
MEMORANDUM

TO: Members of Council
FROM: Tanisha R. Briley, City Manager
DATE: April 14, 2017
RE: April 17, 2017

MEETINGS & REMINDERS

Monday, April 17	-	7:30 a.m.	-	Municipal Services Committee
	-	6:15 p.m.	-	Committee of the Whole
	-	7:30 p.m.	-	City Council

LEGISLATION

1. Evans Energy Agreement
2. Bond Ordinances
 - Police Vehicles
 - Streets
 - Public Works Vehicles
 - Police Equipment
 - City Hall Sidewalks
 - Fire Station Hoses and Nozzles
 - Ambulance
 - Fiscal Officer's Certificates are included for each
3. Planning Department fees
4. Rib Cage
5. Police cruisers

GENERAL INFORMATION

1. Enclosed are the Council Update and Agenda.
2. Enclosed is a Community Outreach update from the Vice City Manager.
3. Enclosed is an update from the Public Works Director.
4. Enclosed is an update from the Utilities Commissioner.
5. Enclosed is an update from the Planning Director.
6. Enclosed is an update from the Economic Development Director.
7. Enclosed is an update from the Parks and Recreation Director.
8. Enclosed is the weekly activity report from the Fire Chief.
9. Enclosed is the weekly activity report from the Police Chief.

TRB/jkw
Enclosures



COUNCIL UPDATE

April 14, 2017

1. LEGISLATION FOR MONDAY, APRIL 17, 2017

- Evans Energy Agreement. This resolution authorizes the City Manager to execute a Professional Energy Service Design-Build Agreement with Evans Energy.
- Certificate of Occupancy. This ordinance amends Chapter 1347, "Certificate of Occupancy," of the Codified Ordinances of Cleveland Heights by enacting a new subsection 1347.02(e).
- Bond Ordinances, *Second Readings.* There are seven pieces of legislation in relation to the general obligation bond issuance for the 2017 Capital Improvement Program.
 - An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$115,000 for the purpose of paying costs of acquiring motor vehicles for use by the City's Police Department
 - An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$255,000 for the purpose of paying costs of improving streets and roads in the City by reconstructing, grading, draining, paving and making other improvements as designated in the plans approved or to be approved by Council
 - An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$360,000 for the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Department of Public Works
 - An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$150,000 for the purpose of paying costs of acquiring equipment for use by the City's Police Department

- An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$65,000 for the purpose of paying costs of installing and improvement sidewalks at the City Hall Complex
- An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$75,000 for the purpose of paying costs of replacing fire hoses and nozzles at the City’s fire station facilities
- An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$355,000 for the purpose of paying costs of acquiring motor vehicles and related equipment for use by the City’s Fire Department in providing emergency medical services
- Police Vehicles. This resolution authorizes the City Manager to enter into an agreement with Lebanon Ford, for the purchase of three (3) new, 2017 Ford Utility Explorers for the Police Department through the Ohio Department of Administrative Services Cooperative Purchasing Program.
- Planning Department Fees, First Reading. This ordinance amends Subsection (a) of Section 1321.01, *Permit Required; Fee* of Chapter 1321, “Fences,” of the Codified Ordinances of Cleveland Heights to raise the fee for permits of commercial fences and to amend Ordinance No. 25-2009 to add certain fees for other procedures and services pertaining to the administration and enforcement of the Zoning Code.
 - Parking of Recreational Vehicle in a Residential District (annual) \$25.00
 - Garage a Truck (annual) \$25.00
 - Chicken Coop and Run \$50.00
- Rib Cage. This resolution authorizes the City Manager to enter into a lease agreement with RHHJ Productions LLC (dba Rib Cage) to add outdoor dining at 2214 Lee Road, Cleveland Heights.

2. 2016 CAPITAL IMPROVEMENT PROGRAM (CIP) - BOND SALE

- The enclosed chart detail the projects that will be included as part of the bond issuance noted above, grouped by ordinance number. Please note that there are two amounts listed. The actual amounts are the costs that are currently in the CIP. The “Not to exceed” amounts incorporate the cost of issuances (legal fees, underwriter fees, etc.) of the transaction. These amounts are conservative and in denominations of \$5,000.

3. NATIONAL RESOURCE NETWORK

- Severance:
 - The second update call was held with HR & A Advisors regarding the Network's technical assistance project to develop a strategy for the redevelopment of Severance Town Center. We covered reviewed the market analysis that will serve as the basis for strategy development. HR & A will also be working with the County Planning Commission to incorporate the underlying data and outcomes of the Master Plan in to the Severance project. The project remains on schedule for final delivery in early summer 2017.

- CDC
 - The HR & A team is also working with Enterprise Community Partners to assist them with the CDC feasibility project. HR & A has collected and analyzed area market data that will be useful to Enterprise in their work.

- Performance Measurement
 - We have recently leveraged yet another opportunity for additional technical through our relationship with the Network. One of the 120+ recommendations in the Strategic Operations Review is to develop and implement a comprehensive outcome based performance measurement system. Performance measurement provides an organization with numerical data used to evaluate the effectiveness and efficiency of its operations. The City has lacked internal capacity to develop this system and the Network has offered to assist us in this regard. Staff will be working with graduate students in New York University's Center for Urban Science + Progress to develop the foundation for a performance measurement system. The scope of the project is currently being developed. More details will be available in the next few weeks.

4. CHECKS BETWEEN \$10,000 - \$50,000

- Cargill, Inc. - \$40,518.04: Road Deicer Salt for 2016/2017 Winter Season
- The Illuminating Company - \$28,520.65: Electrical Usage for various accounts
- Home Repair Resource - \$13,690.00: Incentive Grant for 2367 N. Taylor, Deferred Loan for 3752 Lowell Rd and Down Payment Program for 2549 Edgehill Rd
- Lykins Oil Company - \$11,561.12: ECO Supreme Clear Diesel 15Ppm, #9 No Lead Gas w/Ethanol

City of Cleveland Heights							
Projects to be financed using the 2017 bond proceeds							
	Ordinance #31-2017	Ordinance #32-2017	Ordinance #33-2017	Ordinance #34-2017	Ordinance #35-2017	Ordinance #36-2017	Ordinance #37-2017
Police Vehicles (Project #118)	\$105,000						
Major Roads Engineering (Project #262)		\$238,900					
Capital Equipment Public Works (Project #123)			\$340,000				
Dash Cameras for Cruisers (Project #251)				\$60,000			
Portable Radio Replacement (Project #273)				\$82,500			
City Hall Improvements (Project #109)					\$60,000		
Replace Fire Hoses (Project #270)						\$65,000	
Heart Monitor/Defibrillator (Project #257)							\$90,000
Replacement Ambulance (Project #160)							\$250,000
Total	\$105,000	\$238,900	\$340,000	\$142,500	\$60,000	\$65,000	\$340,000
Useful Life	5 years	20 years	10 years				
Not to Exceed Amount	\$115,000	\$255,000	\$360,000	\$150,000	\$65,000	\$75,000	\$355,000
Funds for debt service to be repaid from (Not to Exceed Amount):							
Bond Retirement Fund	\$115,000	\$255,000	\$360,000	\$150,000	\$65,000	\$75,000	
Ambulance Fund							\$355,000
Fund Totals for Repayment (Not to Exceed Amounts):							
Bond Retirement Fund	\$1,020,000						
Ambulance Fund	\$355,000						
Maximum Amount Total	\$1,375,000						
Fund Totals for Repayment (Actual Amounts):							
Bond Retirement Fund	\$951,400						
Ambulance Fund	\$340,000						
Total	\$1,291,400						



CLEVELAND HEIGHTS

Committee of the Whole

April 17, 2017

Agenda

1. Mayor and City Council Updates
2. Staff Updates
3. Legislation Overview
4. Executive Session: To consider the terms of a lease of City-owned real property

TO: TANISHA R. BRILEY, CITY MANAGER

FROM: SUSANNA NIERMANN O'NEIL, ASSISTANT CITY MANAGER

RE: COMMUNITY OUTREACH UPDATE

DATE: APRIL 14, 2017

COMMUNITY RELATIONS:

- **Relocation packets were prepared for the Howard Hanna Shaker Heights and Pepper Pike offices.**
- **Community Relations does voter registration for new residents and change of address. The Board of Elections will pick up registrations on the first Tuesday of every month. Staff also does registration in the city booth at the Cain Park Arts Festival.**
- **Whitethorn residents met last week regarding behavior issues and housing. Information was referred to the appropriate staff and the Good Neighbor Guide was provided to residents.**

PUBLIC RELATIONS:

- **Cleveland Heights will have space in the new Team Neo/City Visitor Relocation guide. The City has traditionally been featured in the City Visitor Guide but this is a new venture teaming with Team Neo. The guide will be in print, online and in digital format. It will go out to over 100 businesses and personnel offices.**

SOCIAL MEDIA:

- **Facebook and the website featured: the Reaching Heights Spelling Bee ; the Main Street Coventry vote ; the list of residents who auditioned and are appearing in Music Man in Concert on August 5th and 6th ; a promotion about WOW and photographs of the Spring Egg Hunt.**
- **Website March page views:182,295 with a daily average of 2,025. The top sites are: Job postings; How to pay a bill and Refuse/Recycling information.**
- **The website is updated weekly regarding the construction on Noble Road and the ongoing Cedar Fairmount work being done with Dominion East Ohio.**
- **The Friday email blast is promoting the HRRC/City Home repair Fair on Saturday April 22nd at City Hall and the list of streets that are being done this year.(This list will also go on to the homepage).**



MEMORANDUM

TO: Tanisha Briley-City Manager
FROM: Alex Mannarino-Director of Public Works
DATE: April 14, 2017
RE: Weekly Update

Cedar Road Resurfacing/Cedar-Fairmount Streetscape

Perk has installed the intermediate course of asphalt from Taylor Road to Westminster Road. Crews are currently working on forming the new bus pads, and adjusting the height of the sewer catch basins. The utility companies will also be out to adjust the height of their respective manholes in the road.

Lee Road Streetscape

S.E.T.'s signing and striping contractor has been out trying to correct an issue with the street name sign at Kensington and Lee. There are also a few miscellaneous sign posts that were installed (but have no signs on them) which are to be removed.

The Illuminating Company had a contractor out this week repairing the sidewalk at the corner of Lee and Superior. The sidewalk was broken by their crane while trying to remove the utility pole at the corner.

Noble Road Resurfacing (Cuyahoga County Project)

Pavement Milling continued on the west side of the roadway. The paving crew was working on installing the intermediate course of asphalt on the west side of the roadway from Mayfield Rd. to Delmore Rd.

Construction Project Updates

Mayfield Signalization

No new updates.

Dominion East Ohio

Cedar Road Accelerated Pipeline Replacement PIR-2083

Red Dirt Energy has started work on the north side of the road at the intersection of Euclid Heights Blvd. and Cedar Road. They are experiencing some issues with Dominion's plans and the surveys that were used. Dominion is working to design an alternate solution, possibly running the gas line underneath the roadway. Work has not stopped while they are trying to rectify the issue.

Lee Road Accelerated PIR-2593

Workers from H.M. Miller were out performing final restoration work on the section of Lee Road between Superior Road and Euclid Heights Boulevard.

Service Department

Crews from the Street Department and Sanitation Department have been out picking-up leaves, brush, and kraft bags. Parks and Properties workers have been out cleaning up various public properties throughout the city. Weather permitting, mowing will begin on Monday. All other operations continued as normal.

