Improvement funds.

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 26 _____, 2014

Mike McCann _____
President of Council

Attest: Lisa Elders _____, Clerk

Approved: August 28 _____, 2014

Bob Armstrong _____
Mayor

ORDINANCE NO. 7653

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH MIDWEST CONTRACTING INC. AND DECLARING AN EMERGENCY

WHEREAS, 17,323 square feet of pervious concrete was installed within the sidewalks and between the sidewalks and curbs of streets improved as Phase I and Phase II of the downtown redevelopment program; and,

WHEREAS, the pervious concrete has proven to be an unsatisfactory material; and,

WHEREAS, negotiations between the project designer, product supplier, installation contractors and municipal officials have resulted in an agreement pursuant to which all failed and failing pervious concrete is to be removed and replaced at a discounted price in settlement of all claims and counterclaims that may exist among the parties;

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

Section 1: The City Administrator is authorized to award a contract to Midwest Contracting, Inc., to saw cut, remove and dispose of 17,323 square feet of pervious concrete and to replace the same with 4000 psi Class C colored concrete in the manner and in accordance with the specifications detailed in the proposal dated and received August 14, 2014, and now on file in the office of the City Engineer.

Section 2: The City Administrator is authorized to negotiate with Midwest Contracting, Inc. for the performance of additional services to embellish the installation by the incorporation of design elements to enhance the appearance of the flatwork and to execute such change orders to the authorized contract as may be appropriate to secure performance of such additional services upon the following conditions:

1. all design elements shall be approved by the Defiance Development and Visitors' Bureau prior to installation;
2. design features shall be installed by the employment of techniques and technologies that are in general use and generally accepted within the construction industry;
3. the aggregate cost of all approved change orders shall not exceed the price quoted to stamp and seal the work by the August 14, 2014 proposal and each change orders requiring the expenditure of \$1,000 or more shall be approved by majority vote of the Board of Control documented in the Board minutes.

Section 3: The City Finance Director is directed to pay costs arising under the contract authorized by Section 1 and any costs incurred by exercise of the authority conferred by Section 2 from appropriated Capital Improvement funds.

Section 4: 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 or in Executive Session duly convened in accordance with law.

Section 5: This Ordinance is declared to be an emergency measure necessary to preserve the safety and welfare of the community for the reason that further deterioration of pervious concrete surfaces is anticipated and threatens to create slip and trip hazards necessitating that the authorized work be promptly commenced to assure completion before the onset of winter weather conditions. 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 26, 2014

Mike McCann
President of Council

Votes in Favor of Adoption: 7

Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: August 26, 2014

Bob Armstrong
Mayor

Ordinance No. 7654

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH RK HYDRO-VAC, INC. TO SERVICE RAPID SAND FILTERS AT THE WATER TREATMENT WORKS

WHEREAS, The Water Treatment Works established a program to refurbish two rapid sand filters per year in calendar years 2012, 2013 and 2014; and,

WHEREAS, Bids were solicited to perform the work scheduled for 2014 and the \$46,837.00 proposal submitted by RK Hydro-Vac, Inc. was determined to be the lowest responsive bid; and,

WHEREAS, RK Hydro-Vac is a responsible bidder and satisfactorily performed like-kind services for the municipality in 2012 and 2013;

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

Section 1: The City Administrator is authorized to award a contract to RK Hydro-Vac, Inc. to remove the filter media from two rapid sand filters, clean and refurbish the evacuated filter tanks and replace the filter media on the terms and conditions of service and in accordance with the plans and materials specifications established by the accepted bid.

Section 2: The Finance Director is authorized to pay the bid price of the authorized contract and such contingent expenses as may be incurred in accordance with the terms of the solicitation from appropriated Capital Improvement Funds allocated to the Water Division by line 591-537-5-2-980-880 of the 2014 annual budget.

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 26, 2014

Mike McCann
President of Council

Attest: Lisa Elders, Clerk

Approved: August 28, 2014

Bob Armstrong
Mayor

Abstract of
City of Defiance, Ohio
Ordinance No. 7655

This is a summary of Ordinance No. 7655 enacted by the Council of the City of Defiance on August 26, 2014, providing for the issuance and sale of \$1,210,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of improving and expanding the municipal sanitary sewerage system by constructing and improving pump stations, force mains and sanitary sewers, together with all incidental work and related appurtenances thereto and acquiring any real estate or interests therein required therefor.