Date: April 14, 2017

To: Tanisha Briley, City Manager

From: Collette Clinkscale, Utilities Commissioner

Subject: Utilities Department Weekly Update

On Behalf of Cleveland Water

- Prepped and poured cement on S. Overlook, North St. James, Middleton, Clarkson, Fairmount, Berkshire, Mornington Lane, Lamberton, Coleridge, Clarendon, Monticello, Keystone and Quarry Lane.
- Investigate Leak at 1066 Nelaview
- Replaced long-side connection leaking at 1009 Renfield
- Flushed curb boxes and turned off/on water per CWD request
- Normal investigation/inspection operations (investigated estimated and high reads)
- Read water meters

Sewer

- Ran sewer machine on Princeton (2), Meadowbrook, Tullamore, Hereford, Fairmount, Bendemeer, Scarborough, Winsford, Edgerly, and Norfolk
- Assisted with roadholes
- Installed a new catch basin at 941 Montford

Other

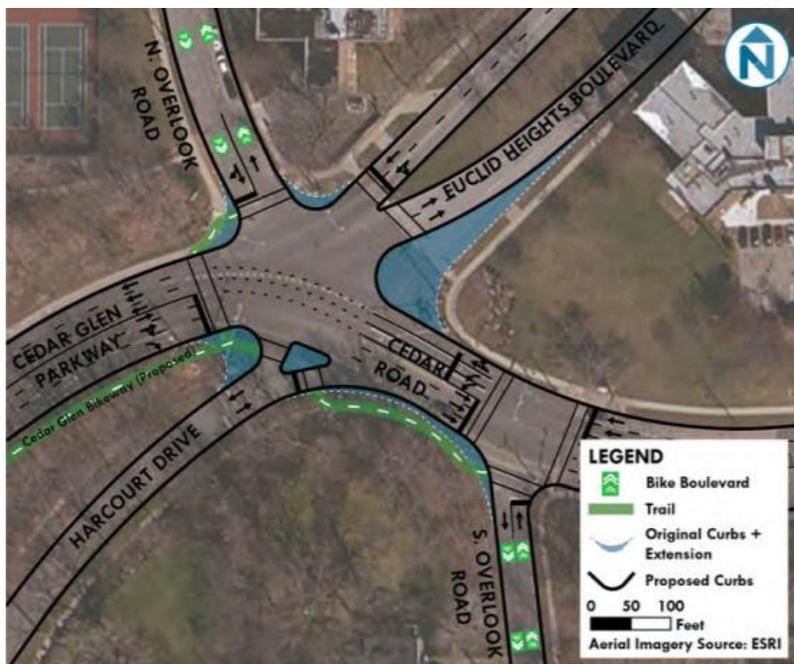
- Two phone conferences regarding sewer related issues (Sewer overflow reporting plan)
- Met with Soil & Water Conservation District and Doan Brook Partnership regarding 2017 upcoming events and Public Education and Participation objectives.
- Attended workshop regarding NPDES requirements
- Continued processing of water deposit refunds
- Commencing shut-offs for delinquent accounts. (300 delinquent letters mailed out in the first round for next week).
- Preparing first quarterly bills for local sewer and landfill to be mailed next week.

MEMORANDUM

To: Tanisha Briley, City Manager
From: Richard Wong, Planning Director
Date: April 14, 2017
Subject: Weekly Update

3500 Fenley Coop Fire Follow-up

Revocation of the conditional use permit will be on the May 10 Planning Commission meeting agenda. A coop *denied* by City Council to be in the pictured connected shed resulted in a code conforming coop approved away from the house in October. In January, however, the Fire Department extinguished a fire in this shed. Fire's report stated "Per homeowner, the fire involved chicken coop was heated with an electric heating lamp. The lamp was powered via extension cord. Post fire investigation revealed a damaged heating lamp socket and failed extension cord."



Euclid Heights Boulevard

Public Works, Planning, and knowledgeable consulting engineers from Osborn and GPD brainstormed ideas for reducing crashes and making the road better for pedestrians and bicyclists. Many intersections at minor residential cross streets look too large for their purpose. The illustration is from the 2015 *Moving Greater University Circle Transportation and Mobility Study* by Nelson Nygaard and City Architecture. The changes would reduce crosswalk length and discourage speeding.

Doan Brook Earth Day Stream Clean-Up April 22 and 23

From 1:00 to 4:00 clean-up volunteers will be at Shaker Lakes on Saturday (Earth Day) and at Rockefeller Park on Sunday. Alex Mannarino approved Tony Torres and his Sanitation staff to help take away collected trash. Previous year's volunteers posed with some of their finds in the picture below.



Cleveland Heights
Economic Development



To: City Manager Tanisha Briley
From: Business Development Manager Brian Anderson
Subject: Activities Report – April 14, 2017

Activities and Initiatives:

1. Food Trucks

As discussed on April 12, the Planning Department, with legal review, has determined food trucks may be permitted as part of a conditional use permit for outdoor dining. The effects of this pilot program on the City shall be studied and recommendations to discontinue, continue, or expand shall be made at the end of the season.



2. Business Retention Expansion Attraction Creation (BREAC) Initiative:

BREAC activity highlights include:

- United Dairy Farmers on Lee Road has been sold, along with the other three UDF's in Northeast Ohio. We have been in contact with the new owners and informed them of the requirements to procure a new Business Operation Permit, including the need to get ABR approval for a new permanent sign.
- The Fix brand continues to grow on Lee Road with the addition of Sylk Fix. Eric Rogers, his partner Larese Purnell, and Sam Sylk (who owns Sylk's Chicken & Fish in Cleveland and South Euclid) have leased 2142 Lee Road (formerly Tarista's Wet Burrito), in the Douglas Building. They will be offering soul/creole carry-out. That brings the Fix footprint on Lee to four locations.
- Met with two existing businesses
- Updating of listings on Available Properties web-based tool

Thank you,

Brian Anderson

Business Development Manager

Memorandum

To: Tanisha Briley, City Manager
From: Joseph P. McRae, Parks and Recreation Director
Subject: Parks and Recreation Department Update
Date: April 14, 2017

Please find a brief summary of the Parks and Recreation Department announcements and activities attached for your review:

General Announcements

- The Community Center will be closed on Sunday, April 16.
- The 9th Annual Earth Day Run will take place on Wednesday, April 19 at 7pm at Forest Hill Park. \$18 pre-registration, \$21 day of the race.
- The 2nd Annual Women Out Walking (WOW) program Kickoff event will take place on Sunday, April 23 at 2pm at the Cleveland Heights Community Center. The 12 week walking program will end Sunday, July 16.
- The Pavilion Skate Club and the Recreation Department will have the annual Summer Vacation Ice Show on Saturday, May 6 at 2pm and 7pm at the Community Center.

Senior Center

Activities for the week included:

- Participants enjoyed creating fresh flower centerpieces in our Spring Centerpiece Workshop.
- Volunteers wrapped up tax season with a final day of tax preparation on April 12.
- Radio Hour is a new creative experience mixing drama, storytelling, creative writing and sound effects
- Kindred Healthcare sponsored their monthly session of Breakfast Bingo.
- The Meet Greet and Eat group dined at The Fix.
- The Senior Center had the final program in a series of Saturday Sessions funded by the Ohio Arts Council. The workshop, taught by Nikki Evans, demonstrates a century old folk art called Screen Painting.
- Partnered with the following organizations for free programming:
 - Amalie Foundation sponsored Delay the Disease
 - Caring Hands Massage gave 2 hand massages
 - Attorneys provided legal assistance and trained OSHIP volunteers provided Medicare counseling



Cleveland Heights Fire Department

Weekly Activity Report

Total Emergency Calls Year To Date	1,798
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Total Emergency Calls for Period	122
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Report Date Period: 04/07/2017 - 04/14/2017

Fire Data

	<u>Current Period</u>	<u>Year to Date</u>	<u>Last Year to Date</u>	<u>Current Year % of Run Count</u>
Emergency Fire Run Count	23	314	320	18.08 %
Emergency Structure Fire Count	4	27	15	
Emergency Non Structure Fire Count	19	285	298	
Emergency Vehicle Fire Count		2	7	

Emergency Medical Data

Total Emergency Run Count	99	1,484	1,415	81.92 %
Emergency Medical Run Count	97	1,450	1,370	
Automobile Accident Run Count	2	34	45	
Advanced Life Support Run Count	28	421	373	
Basic Life Support Run Count	69	1,061	1,036	
Total EMS Transports	66	983	924	
Total EMS Non Transports	28	436	432	

Mutual Aid Run Count to Date

Mutual aid received	SEFD A - 8 SHFD A - 10 ECFD A - 2 UHFD A - 10
Mutual aid given	SEFD A - 13 SHFD A - 8 ECFD A - 8 UHFD A - 4
Automatic aid received	SEFD A - 2 SHFD A - 4 ECFD A - 2 UHFD A - 3
Automatic aid given	SEFD A - 0 SHFD A - 9 ECFD A - 0 UHFD A - 6

<u>Fire Prevention Bureau</u>	<u>Current Period</u>	<u>Year to Date</u>
Total Completed Fire Inspections	4	638
Company Fire Inspections	1	10
Fire Prevention Fire Inspections		30
Fire Alarm Test Inspections		1
Kitchen Supression Test Inspections		1
Sprinkler Test Inspections		5
Other Inspections	3	591
Smoke Detectors Distributed		2

CITY OF
CLEVELAND
HEIGHTS 

DEPARTMENT OF POLICE

ANNETTE M. MECKLENBURG, CHIEF

40 SEVERANCE CIRCLE, CLEVELAND HEIGHTS, OHIO 44118 – Telephone 216-291-4974

MEMORANDUM

To: Tanisha R. Briley, City Manager

From: Annette Mecklenburg, Chief of Police

Date: April 14, 2017

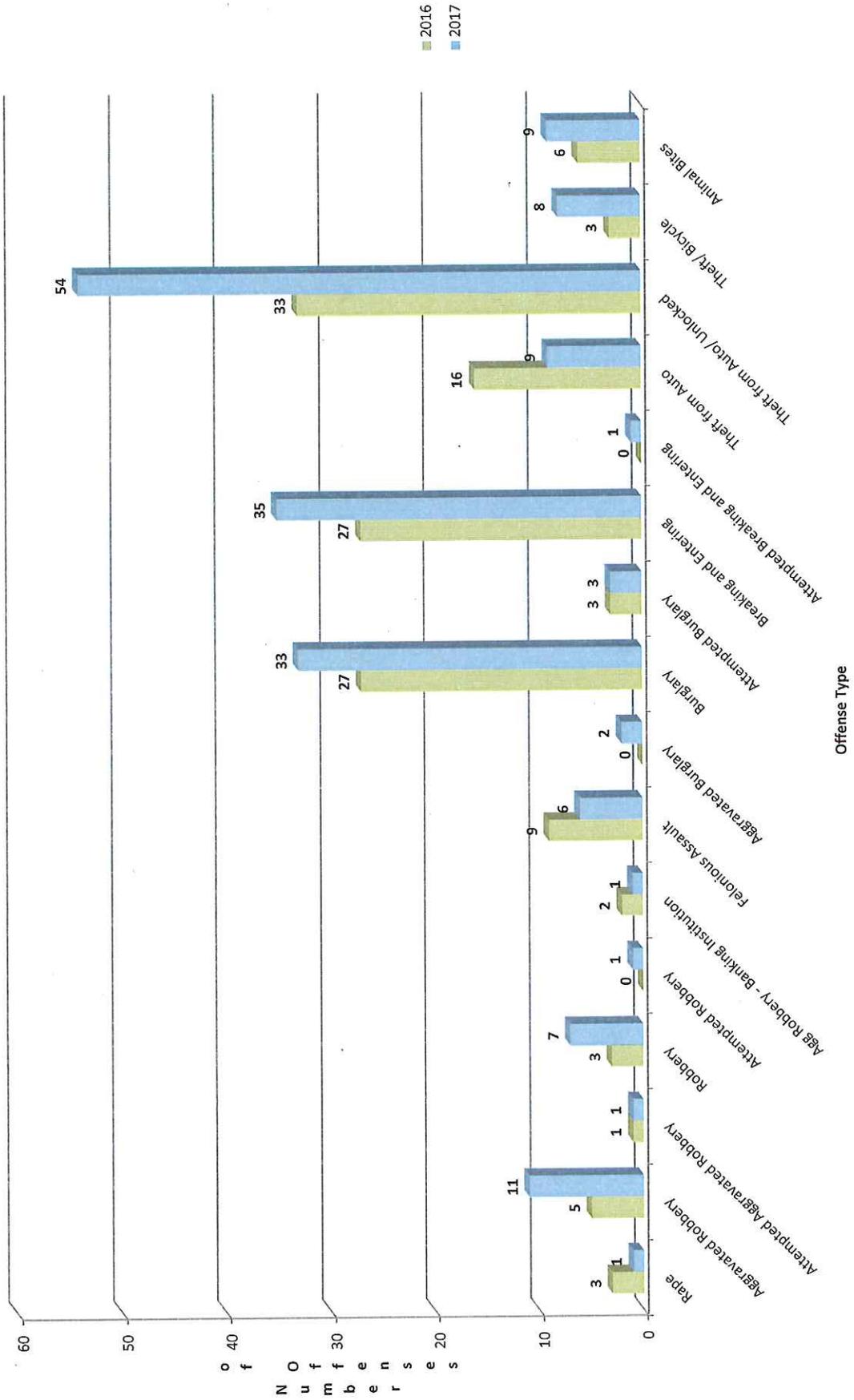
Subject: Weekly Update

On Saturday, April 8, 2017, around 9:45 am an aggravated robbery occurred at Key Bank, 3550 Mayfield Rd. The suspect entered the bank wearing a black jacket with a gray hooded sweatshirt, jeans, a blue mask covering his face, and carrying a black duffle bag. The suspect brandished a black handgun and ordered the tellers to back up as he jumped over the counter. The suspect took the money from two of the cash drawers and ordered the employees to open the vault. When the employees told him they could not open the vault, the suspect fled the bank and exited through the east door. Detectives are investigating with the FBI. No suspects have been identified at this time.

On Wednesday, April 12, 2017, around 3:20 am an aggravated burglary was reported at 2809 Noble Rd. The female resident reported that upon returning home, she discovered her ex-boyfriend sleeping in her bed. The victim told the male to leave, however he refused and assaulted the victim before fleeing from the residence. Officers located the male at the apartment next door. He was taken into custody and charged with aggravated burglary. The suspect is currently in the Cuyahoga County Jail being held on a \$75,000 cash/surety bond.

On Thursday, April 13, 2017, at 3:37 am a breaking and entering occurred at 2610 Noble Rd., Gas USA. The suspect gained entry to the establishment by breaking out the glass of the door. The suspect then entered the establishment and took cigarettes and alcoholic beverages. Video surveillance shows the suspect to be an African-American male in his late 20's to 30's, around 5' 9" to 6' 0" tall, facial hair, wearing a black pea coat and a gray winter hat. Detectives are continuing to investigate and follow up on some possible leads.

**Crime Comparison:
January 1 - April 13, 2016 Compared to January 1 - April 13, 2017**



**City of Cleveland Heights
Board of Zoning Appeals**

CALENDAR NO. 3414

Upon the motion being made and seconded, the following resolution was adopted:

RESOLUTION

WHEREAS, Charles Zuchowski d.b.a. May Lee Building LLC, 2490 Lee Blvd., in a C1 office district, hereinafter referred to as the “applicant,” has made formal application requesting a use variance from the Zoning Code, to permit a storage facility; and

WHEREAS, the applicable provision of the Zoning Code is contained in Subsections 1131.01 and 1131.02, which does not permit a storage facility in a C1 office district; and

WHEREAS, the public hearing to consider this application was held on Wednesday, March 15, 2017, at 7:00 p.m., pursuant to the requirements outlined in Sections 1109.06 and 1115.07 of the Zoning Code; and

WHEREAS, in the opinion of the Board of Zoning Appeals, the applicant clearly demonstrated by clear and convincing evidence that the applicant would suffer unnecessary hardship if strict compliance with the terms of the Code is required.

NOW, THEREFORE, be it resolved by the Board of Zoning Appeals of the City of Cleveland Heights, Ohio, that:

- (1) The applicant will suffer unnecessary hardship if the use variance is not granted because:
 - (a) The property cannot be put to any economically viable use under any of the permitted uses in the zoning district as was shown by the fact that the building has been under-utilized for a number of years despite the efforts of the owner to bring in major tenants; due to the location and the circumstances of this particular location, the current use and design is not the most economically viable; and that in light of the fact that there is a national trend of new mixed-use storage and office locations that have been successful business model and would be an enhancement to the current business park in this location;
 - (b) The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district as this property is built in such a way that there is an open garage in the basement which is under-utilized and causing a nuisance to the surrounding neighborhood and therefore unique in

that closing and securing this open garage area and creating a new business model would be the best use of the property;

- (c) The hardship condition is not created by actions of the applicant as the applicant did not create the unfortunate reality of the location of the property, and a use variance will alleviate that and enhance the neighborhood surrounding the property;
 - (d) The granting of the variance will not adversely affect the rights of adjacent property owners or residents because the building will be enhanced and remodeled with new security measures and new lighting will be put in place, which will therefore enhance adjacent properties and residents;
 - (e) The granting of the variance will not adversely affect the public health, safety or general welfare because stricter security measures will be put in place including restricting access to the property by tenants only. The current state of affairs is such that vandals get inside the property as it is currently constructed therefore the variance will not adversely affect the public health and safety but will conversely maintain a more secure neighborhood;
 - (f) The granting of the variance will be in the general spirit and intent of the code as this particular presentation and this particular model is something that is becoming prevalent throughout the country in urban settings for the use of those residents in those areas. The need of local businesses and residents to have additional storage available locally does certainly trend toward the spirit and intent of the zoning code;
 - (g) The variance sought is the minimum which will afford relief to the applicant. The use variance will allow the applicant to maintain the integrity of the building, maintain a portion of the office space and utilize the full facility and therefore the variance is the minimum which will afford relief to the applicant; and the applicant's predicament cannot be resolved without a variance.
- (2) A storage facility use at 2490 Lee Blvd. hereby authorized, subject to the conditions set forth below.
- (3) The applicant is required to:
1. Obtain a Conditional Use Permit from the Planning Commission for the storage of goods and for the reduction of parking requirements;
 2. Obtain applicable Building Department permits;
 3. Submit a landscape plan to be approved by the Planning Director;
 4. Complete construction within 18 months of City Council's approval of this resolution;



CLEVELAND HEIGHTS

AGENDA (tentative) – CLEVELAND HEIGHTS CITY COUNCIL MEETING **COUNCIL CHAMBERS**

Monday, April 17, 2017
Regular Meeting
7:30 p.m.

Cleveland Heights City Hall
40 Severance Circle
Cleveland Heights, Ohio

- 1) **Roll Call**
- 2) **Excuse absent members**
- 3) **Approval of the minutes of the regular Council meeting held on Monday, April 3, 2017**
- 4) **Personal communications from citizens**
- 5) **Report of the City Manager**
- 6) **Report of the Interim Director of Finance/Clerk of Council**

Notify Council that a Resolution of the Board of Zoning Appeals has been received pertaining to variances in the Zoning Code and is requested by the following: BZA Cal. No. 3414: Charles Zuchowski d.b.a. May Lee Building, 2490 Lee Blvd. to permit a storage facility.

Matter of Record

Refer to: Planning and Development Committee of Council

- 8) **Committee Reports**
 - a.) **PLANNING AND DEVELOPMENT COMMITTEE**

ORDINANCE NO. 39-2017 (PD). An Ordinance amending Subsection (a) of Section 1321.01, Permit Required; Fee of Chapter 1321, "Fences," of the Codified Ordinances of Cleveland Heights to raise the fee for permits of commercial fences and to amend Ordinance No. 25-2009 to add certain fees for

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
MONDAY, APRIL 17, 2017**

other procedures and services pertaining to the administration and enforcement of the Zoning Code

Introduced by Council Member _____

Vote _____
For Against No. Reading

RESOLUTION NO. 40-2017 (PD). A Resolution authorizing the City Manager to enter into a lease agreement with RHHJ Productions LLC (dba Rib Cage) to add outdoor dining at 2214 Lee Road, Cleveland Heights

Introduced by Council Member _____

Vote _____
For Against No. Reading

b.) PUBLIC SAFETY AND HEALTH COMMITTEE

ORDINANCE NO. 38-2017 (MS), *Second Reading.* An Ordinance amending Chapter 1347, "Certificate of Occupancy," of the Codified Ordinances of Cleveland Heights by enacting a new Subsection 1347.02(e)

Introduced by Council Member _____

Vote _____
For Against No. Reading

RESOLUTION NO. 41-2017. A Resolution authorizing the City Manager to enter into an agreement with Lebanon Ford, for the purchase of three (3) new, 2017 Ford Utility Explorers for the Police Department through the Ohio Department of Administrative Services Cooperative Purchasing Program

Introduced by Council Member _____

Vote _____
For Against No. Reading

c.) ADMINISTRATIVE SERVICES COMMITTEE

d.) COMMUNITY RELATIONS AND RECREATION COMMITTEE

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
MONDAY, APRIL 17, 2017**

e.) FINANCE COMMITTEE

ORDINANCE NO. 31-2017 (F), Second Reading. An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$115,000 for the purpose of paying costs of acquiring motor vehicles for use by the City's Police Department

Introduced by Council Member _____

Vote _____

For

Against

No. Reading

ORDINANCE NO. 32-2017 (F), Second Reading. An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$255,000 for the purpose of paying costs of improving streets and roads in the City by reconstructing, grading, draining, paving and making other improvements as designated in the plans approved or to be approved by Council

Introduced by Council Member _____

Vote _____

ORDINANCE NO. 33-2017 (F), Second Reading. An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$360,000 for the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Department of Public Works

Introduced by Council Member _____

Vote _____

ORDINANCE NO. 34-2017 (F), Second Reading. An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$150,000 for the purpose of paying costs of acquiring equipment for use by the City's Police Department

Introduced by Council Member _____

Vote _____

ORDINANCE NO. 35-2017 (F), Second Reading. An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$65,000 for

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
MONDAY, APRIL 17, 2017**

the purpose of paying costs of installing and improvement sidewalks at the City Hall Complex

Introduced by Council Member _____

Vote _____

ORDINANCE NO. 36-2017 (F), Second Reading. An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$75,000 for the purpose of paying costs of replacing fire hoses and nozzles at the City's fire station facilities

Introduced by Council Member _____

Vote _____

ORDINANCE NO. 37-2017 (F), Second Reading. An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$355,000 for the purpose of paying costs of acquiring motor vehicles and related equipment for use by the City's Fire Department in providing emergency medical services

Introduced by Council Member _____

Vote _____

For Against No. Reading

f.) **MUNICIPAL SERVICES COMMITTEE**

RESOLUTION NO. 25-2017 (MS), Second Reading. A Resolution authorizing the City Manager to execute a Professional Energy Service Design-Build Agreement with Evans Energy

Introduced by Council Member _____

Vote _____

For Against No. Reading

9) Mayor's Report

10) Adjournment

(Council members and staff will stay following adjournment to discuss questions informally with citizens.)