The bonds anticipated by the notes are to be dated the first day of the month in which the notes mature, and to bear interest at the estimated rate of 6% per year and to mature in 20 annual installments. The notes will bear interest at a rate not to exceed 4% per year, and will be dated the date of issuance and mature not later than 12 months from that date. The ordinance provides for sale of the notes to the original purchaser designated by the Finance Director in a certificate of award, at a purchase price of not less than par and authorizes the Finance Director to determine the principal amount of and interest rate (subject to the 4% maximum) on the notes. The ordinance provides for the manner of payment of the notes, their form and signing and the application of the proceeds, and provides assurances of the City relating to the federal income tax status of the interest on the notes. The ordinance also provides for the levy of a tax within the ten-mill limitation imposed by law on all the taxable property in the City while the notes are outstanding, and that the notes will be general obligations of the City, the full faith and credit and general property taxing power of which are pledged for the payment of principal and interest.

The complete text of the ordinance may be obtained or viewed at the office of the Clerk of Council. The ordinance was declared to be an emergency measure.

FISCAL OFFICER'S CERTIFICATE

To the Council of the City of Defiance, Ohio:

As fiscal officer of the City of Defiance, Ohio, I certify in connection with your proposed issue of \$1,210,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of improving and expanding the municipal sanitary sewerage system by constructing and improving pump stations, force mains and sanitary sewers, together with all incidental work and related appurtenances thereto and acquiring any real estate or interests therein required therefor (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is at least 30 years, the Bonds allocable to each class of property included in the improvement having a maximum maturity of at least 30 years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is October 5, 2030, which is 240 months from October 5, 2010, the date of issuance of the original notes issued for this purpose.

Dated: August 26, 2014

John Lehner
Finance Director
City of Defiance, Ohio

ORDINANCE NO. 7655

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$1,210,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING AND EXPANDING THE MUNICIPAL SANITARY SEWERAGE SYSTEM BY CONSTRUCTING AND IMPROVING PUMP STATIONS, FORCE MAINS AND SANITARY SEWERS, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 7188, enacted on September 7, 2010, there were issued \$1,500,000 of notes as part of a consolidated issue of \$6,150,000 Various Purpose Notes, Series 2010-2, in anticipation of bonds for the purpose stated in Section 1, which notes were retired at maturity, together with other funds available to the City, with the proceeds of \$1,425,000 Sanitary Sewerage System Improvement Notes, Series 2011, issued in anticipation of bonds pursuant to Ordinance No. 7300, enacted on September 6, 2011, which notes were retired at maturity, together with other funds available to the City, with the proceeds of \$1,350,000 Sanitary Sewerage System Improvement Notes, Series 2012-2, issued in anticipation of bonds pursuant to Ordinance No. 7246, enacted on September 11, 2012, which notes were retired at maturity, together with other funds available to the City, with the proceeds of \$1,275,000 Sanitary Sewerage System Improvement Notes, Series 2013-2 (the Outstanding Notes), issued in anticipation of bonds pursuant to Ordinance No. 7530, enacted on August 27, 2013, which Outstanding Notes mature on September 26, 2014; and

WHEREAS, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Notes described in Section 3 and other funds available to the City; and

WHEREAS, the Finance Director, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 30 years and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is October 5, 2030;

NOW, THEREFORE, BE it enacted by the Council of the Municipality of Defiance, that:

Section 1. Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$1,210,000 (the Bonds) for the purpose of paying costs of improving and expanding the municipal sanitary sewerage system by constructing and improving pump stations, force mains and sanitary sewers, together with all incidental work and related appurtenances thereto and acquiring any real estate or interests therein required therefor.

Section 2. Estimated Bond Terms. The Bonds shall be dated approximately September 1, 2015, shall bear interest at the now estimated rate of 6% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 20 annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first principal payment of the Bonds is estimated to be December 1, 2016.

Section 3. Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$1,210,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the City, the Outstanding Notes. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Finance Director may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date not later than one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is

provided for. The rate of interest on the Notes shall be determined by the Finance Director in the Certificate of Award.

Section 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank or at the designated corporate trust office or other office of a bank or trust company designated by the Finance Director, after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Finance Director if agreed to by the Finance Director and the Original Purchaser (as defined in Section 6) (the Paying Agent).

Section 5. Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Finance Director, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Finance Director in the Certificate of Award, provided that no Note shall be issued in a denomination less than \$100,000. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Finance Director will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Finance Director that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Finance Director and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Finance Director may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Finance Director does not or is unable to do so, the Finance Director, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its

nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Finance Director is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

Section 6. Award and Sale of the Notes. The Notes shall be sold at not less than par plus accrued interest to the original purchaser designated by the Finance Director in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Finance Director shall sign the Certificate of Award evidencing the sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the City Administrator, the Finance Director, the Law Director, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Finance Director is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Finance Director is authorized to (i) engage the services of a financial advisor and (ii) request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to engage a financial advisor and/or secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Finance Director is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year to the extent money from the City's sanitary sewerage system or other sources is available for the payment of the debt charges on the Notes and Bonds, and is appropriated for that purpose, the tax shall be reduced by the amount of money so available and appropriated.