NEXT MEETING OF COUNCIL: MONDAY, MAY 1, 2017

Proposed: 4/17/2017

ORDINANCE NO. 39-2017 (PD)

By Council Member

An Ordinance amending Subsection (a) of Section 1321.01, *Permit Required; Fee* of Chapter 1321, "Fences," of the Codified Ordinances of Cleveland Heights to raise the fee for permits of commercial fences and to amend Ordinance No. 25-2009 to add certain fees for other procedures and services pertaining to the administration and enforcement of the Zoning Code; and declaring an emergency.

WHEREAS, the City has not updated its fees for fence permits or for other procedures and services pertaining to the administration and enforcement of the Zoning Code since 2009; and

WHEREAS, the Code was recently updated to add an administrative procedure for the issuance of conditional use permits for chicken coops and runs for which a fee needs to be set; and

WHEREAS, it is necessary to update fees for fence permits in commercial districts and to add fees for annual permits for recreational vehicles and truck parking to more adequately reflect the City's cost pertaining to the administration and enforcement of said services.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Subsection (a) of Section 1321.01, *Permit Required; Fee* of Chapter 1321, "Fences," of the Codified Ordinances of Cleveland Heights shall be and hereby is amended to henceforth read as follows:

- (a) No person shall construct any fence on a residential property without first obtaining a permit therefor from the Zoning Administrator and paying a fee of fifty dollars (\$50.00). No person shall construct any fence on a commercial property without first obtaining a permit therefor from the Zoning Administrator and paying a fee of eighty dollars (\$80.00).

SECTION 2. Pursuant to Section 1115.12, *Schedule of Fees*, of the Codified Ordinances, this Council hereby amends Section 3 of Ordinance No. 25-2009 to establish the following addition fees:

- (f) Parking of Recreational Vehicle in a Residential District (annual) \$25.00
- (g) Garage a Truck (annual) \$25.00
- (h) Chicken Coop and Run \$50.00

SECTION 3. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general

ORDINANCE NO. 39-2017 (PD)

circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to assure that no services are delayed after the amended Zoning Code takes effect on April 19, 2017. Wherefore, provided it receives the affirmative vote of five (5) or more members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Proposed: 4/17/2017

RESOLUTION NO. 40-2017 (PD)

By Council Member

A Resolution authorizing the City Manager to enter into a lease agreement with RHHJ Productions LLC (dba Rib Cage) to add outdoor dining at 2214 Lee Road, Cleveland Heights; and declaring an emergency.

WHEREAS, RHHJ Productions LLC (dba Rib Cage), has indicated its interest in leasing a portion of city property adjacent to restaurant to add outdoor dining as shown in Exhibit A; and

WHEREAS, the City has determined that said property is not presently used for municipal purposes and does not anticipate that it will be needed for a future municipal purpose; and

WHEREAS, this Council has determined outdoor dining at the Rib Cage at 2214 Lee Road is in the best interests of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The City Manager be, and she is hereby, authorized to execute a lease agreement and all necessary documents with RHHJ Productions LLC (dba Rib Cage) for the lease of approximately 315 square feet of city property as shown in the drawing attached hereto as Exhibit A and incorporated herein by reference. The purpose of the lease shall be to add outdoor dining at 2214 Lee Road and shall be for Six Hundred Fifty Dollars (\$650) per year for a term of five (5) years. The lease agreement shall contain such other terms as recommended by the City Manager and Director of Law and shall be approved, as to form, by the Director of Law.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet contractual deadlines during the construction season. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

RESOLUTION NO. 40-2017 (PD)

CHERYL L. STEPHENS, Mayor
President of the Council

MITCH MICHALEC
Acting Clerk of Council

PASSED:

EXHIBIT A

Project Team
IKG

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t: 216 371-1510
f: 216 371-0640
www.ikgarch.com

Consultant's Seal

Architect's Seal

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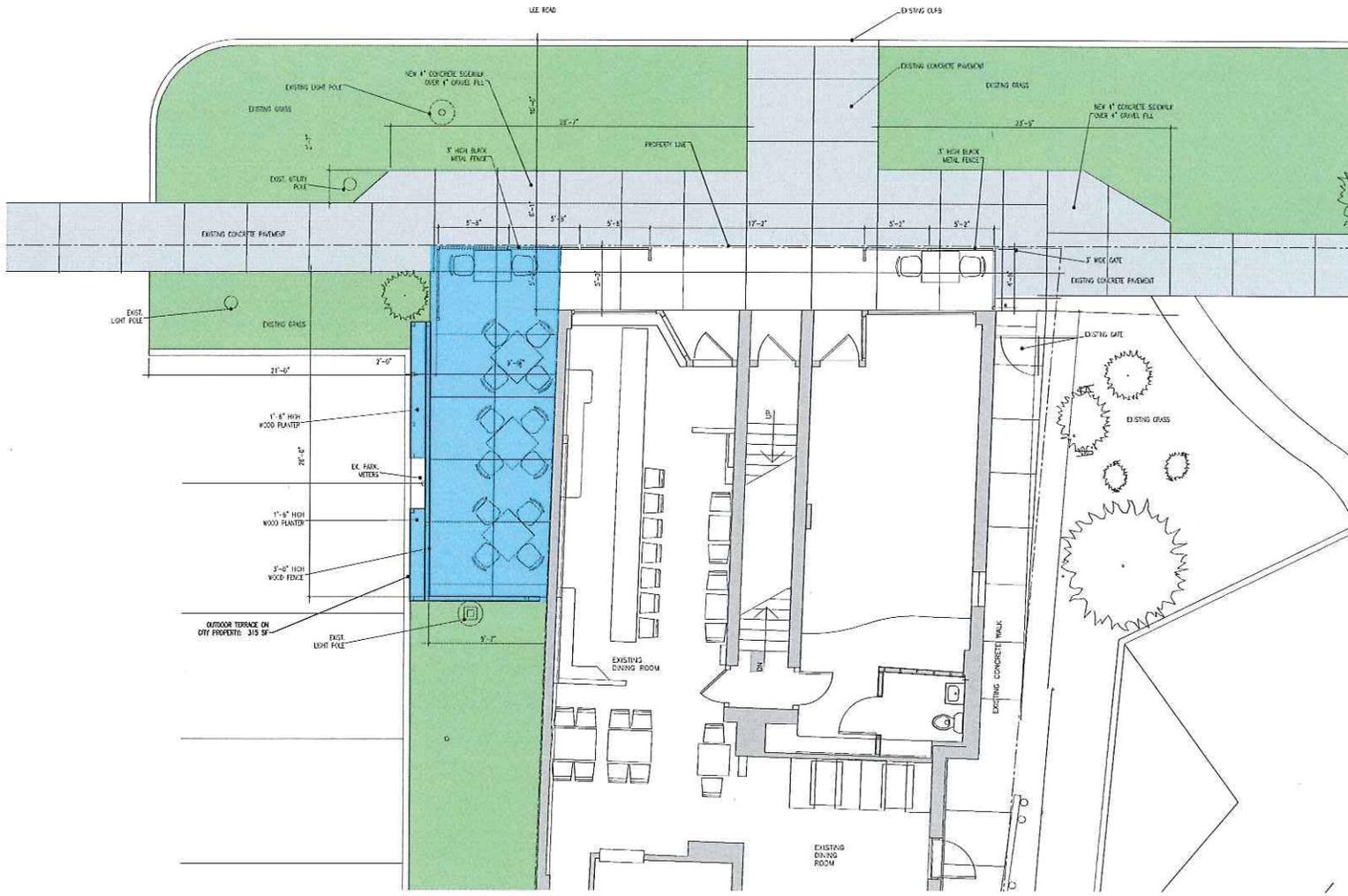
11/21/2016 PRELIMINARY REVIEW
ISSUES and REVISIONS

Outdoor Dining Terrace Alterations

Ribcage
2216 Lee Road, Cleveland Heights Office
DRAWING TITLE
SITE PLAN

CONV. NO. 1034
DATE NOVEMBER 21, 2016
SCALE

A101 -A
A101 SITE PLAN



ENLARGED SITE PLAN
1/4\"/>

PROGRESS REVIEW DRAWING
03/28/2017

Project Team
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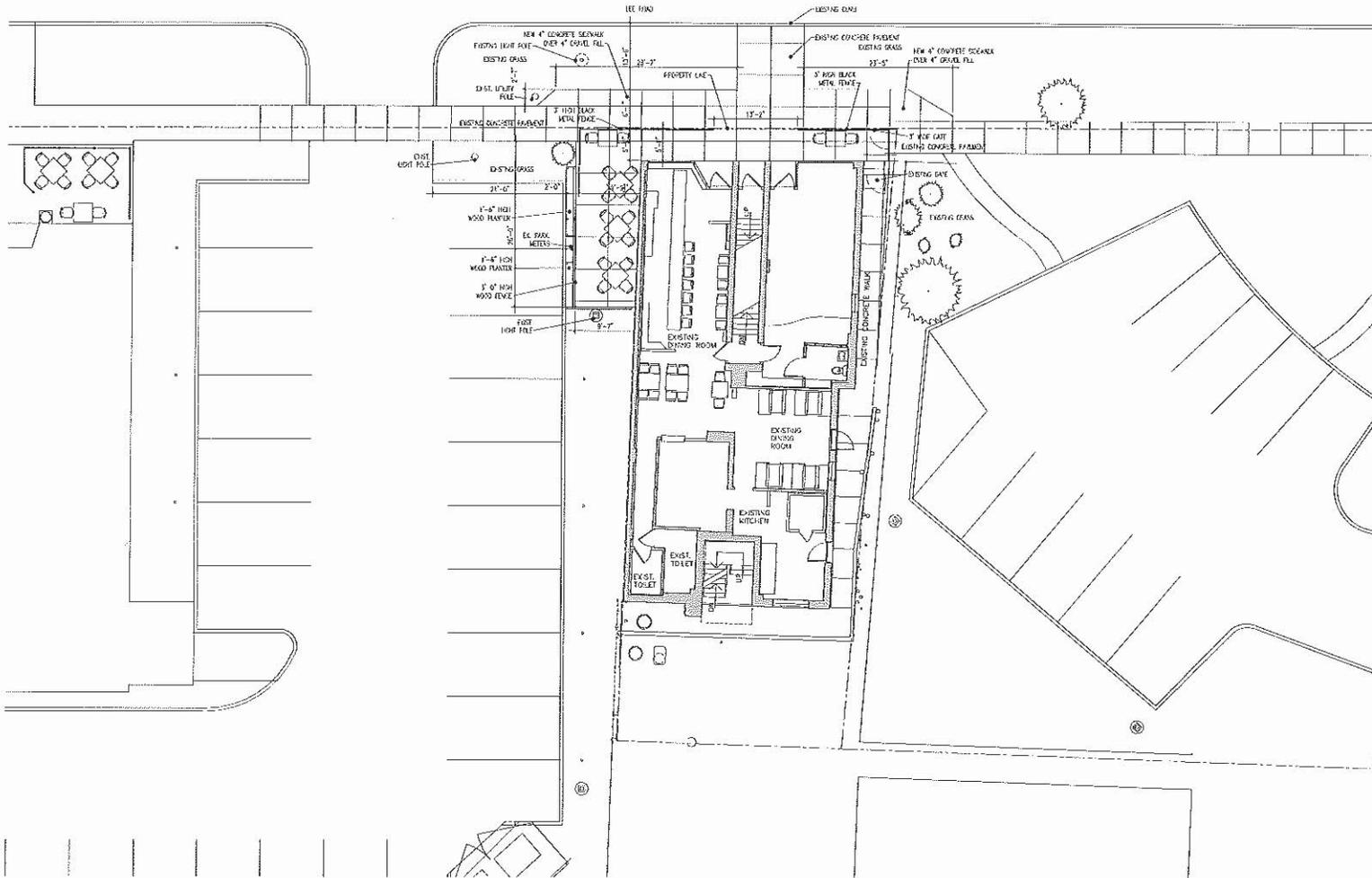
11/23/2016 FALLONRY KOSYR
ISSUES and REVISIONS

Outdoor Dining Terrace Alterations

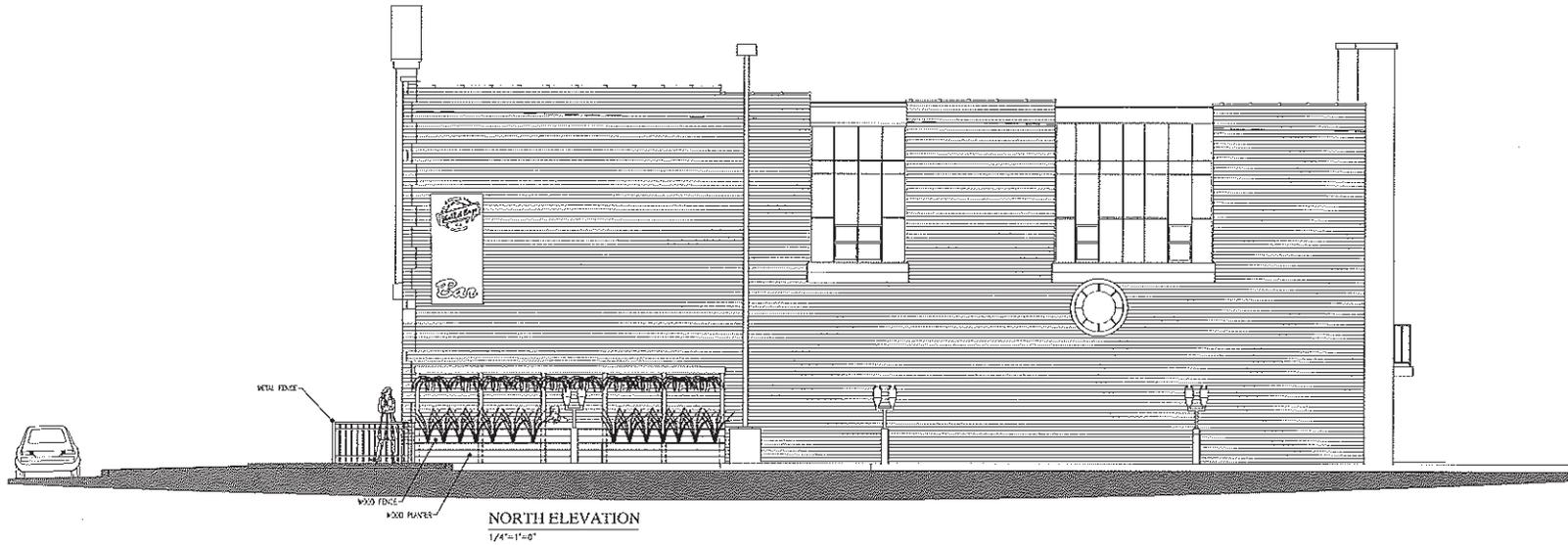
Ribcage
2216 Lee Road, Cleveland Heights, Ohio
DRAWING TITLE
SITE PLAN

CURVE NO. 1034
DATE NOVEMBER 23, 2016
SCALE

A101
ASPI WFE PLANNING



PROGRESS REVIEW DRAWING
11/21/2016



PROGRESS REVIEW DRAWING
11/21/2016

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Consultant's Seal

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www.ikgarch.com

11/21/2016 PRIMARY REVIEW
ISSUES and REVISIONS

Outdoor Dining Terrace Alterations

Ribcage
2016 Lee Road, Cleveland Heights, Ohio

DRAWING TITLE
ELEVATIONS

CONV. NO. 1654
DATE NOVEMBER 21, 2016
SCALE

A201
ADD REVISIONS

Proposed: 4/3/2017

ORDINANCE NO. 38-2017 (PSH), *Second Reading*

By Council Member Seren

An Ordinance amending Chapter 1347, "Certificate of Occupancy," of the Codified Ordinances of Cleveland Heights by enacting a new Subsection 1347.02(e).

WHEREAS, the proposed changes to Chapter 1347 of the Codified Ordinances of the City of Cleveland Heights set forth herein would further the goal of proactively incenting responsible rental property ownership; and

WHEREAS, the Council has determined that said proposed amendments are in the best interests of the City and its residents and would further the general goal of civic transparency.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Section 1347.02 of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to adopt a new Section 1347.02(e) to read as follows:

(e) Notwithstanding any other provisions of this Chapter, no certificate of occupancy shall be issued by the Building Commissioner for any structure used or intended to be used for residential occupancy located on a parcel which:

- (1) has a certified delinquent property tax balance or other unpaid liens that appear on the Cuyahoga County Real Property Tax duplicate unless the property owner, agent, or person in charge of such structure provides documentation of being on a Delinquent Payment Plan in good standing with the Cuyahoga County Treasury; or
- (2) has an unpaid balance for nuisance abatement costs imposed by the City pursuant to Subsection 553.10(e) that has not been placed on the Cuyahoga County Real Property Tax duplicate.

If such structure as described above is determined by the Building Commissioner to be occupied by a tenant, the Building Commissioner shall provide notice to such tenant of the rejection of application for the issuance or renewal of a certificate of occupancy. Notice shall be by mail, hand delivery, or posting on the structure. Notwithstanding the requirement of notice provided herein, failure of the Building Commissioner to notify a tenant shall not preclude the enforcement of any provision of this Chapter.

ORDINANCE NO. 38-2017 (PSH)

SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Proposed: 4/17/2017

RESOLUTION NO. 41-2017 (PSH)

By Council Member

A Resolution authorizing the City Manager to enter into an agreement with Lebanon Ford, for the purchase of three (3) new, 2017 Ford Utility Explorers for the Police Department through the Ohio Department of Administrative Services Cooperative Purchasing Program; providing compensation therefor; and declaring an emergency.

WHEREAS, the Chief of Police has determined there is a need to purchase three (3) new, 2017 Ford Utility Explorers for the Police Department; and

WHEREAS, Section 171.11 of the Cleveland Heights Codified Ordinances authorizes the purchase of machinery, materials, supplies, and other articles through the Administrative Services Cooperative Purchasing Program without obtaining competitive bids; and

WHEREAS, the City Manager has determined that the selected vehicles may be purchased from Lebanon Ford through this State Cooperative Purchasing Program at a lower price than could be obtained through bidding, and that it would be in the City's best interests to purchase said vehicles by this means.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The City Manager be, and she is hereby, authorized to enter into an agreement with Lebanon Ford for the purchase of three (3) vehicles for the Police Department through the Ohio Department of Administrative Services Cooperative Purchasing Program, in accordance with the requirements Section 171.11 of the Cleveland Heights Codified Ordinances. The agreement shall provide for the purchase of three (3), new 2017 Ford Utility Explorers for the Police Department at a total cost not to exceed Seventy-Nine Thousand Eight Hundred Six Dollars (\$79,806). The City reasonably expects that the cost of all such expenditures will be paid with the proceeds from the City's issuance of tax-exempt notes or bonds. All agreements hereunder shall be approved as to form by the Director of Law.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet vendor deadlines and to equip the Police Department as soon as possible. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in

RESOLUTION NO. 41-2017 (PSH)

force from and after the earliest time allowed by law.

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

PASSED:

Proposed: 4/3/2017

ORDINANCE NO. 31-2017 (F), *Second Reading*

By Council Member Ungar

An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$115,000 for the purpose of paying costs of acquiring motor vehicles for use by the City's Police Department; and declaring an emergency.

WHEREAS, the Director of Finance (including, as used in this Ordinance, any Acting Director of Finance), 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 and the estimated maximum maturity of the Bonds described in Section 1 is five years.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose; Principal and Interest Payment; Denominations; Dating. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$115,000 for the purpose of paying costs of acquiring motor vehicles for use by the City's Police Department, together with the necessary appurtenances thereto, including the payment of expenses related to the issuance of the Bonds (the Bonds). The principal amount of the Bonds to be issued shall be the amount certified by the Director of Finance in the certificate awarding the Bonds and setting certain terms thereof pursuant to Section 7 (the Certificate of Award). Unless otherwise determined by the Director of Finance in the Certificate of Award, the Bonds shall be combined with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code designated "Various Purpose Bonds, Series 2017", shall be issued in one lot, and shall be issued only as fully registered serial bonds.

The Bonds shall bear interest (computed on the basis of a 360-day year consisting of 12 30-day months, unless otherwise determined by the Director of Finance in the Certificate of Award), payable on June 1 and December 1 (or such other semiannual dates or annual dates as determined by the Director of Finance in the Certificate of Award) of each year (the Interest Payment Dates), commencing on the initial Interest Payment Date determined by the Director of Finance in the Certificate of Award (which initial Interest Payment Date shall not be later than one year from the issuance date of the Bonds), until the principal amount has been paid or provided for. As referred to herein, Principal Payment Dates means December 1 (or such other semiannual dates or annual date as determined by the Director of Finance in the Certificate of Award) in each of the years in which principal on Bonds is payable, in each of the years 2018 through 2022 (or such other annual years as are determined by the Director of Finance in the Certificate of Award, the latest of which shall not be later than the maximum maturity of the Bonds referred to in the preambles hereto).

The Bonds shall be dated as of their issuance date or, as of such other date not more than 60 days prior to the issuance date as is determined by the Director of Finance in the Certificate of Award. Any provision herein notwithstanding, the entire principal amount of the Bonds may be

ORDINANCE NO. 31-2017 (F)

represented by a single certificate with multiple payments of principal listed on a principal payment schedule attached thereto.

The Bonds shall be issued in a denomination or denominations specified in the Certificate of Award, as may be reflected in the aforementioned principal payment schedule, but in no case as to a particular maturity date exceeding the principal amount of Bonds maturing on that date. The Bonds shall mature on such Principal Payment Dates and in such amounts as shall be determined by the Director of Finance, subject to the provisions hereinbelow set forth, in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. The Bonds shall bear the rate or rates of interest per year as shall be determined by the Director of Finance in the Certificate of Award. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such that (i) the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal and (ii) the true interest cost of the Bonds does not exceed 5%.

The Director of Finance may adjust the Interest Payment Dates and Principal Payment Dates within the parameters set forth in this Section and based on the Director of Finance's judgment as to the best interest of the City. Any adjustments made by the Director of Finance pursuant to the authorizations set forth in this Section and this Ordinance shall be set forth in the Certificate of Award.

SECTION 2. Optional Redemption Provisions. The Bonds may be subject to redemption prior to stated maturity as follows:

(a) Optional Redemption. If determined by the Director of Finance in the Certificate of Award to be advantageous to and in the best interest of the City, the Bonds specified in the Certificate of Award shall be subject to optional redemption, by and at the sole option of the City, in whole or in part (as selected by the City) on any such date or dates, and at the redemption price or prices (expressed as a percentage of the principal amount redeemed) plus, in each case, accrued interest to the redemption date, all as specified in the Certificate of Award, provided the redemption price for any optional redemption shall not be greater than 102%.