Section 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended

(the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest on the Notes will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Finance Director, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation or treatment of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

Each covenant made in this section with respect to the Notes is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Notes from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this section to take with respect to the Notes.

Section 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Defiance County Auditor.

Section 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

Section 13 Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts.

That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services.

Section 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the enactment of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section 15. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 16. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to sell the Notes at the earliest possible date, which is necessary to enable the City to retire the Outstanding Notes and thereby preserve its credit; wherefore, this Ordinance shall be in full force and effect immediately upon its enactment and approval by the Mayor.

Enacted: August 26, 2014

Mike McCann
President of Council

Approved: August 26, 2014

Attest: Lisa Elders
Clerk of Council

Bob Armstrong
Mayor

Ordinance No. 7656

AN ORDINANCE ACCEPTING THE ANNEXATION OF 12.375 ACRES OF LAND LOCATED IN SECTION 18, RICHLAND TOWNSHIP, DEFIANCE COUNTY, OHIO

Whereas, Stykemain Enterprises, LLC filed a Petition seeking to annex 12.375 acres of land located in Section 18, Richland Township, Defiance County, Ohio, to the City of Defiance; and,

Whereas, By Resolution passed April 15, 2014, Council consented to allowance of the Petition by the Board of County Commissioners and declared the services to be provided the territory upon annexation; and,

Whereas, The Board of County Commissioners approved the Petition and the Clerk of Council has made the Transcript of Proceedings and related documents available for public inspection in the manner and for the time required by law; and,

Whereas, Council finds that acceptance of the territory is in the best interests of the municipality;

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

Section 1: The Petition of Stykemain Enterprises, LLC to annex 12.375 acres of land located in Section 18, Richland Township, Defiance County, Ohio, to the City of Defiance, as heretofore approved by the Board of County Commissioners of Defiance County, is approved and the territory therein described is accepted. All municipal officials are authorized to execute such plats and other documents as may be appropriate to conclude the proceedings.

Section 2: 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 3: This Ordinance shall be effective on the earliest date permitted by law.

Passed: August 26 _____, 2014

Mike McCann

President of Council

Attest: Lisa Elders _____, Clerk

Approved: August 28 _____, 2014

Bob Armstrong

Mayor

Ordinance No. 7657

AN ORDINANCE ACKNOWLEDGING, CONFIRMING AND RATIFYING THE VACATION OF AN ALLEY ADJACENT TO THE SOUTHERLY BOUNDARY OF LOT 14 AND NORTHERLY BOUNDARY OF LOT 15 IN AND OF THE ORIGINAL PLAT OF THE VILLAGE OF DEFIANCE

WHEREAS, the Original Plat of the Village (now City) of Defiance depicts a 10.56' wide alley between Lots 14 and 15; and,

WHEREAS, Recorded deeds dating to 1953 purport to transfer land described as "one-half (½) of the vacated alley on the southerly side of" Lot 14 of the Original Plat of the Village (now City) of Defiance; and,

WHEREAS, a recent search of the records maintained by the Defiance County Recorder failed to locate a vacation plat documenting the vacation of said alley by act of Council; and,

WHEREAS, the legislative records of City Council, as organized and maintained through the first half of the 20th century, cannot be efficiently searched to locate the Ordinance by which the alley vacation documented by the deed record was granted; and,

WHEREAS, there has been no public use, occupation or maintenance of the aforesaid alley in the past 60 years and any right or title the City may have in or to the platted right-of-way is subject to extinction by operation of Ohio Revised Code §2305.05; and,

WHEREAS, Council finds that:

- 1) the dedicated alley has been vacated by prior act of Council or operation of law;
- 2) the public interest has not and will not be harmed by the vacation; and,
- 3) it would not be in the public interest to commence or defend a legal action to determine ownership of the dedicated alleyway; and,

WHEREAS, the present owner of Lot 14 has caused a proper vacation plat to be prepared at no cost or expense to the City and agreed to pay all costs to be incurred to record the same;

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

Section 1: Council acknowledges the extinguishment of all public rights in and to lands dedicated for public use as an alley lying between Lots 14 and 15 of the Original Plat of the Village of Defiance, Ohio. Consent is hereby granted to the filing of a vacation plat confirming the extinguishment of public interests in the alley and all municipal officials are authorized to endorse such approvals to the vacation plat as may be necessary or appropriate to secure recording of the same.

Section 2: 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 3: This Ordinance shall be effective on the earliest date permitted by law.

Passed: August 26, 2014

Mike McCann
President of Council

Attest: Lisa Elders, Clerk

Approved: August 28, 2014

Bob Armstrong
Mayor