Bonds to be redeemed pursuant to this paragraph (a) shall be redeemed only upon written notice from the City to the Bond Registrar (as defined in Section 4), given upon the direction of this Council by adoption of a resolution or passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as hereinafter provided, there shall be deposited with the Bond Registrar, on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof,

plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(b) Partial Redemption. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Bond Registrar in any manner which the Bond Registrar may determine.

(c) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. The failure of any registered owner of any Bond to be redeemed to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

(d) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in paragraph (c) hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

SECTION 3. Execution and Authentication of Bonds. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be delivered in the denominations and numbers requested by the Original Purchaser (as defined in Section 7) and approved by the Director of Finance, shall be numbered as determined by the Director of Finance, and shall express upon their faces the purpose, which may be in summary terms, for which they are issued and that they are and shall be issued pursuant to Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award. No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings (for purposes of this Ordinance, meaning this Ordinance, the Certificate of Award, the

ORDINANCE NO. 31-2017 (F)

Registrar Agreement (if any), and such other proceedings of the City, including the executed Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds) unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, this Ordinance. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City, or by the Director of Finance if the Director of Finance is to be the Bond Registrar pursuant to Section 4. The same person need not sign the certificate of authentication on all of the Bonds.

SECTION 4. Appointment of Bond Registrar. As used herein, “Bond Registrar” means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar. In the Certificate of Award, the Director of Finance shall appoint the initial Bond Registrar, who may be the Director of Finance; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Director of Finance shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Director of Finance shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approved of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

SECTION 5. Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of a Bond shall be paid on each Principal Payment Date and interest shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register (as defined in Section 6) at the close of business on the 15th day preceding that Interest Payment Date; provided, however, that so long as the entire principal amount of the Bonds is represented by a single certificate, payment of principal and interest may be made by wire or check or draft mailed to the person in whose name the Bond was registered on the applicable date of payment, with presentation and surrender of said certificate to be made to the Bond Registrar after payment of principal and interest at final maturity.

SECTION 6. Registration; Transfer and Exchange. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep, at an office satisfactory to the Director of Finance and the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the Bond Register). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person;

ORDINANCE NO. 31-2017 (F)

neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar, together with an assignment signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. Upon exchange or transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the registered owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the registered owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Award and Sale of the Bonds; Financing Costs. In accordance with this Ordinance, the Bonds shall be awarded and sold at private sale at a price of not less than 97% of par plus any accrued interest to the original purchaser as determined by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with the Certificate of Award. The Director of Finance is authorized to and shall sign and deliver the Certificate of Award. The Director of Finance shall, in the Certificate of Award, determine the principal amount of the Bonds, designate the interest rate or rates the Bonds shall bear, establish the Original Purchaser and the purchase price of the Bonds, set the Interest Payment Dates and Principal Payment Dates and amounts, set any optional redemption provisions, and make all of the other designations herein authorized and directed to be made, all within the parameters set forth herein, and shall execute the Certificate of Award and shall cause the Bonds to be prepared, signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, Vice Mayor, City Manager, Director of Finance, Director of Law, Clerk of Council (including, as used in this Ordinance, any Acting Clerk of

ORDINANCE NO. 31-2017 (F)

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 Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The expenditure of the amounts necessary to pay the financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 8. Application of Proceeds. The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds received by the City representing premium (after payment of financing costs) or accrued interest shall be paid into the Bond Retirement Fund.

SECTION 9. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. 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 Bonds when and as the same fall due. In each year, to the extent other money is lawfully available for the payment of debt charges on the Bonds and is appropriated for that purpose, the amount of 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 Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Section 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 thereon 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 them for the interest on the Bonds to be and to remain excluded from gross income for

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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 them, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes 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 Director of Finance, or any other officer of the City having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Bonds as “qualified tax-exempt obligations” if such designation or treatment is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is permitted 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 the favorable tax treatment or status of the Bonds 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds.

SECTION 11. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

SECTION 12. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds 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 Bonds 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 Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

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

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of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. 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. The Director of Finance is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

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 passage of this Ordinance were taken in an open meeting of this Council or its 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. Notice. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

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 enable the City to sell the Bonds, which is necessary to enable the City to enter into contracts for the improvement which is needed to timely and efficiently provide municipal police services to City residents and thereby better maintain order and safety in the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Proposed: 4/3/2017

ORDINANCE NO.32-2017 (F), *Second Reading*

By Council Member Ungar

An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$255,000 for the purpose of paying costs of improving streets and roads in the City by reconstructing, grading, draining, paving and making other improvements as designated in the plans approved or to be approved by Council; and declaring an emergency.

WHEREAS, the Director of Finance (including, as used in this Ordinance, any Acting Director of Finance), 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 and the estimated maximum maturity of the Bonds described in Section 1 is 20 years.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose; Principal and Interest Payment; Denominations; Dating. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$255,000 for the purpose of paying costs of improving streets and roads in the City by reconstructing, grading, draining, paving and making other improvements as designated in the plans approved or to be approved by Council, including the payment of expenses related to the issuance of the Bonds (the Bonds). The principal amount of the Bonds to be issued shall be the amount certified by the Director of Finance in the certificate awarding the Bonds and setting certain terms thereof pursuant to Section 7 (the Certificate of Award). Unless otherwise determined by the Director of Finance in the Certificate of Award, the Bonds shall be combined with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code designated "Various Purpose Bonds, Series 2017", shall be issued in one lot, and shall be issued only as fully registered serial bonds.

The Bonds shall bear interest (computed on the basis of a 360-day year consisting of 12 30-day months, unless otherwise determined by the Director of Finance in the Certificate of Award), payable on June 1 and December 1 (or such other semiannual dates or annual dates as determined by the Director of Finance in the Certificate of Award) of each year (the Interest Payment Dates), commencing on the initial Interest Payment Date determined by the Director of Finance in the Certificate of Award (which initial Interest Payment Date shall not be later than one year from the issuance date of the Bonds), until the principal amount has been paid or provided for. As referred to herein, Principal Payment Dates means December 1 (or such other semiannual dates or annual date as determined by the Director of Finance in the Certificate of Award) in each of the years in which principal on Bonds is payable, in each of the years 2018 through 2028 (or such other annual years as are determined by the Director of Finance in the Certificate of Award, the latest of which shall not be later than the maximum maturity of the Bonds referred to in the preambles hereto).

The Bonds shall be dated as of their issuance date or, as of such other date not more than 60 days prior to the issuance date as is determined by the Director of Finance in the Certificate of Award. Any provision herein notwithstanding, the entire principal amount of the Bonds may be

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represented by a single certificate with multiple payments of principal listed on a principal payment schedule attached thereto.

The Bonds shall be issued in a denomination or denominations specified in the Certificate of Award, as may be reflected in the aforementioned principal payment schedule, but in no case as to a particular maturity date exceeding the principal amount of Bonds maturing on that date. The Bonds shall mature on such Principal Payment Dates and in such amounts as shall be determined by the Director of Finance, subject to the provisions hereinbelow set forth, in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. The Bonds shall bear the rate or rates of interest per year as shall be determined by the Director of Finance in the Certificate of Award. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such that (i) the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal and (ii) the true interest cost of the Bonds does not exceed 5%.

The Director of Finance may adjust the Interest Payment Dates and Principal Payment Dates within the parameters set forth in this Section and based on the Director of Finance's judgment as to the best interest of the City. Any adjustments made by the Director of Finance pursuant to the authorizations set forth in this Section and this Ordinance shall be set forth in the Certificate of Award.

SECTION 2. Optional Redemption Provisions. The Bonds may be subject to redemption prior to stated maturity as follows:

(a) Optional Redemption. If determined by the Director of Finance in the Certificate of Award to be advantageous to and in the best interest of the City, the Bonds specified in the Certificate of Award shall be subject to optional redemption, by and at the sole option of the City, in whole or in part (as selected by the City) on any such date or dates, and at the redemption price or prices (expressed as a percentage of the principal amount redeemed) plus, in each case, accrued interest to the redemption date, all as specified in the Certificate of Award, provided the redemption price for any optional redemption shall not be greater than 102%.

Bonds to be redeemed pursuant to this paragraph (a) shall be redeemed only upon written notice from the City to the Bond Registrar (as defined in Section 4), given upon the direction of this Council by adoption of a resolution or passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as hereinafter provided, there shall be deposited with the Bond Registrar, on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof,

plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(b) Partial Redemption. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Bond Registrar in any manner which the Bond Registrar may determine.

(c) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. The failure of any registered owner of any Bond to be redeemed to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

(d) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in paragraph (c) hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

SECTION 3. Execution and Authentication of Bonds. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be delivered in the denominations and numbers requested by the Original Purchaser (as defined in Section 7) and approved by the Director of Finance, shall be numbered as determined by the Director of Finance, and shall express upon their faces the purpose, which may be in summary terms, for which they are issued and that they are and shall be issued pursuant to Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award. No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings (for purposes of this Ordinance, meaning this Ordinance, the Certificate of Award, the

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Registrar Agreement (if any), and such other proceedings of the City, including the executed Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds) unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, this Ordinance. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City, or by the Director of Finance if the Director of Finance is to be the Bond Registrar pursuant to Section 4. The same person need not sign the certificate of authentication on all of the Bonds.

SECTION 4. Appointment of Bond Registrar. As used herein, “Bond Registrar” means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar. In the Certificate of Award, the Director of Finance shall appoint the initial Bond Registrar, who may be the Director of Finance; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Director of Finance shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Director of Finance shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approved of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

SECTION 5. Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of a Bond shall be paid on each Principal Payment Date and interest shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register (as defined in Section 6) at the close of business on the 15th day preceding that Interest Payment Date; provided, however, that so long as the entire principal amount of the Bonds is represented by a single certificate, payment of principal and interest may be made by wire or check or draft mailed to the person in whose name the Bond was registered on the applicable date of payment, with presentation and surrender of said certificate to be made to the Bond Registrar after payment of principal and interest at final maturity.

SECTION 6. Registration; Transfer and Exchange. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep, at an office satisfactory to the Director of Finance and the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the Bond Register). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person;

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neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar, together with an assignment signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. Upon exchange or transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the registered owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the registered owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Award and Sale of the Bonds; Financing Costs. In accordance with this Ordinance, the Bonds shall be awarded and sold at private sale at a price of not less than 97% of par plus any accrued interest to the original purchaser as determined by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with the Certificate of Award. The Director of Finance is authorized to and shall sign and deliver the Certificate of Award. The Director of Finance shall, in the Certificate of Award, determine the principal amount of the Bonds, designate the interest rate or rates the Bonds shall bear, establish the Original Purchaser and the purchase price of the Bonds, set the Interest Payment Dates and Principal Payment Dates and amounts, set any optional redemption provisions, and make all of the other designations herein authorized and directed to be made, all within the parameters set forth herein, and shall execute the Certificate of Award and shall cause the Bonds to be prepared, signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, Vice Mayor, City Manager, Director of Finance, Director of Law, Clerk of Council (including, as used in this Ordinance, any Acting Clerk of

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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 Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The expenditure of the amounts necessary to pay the financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 8. Application of Proceeds. The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds received by the City representing premium (after payment of financing costs) or accrued interest shall be paid into the Bond Retirement Fund.

SECTION 9. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. 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 Bonds when and as the same fall due. In each year, to the extent other money is lawfully available for the payment of debt charges on the Bonds and is appropriated for that purpose, the amount of 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 Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Section 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 thereon 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 them for the interest on the Bonds to be and to remain excluded from gross income for

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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 them, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes 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 Director of Finance, or any other officer of the City having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Bonds as “qualified tax-exempt obligations” if such designation or treatment is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is permitted 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 the favorable tax treatment or status of the Bonds 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds.

SECTION 11. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

SECTION 12. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds 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 Bonds 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 Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

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

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of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. 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. The Director of Finance is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

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 passage of this Ordinance were taken in an open meeting of this Council or its 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. Notice. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

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 enable the City to sell the Bonds, which is necessary to enable the City to enter into contracts for the improvement which is needed to eliminate existing and potential hazards to, and enhance the safety of vehicular and pedestrian traffic in, the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five (5) members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

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CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Proposed: 4/3/2017

ORDINANCE NO. 33-2017 (F), *Second Reading*

By Council Member Ungar

An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$360,000 for the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Department of Public Works; and declaring an emergency.

WHEREAS, the Director of Finance (including, as used in this Ordinance, any Acting Director of Finance), 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 and the estimated maximum maturity of the Bonds described in Section 1 is 10 years.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose; Principal and Interest Payment; Denominations; Dating. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$360,000 for the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Department of Public Works, together with the necessary appurtenances thereto, including the payment of expenses related to the issuance of the Bonds (the Bonds). The principal amount of the Bonds to be issued shall be the amount certified by the Director of Finance in the certificate awarding the Bonds and setting certain terms thereof pursuant to Section 7 (the Certificate of Award). Unless otherwise determined by the Director of Finance in the Certificate of Award, the Bonds shall be combined with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code designated "Various Purpose Bonds, Series 2017", shall be issued in one lot, and shall be issued only as fully registered serial bonds.

The Bonds shall bear interest (computed on the basis of a 360-day year consisting of 12 30-day months, unless otherwise determined by the Director of Finance in the Certificate of Award), payable on June 1 and December 1 (or such other semiannual dates or annual dates as determined by the Director of Finance in the Certificate of Award) of each year (the Interest Payment Dates), commencing on the initial Interest Payment Date determined by the Director of Finance in the Certificate of Award (which initial Interest Payment Date shall not be later than one year from the issuance date of the Bonds), until the principal amount has been paid or provided for. As referred to herein, Principal Payment Dates means December 1 (or such other semiannual dates or annual date as determined by the Director of Finance in the Certificate of Award) in each of the years in which principal on Bonds is payable, in each of the years 2018 through 2027 (or such other annual years as are determined by the Director of Finance in the Certificate of Award, the latest of which shall not be later than the maximum maturity of the Bonds referred to in the preambles hereto).

The Bonds shall be dated as of their issuance date or, as of such other date not more than 60 days prior to the issuance date as is determined by the Director of Finance in the Certificate of Award. Any provision herein notwithstanding, the entire principal amount of the Bonds may be

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represented by a single certificate with multiple payments of principal listed on a principal payment schedule attached thereto.

The Bonds shall be issued in a denomination or denominations specified in the Certificate of Award, as may be reflected in the aforementioned principal payment schedule, but in no case as to a particular maturity date exceeding the principal amount of Bonds maturing on that date. The Bonds shall mature on such Principal Payment Dates and in such amounts as shall be determined by the Director of Finance, subject to the provisions hereinbelow set forth, in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. The Bonds shall bear the rate or rates of interest per year as shall be determined by the Director of Finance in the Certificate of Award. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such that (i) the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal and (ii) the true interest cost of the Bonds does not exceed 5%.

The Director of Finance may adjust the Interest Payment Dates and Principal Payment Dates within the parameters set forth in this Section and based on the Director of Finance's judgment as to the best interest of the City. Any adjustments made by the Director of Finance pursuant to the authorizations set forth in this Section and this Ordinance shall be set forth in the Certificate of Award.

SECTION 2. Optional Redemption Provisions. The Bonds may be subject to redemption prior to stated maturity as follows:

(a) Optional Redemption. If determined by the Director of Finance in the Certificate of Award to be advantageous to and in the best interest of the City, the Bonds specified in the Certificate of Award shall be subject to optional redemption, by and at the sole option of the City, in whole or in part (as selected by the City) on any such date or dates, and at the redemption price or prices (expressed as a percentage of the principal amount redeemed) plus, in each case, accrued interest to the redemption date, all as specified in the Certificate of Award, provided the redemption price for any optional redemption shall not be greater than 102%.

Bonds to be redeemed pursuant to this paragraph (a) shall be redeemed only upon written notice from the City to the Bond Registrar (as defined in Section 4), given upon the direction of this Council by adoption of a resolution or passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as hereinafter provided, there shall be deposited with the Bond Registrar, on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof,

plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(b) Partial Redemption. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Bond Registrar in any manner which the Bond Registrar may determine.

(c) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. The failure of any registered owner of any Bond to be redeemed to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

(d) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in paragraph (c) hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

SECTION 3. Execution and Authentication of Bonds. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be delivered in the denominations and numbers requested by the Original Purchaser (as defined in Section 7) and approved by the Director of Finance, shall be numbered as determined by the Director of Finance, and shall express upon their faces the purpose, which may be in summary terms, for which they are issued and that they are and shall be issued pursuant to Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award. No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings (for purposes of this Ordinance, meaning this Ordinance, the Certificate of Award, the

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Registrar Agreement (if any), and such other proceedings of the City, including the executed Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds) unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, this Ordinance. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City, or by the Director of Finance if the Director of Finance is to be the Bond Registrar pursuant to Section 4. The same person need not sign the certificate of authentication on all of the Bonds.

SECTION 4. Appointment of Bond Registrar. As used herein, “Bond Registrar” means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar. In the Certificate of Award, the Director of Finance shall appoint the initial Bond Registrar, who may be the Director of Finance; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Director of Finance shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Director of Finance shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approved of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

SECTION 5. Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of a Bond shall be paid on each Principal Payment Date and interest shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register (as defined in Section 6) at the close of business on the 15th day preceding that Interest Payment Date; provided, however, that so long as the entire principal amount of the Bonds is represented by a single certificate, payment of principal and interest may be made by wire or check or draft mailed to the person in whose name the Bond was registered on the applicable date of payment, with presentation and surrender of said certificate to be made to the Bond Registrar after payment of principal and interest at final maturity.

SECTION 6. Registration; Transfer and Exchange. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep, at an office satisfactory to the Director of Finance and the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the Bond Register). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person;

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neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar, together with an assignment signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. Upon exchange or transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the registered owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the registered owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Award and Sale of the Bonds; Financing Costs. In accordance with this Ordinance, the Bonds shall be awarded and sold at private sale at a price of not less than 97% of par plus any accrued interest to the original purchaser as determined by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with the Certificate of Award. The Director of Finance is authorized to and shall sign and deliver the Certificate of Award. The Director of Finance shall, in the Certificate of Award, determine the principal amount of the Bonds, designate the interest rate or rates the Bonds shall bear, establish the Original Purchaser and the purchase price of the Bonds, set the Interest Payment Dates and Principal Payment Dates and amounts, set any optional redemption provisions, and make all of the other designations herein authorized and directed to be made, all within the parameters set forth herein, and shall execute the Certificate of Award and shall cause the Bonds to be prepared, signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, Vice Mayor, City Manager, Director of Finance, Director of Law, Clerk of Council (including, as used in this Ordinance, any Acting Clerk of

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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 Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The expenditure of the amounts necessary to pay the financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 8. Application of Proceeds. The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds received by the City representing premium (after payment of financing costs) or accrued interest shall be paid into the Bond Retirement Fund.

SECTION 9. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. 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 Bonds when and as the same fall due. In each year, to the extent other money is lawfully available for the payment of debt charges on the Bonds and is appropriated for that purpose, the amount of 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 Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Section 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 thereon 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 them for the interest on the Bonds to be and to remain excluded from gross income for

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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 them, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes 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 Director of Finance, or any other officer of the City having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Bonds as “qualified tax-exempt obligations” if such designation or treatment is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is permitted 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 the favorable tax treatment or status of the Bonds 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds.

SECTION 11. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

SECTION 12. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds 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 Bonds 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 Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

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 Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. 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. The Director of Finance is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

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 passage of this Ordinance were taken in an open meeting of this Council or its 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. Notice. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

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 enable the City to sell the Bonds, which is necessary to enable the City to enter into contracts for the improvement which is needed to provide for the efficient and safe administration of the functions of the City's Department of Public Works; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

ORDINANCE NO. 33-2017 (F)

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Proposed: 4/3/2017

ORDINANCE NO. 34-2017 (F), *Second Reading*

By Council Member Ungar

An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$150,000 for the purpose of paying costs of acquiring equipment for use by the City's Police Department; and declaring an emergency.

WHEREAS, the Director of Finance (including, as used in this Ordinance, any Acting Director of Finance), 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 and the estimated maximum maturity of the Bonds described in Section 1 is 10 years.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose; Principal and Interest Payment; Denominations; Dating. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$150,000 for the purpose of paying costs of acquiring equipment for use by the City's Police Department, together with the necessary appurtenances thereto, including the payment of expenses related to the issuance of the Bonds (the Bonds). The principal amount of the Bonds to be issued shall be the amount certified by the Director of Finance in the certificate awarding the Bonds and setting certain terms thereof pursuant to Section 7 (the Certificate of Award). Unless otherwise determined by the Director of Finance in the Certificate of Award, the Bonds shall be combined with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code designated "Various Purpose Bonds, Series 2017", shall be issued in one lot, and shall be issued only as fully registered serial bonds.

The Bonds shall bear interest (computed on the basis of a 360-day year consisting of 12 30-day months, unless otherwise determined by the Director of Finance in the Certificate of Award), payable on June 1 and December 1 (or such other semiannual dates or annual dates as determined by the Director of Finance in the Certificate of Award) of each year (the Interest Payment Dates), commencing on the initial Interest Payment Date determined by the Director of Finance in the Certificate of Award (which initial Interest Payment Date shall not be later than one year from the issuance date of the Bonds), until the principal amount has been paid or provided for. As referred to herein, Principal Payment Dates means December 1 (or such other semiannual dates or annual date as determined by the Director of Finance in the Certificate of Award) in each of the years in which principal on Bonds is payable, in each of the years 2018 through 2027 (or such other annual years as are determined by the Director of Finance in the Certificate of Award, the latest of which shall not be later than the maximum maturity of the Bonds referred to in the preambles hereto).

The Bonds shall be dated as of their issuance date or, as of such other date not more than 60 days prior to the issuance date as is determined by the Director of Finance in the Certificate of Award. Any provision herein notwithstanding, the entire principal amount of the Bonds may be

represented by a single certificate with multiple payments of principal listed on a principal payment schedule attached thereto.

The Bonds shall be issued in a denomination or denominations specified in the Certificate of Award, as may be reflected in the aforementioned principal payment schedule, but in no case as to a particular maturity date exceeding the principal amount of Bonds maturing on that date. The Bonds shall mature on such Principal Payment Dates and in such amounts as shall be determined by the Director of Finance, subject to the provisions hereinbelow set forth, in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. The Bonds shall bear the rate or rates of interest per year as shall be determined by the Director of Finance in the Certificate of Award. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such that (i) the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal and (ii) the true interest cost of the Bonds does not exceed 5%.

The Director of Finance may adjust the Interest Payment Dates and Principal Payment Dates within the parameters set forth in this Section and based on the Director of Finance's judgment as to the best interest of the City. Any adjustments made by the Director of Finance pursuant to the authorizations set forth in this Section and this Ordinance shall be set forth in the Certificate of Award.

SECTION 2. Optional Redemption Provisions. The Bonds may be subject to redemption prior to stated maturity as follows:

(a) Optional Redemption. If determined by the Director of Finance in the Certificate of Award to be advantageous to and in the best interest of the City, the Bonds specified in the Certificate of Award shall be subject to optional redemption, by and at the sole option of the City, in whole or in part (as selected by the City) on any such date or dates, and at the redemption price or prices (expressed as a percentage of the principal amount redeemed) plus, in each case, accrued interest to the redemption date, all as specified in the Certificate of Award, provided the redemption price for any optional redemption shall not be greater than 102%.

Bonds to be redeemed pursuant to this paragraph (a) shall be redeemed only upon written notice from the City to the Bond Registrar (as defined in Section 4), given upon the direction of this Council by adoption of a resolution or passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as hereinafter provided, there shall be deposited with the Bond Registrar, on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof,

plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(b) Partial Redemption. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Bond Registrar in any manner which the Bond Registrar may determine.

(c) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. The failure of any registered owner of any Bond to be redeemed to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

(d) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in paragraph (c) hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

SECTION 3. Execution and Authentication of Bonds. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be delivered in the denominations and numbers requested by the Original Purchaser (as defined in Section 7) and approved by the Director of Finance, shall be numbered as determined by the Director of Finance, and shall express upon their faces the purpose, which may be in summary terms, for which they are issued and that they are and shall be issued pursuant to Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award. No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings (for purposes of this Ordinance, meaning this Ordinance, the Certificate of Award, the

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Registrar Agreement (if any), and such other proceedings of the City, including the executed Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds) unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, this Ordinance. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City, or by the Director of Finance if the Director of Finance is to be the Bond Registrar pursuant to Section 4. The same person need not sign the certificate of authentication on all of the Bonds.

SECTION 4. Appointment of Bond Registrar. As used herein, “Bond Registrar” means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar. In the Certificate of Award, the Director of Finance shall appoint the initial Bond Registrar, who may be the Director of Finance; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Director of Finance shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Director of Finance shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approved of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

SECTION 5. Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of a Bond shall be paid on each Principal Payment Date and interest shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register (as defined in Section 6) at the close of business on the 15th day preceding that Interest Payment Date; provided, however, that so long as the entire principal amount of the Bonds is represented by a single certificate, payment of principal and interest may be made by wire or check or draft mailed to the person in whose name the Bond was registered on the applicable date of payment, with presentation and surrender of said certificate to be made to the Bond Registrar after payment of principal and interest at final maturity.

SECTION 6. Registration; Transfer and Exchange. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep, at an office satisfactory to the Director of Finance and the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the Bond Register). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person;

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neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar, together with an assignment signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. Upon exchange or transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the registered owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the registered owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Award and Sale of the Bonds; Financing Costs. In accordance with this Ordinance, the Bonds shall be awarded and sold at private sale at a price of not less than 97% of par plus any accrued interest to the original purchaser as determined by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with the Certificate of Award. The Director of Finance is authorized to and shall sign and deliver the Certificate of Award. The Director of Finance shall, in the Certificate of Award, determine the principal amount of the Bonds, designate the interest rate or rates the Bonds shall bear, establish the Original Purchaser and the purchase price of the Bonds, set the Interest Payment Dates and Principal Payment Dates and amounts, set any optional redemption provisions, and make all of the other designations herein authorized and directed to be made, all within the parameters set forth herein, and shall execute the Certificate of Award and shall cause the Bonds to be prepared, signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, Vice Mayor, City Manager, Director of Finance, Director of Law, Clerk of Council (including, as used in this Ordinance, any Acting Clerk of

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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 Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The expenditure of the amounts necessary to pay the financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 8. Application of Proceeds. The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds received by the City representing premium (after payment of financing costs) or accrued interest shall be paid into the Bond Retirement Fund.

SECTION 9. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. 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 Bonds when and as the same fall due. In each year, to the extent other money is lawfully available for the payment of debt charges on the Bonds and is appropriated for that purpose, the amount of 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 Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Section 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 thereon 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 them for the interest on the Bonds to be and to remain excluded from gross income for

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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 them, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes 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 Director of Finance, or any other officer of the City having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Bonds as “qualified tax-exempt obligations” if such designation or treatment is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is permitted 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 the favorable tax treatment or status of the Bonds 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds.

SECTION 11. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

SECTION 12. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds 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 Bonds 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 Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

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

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of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. 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. The Director of Finance is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

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 passage of this Ordinance were taken in an open meeting of this Council or its 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. Notice. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

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 enable the City to sell the Bonds, which is necessary to enable the City to enter into contracts for the improvement which is needed to timely and efficiently provide municipal police services to City residents and thereby better maintain order and safety in the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

ORDINANCE NO. 34-2017 (F)

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Proposed: 4/3/2017

ORDINANCE NO. 35-2017 (F), *Second Reading*

By Council Member Ungar

An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$65,000 for the purpose of paying costs of installing and improvement sidewalks at the City Hall Complex; and declaring an emergency.

WHEREAS, the Director of Finance (including, as used in this Ordinance, any Acting Director of Finance), 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 and the estimated maximum maturity of the Bonds described in Section 1 is 10 years.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose; Principal and Interest Payment; Denominations; Dating. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$65,000 for the purpose of paying costs of installing and improvement sidewalks at the City Hall Complex, together with the necessary appurtenances thereto, including the payment of expenses related to the issuance of the Bonds (the Bonds). The principal amount of the Bonds to be issued shall be the amount certified by the Director of Finance in the certificate awarding the Bonds and setting certain terms thereof pursuant to Section 7 (the Certificate of Award). Unless otherwise determined by the Director of Finance in the Certificate of Award, the Bonds shall be combined with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code designated "Various Purpose Bonds, Series 2017", shall be issued in one lot, and shall be issued only as fully registered serial bonds.

The Bonds shall bear interest (computed on the basis of a 360-day year consisting of 12 30-day months, unless otherwise determined by the Director of Finance in the Certificate of Award), payable on June 1 and December 1 (or such other semiannual dates or annual dates as determined by the Director of Finance in the Certificate of Award) of each year (the Interest Payment Dates), commencing on the initial Interest Payment Date determined by the Director of Finance in the Certificate of Award (which initial Interest Payment Date shall not be later than one year from the issuance date of the Bonds), until the principal amount has been paid or provided for. As referred to herein, Principal Payment Dates means December 1 (or such other semiannual dates or annual date as determined by the Director of Finance in the Certificate of Award) in each of the years in which principal on Bonds is payable, in each of the years 2018 through 2027 (or such other annual years as are determined by the Director of Finance in the Certificate of Award, the latest of which shall not be later than the maximum maturity of the Bonds referred to in the preambles hereto).

The Bonds shall be dated as of their issuance date or, as of such other date not more than 60 days prior to the issuance date as is determined by the Director of Finance in the Certificate of Award. Any provision herein notwithstanding, the entire principal amount of the Bonds may be

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represented by a single certificate with multiple payments of principal listed on a principal payment schedule attached thereto.

The Bonds shall be issued in a denomination or denominations specified in the Certificate of Award, as may be reflected in the aforementioned principal payment schedule, but in no case as to a particular maturity date exceeding the principal amount of Bonds maturing on that date. The Bonds shall mature on such Principal Payment Dates and in such amounts as shall be determined by the Director of Finance, subject to the provisions hereinbelow set forth, in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. The Bonds shall bear the rate or rates of interest per year as shall be determined by the Director of Finance in the Certificate of Award. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such that (i) the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal and (ii) the true interest cost of the Bonds does not exceed 5%.

The Director of Finance may adjust the Interest Payment Dates and Principal Payment Dates within the parameters set forth in this Section and based on the Director of Finance's judgment as to the best interest of the City. Any adjustments made by the Director of Finance pursuant to the authorizations set forth in this Section and this Ordinance shall be set forth in the Certificate of Award.

SECTION 2. Optional Redemption Provisions. The Bonds may be subject to redemption prior to stated maturity as follows:

(a) Optional Redemption. If determined by the Director of Finance in the Certificate of Award to be advantageous to and in the best interest of the City, the Bonds specified in the Certificate of Award shall be subject to optional redemption, by and at the sole option of the City, in whole or in part (as selected by the City) on any such date or dates, and at the redemption price or prices (expressed as a percentage of the principal amount redeemed) plus, in each case, accrued interest to the redemption date, all as specified in the Certificate of Award, provided the redemption price for any optional redemption shall not be greater than 102%.

Bonds to be redeemed pursuant to this paragraph (a) shall be redeemed only upon written notice from the City to the Bond Registrar (as defined in Section 4), given upon the direction of this Council by adoption of a resolution or passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as hereinafter provided, there shall be deposited with the Bond Registrar, on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof,

plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(b) Partial Redemption. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Bond Registrar in any manner which the Bond Registrar may determine.

(c) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. The failure of any registered owner of any Bond to be redeemed to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

(d) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in paragraph (c) hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

SECTION 3. Execution and Authentication of Bonds. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be delivered in the denominations and numbers requested by the Original Purchaser (as defined in Section 7) and approved by the Director of Finance, shall be numbered as determined by the Director of Finance, and shall express upon their faces the purpose, which may be in summary terms, for which they are issued and that they are and shall be issued pursuant to Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award. No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings (for purposes of this Ordinance, meaning this Ordinance, the Certificate of Award, the

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Registrar Agreement (if any), and such other proceedings of the City, including the executed Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds) unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, this Ordinance. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City, or by the Director of Finance if the Director of Finance is to be the Bond Registrar pursuant to Section 4. The same person need not sign the certificate of authentication on all of the Bonds.

SECTION 4. Appointment of Bond Registrar. As used herein, “Bond Registrar” means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar. In the Certificate of Award, the Director of Finance shall appoint the initial Bond Registrar, who may be the Director of Finance; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Director of Finance shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Director of Finance shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approved of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

SECTION 5. Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of a Bond shall be paid on each Principal Payment Date and interest shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register (as defined in Section 6) at the close of business on the 15th day preceding that Interest Payment Date; provided, however, that so long as the entire principal amount of the Bonds is represented by a single certificate, payment of principal and interest may be made by wire or check or draft mailed to the person in whose name the Bond was registered on the applicable date of payment, with presentation and surrender of said certificate to be made to the Bond Registrar after payment of principal and interest at final maturity.

SECTION 6. Registration; Transfer and Exchange. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep, at an office satisfactory to the Director of Finance and the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the Bond Register). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person;

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neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar, together with an assignment signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. Upon exchange or transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the registered owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the registered owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Award and Sale of the Bonds; Financing Costs. In accordance with this Ordinance, the Bonds shall be awarded and sold at private sale at a price of not less than 97% of par plus any accrued interest to the original purchaser as determined by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with the Certificate of Award. The Director of Finance is authorized to and shall sign and deliver the Certificate of Award. The Director of Finance shall, in the Certificate of Award, determine the principal amount of the Bonds, designate the interest rate or rates the Bonds shall bear, establish the Original Purchaser and the purchase price of the Bonds, set the Interest Payment Dates and Principal Payment Dates and amounts, set any optional redemption provisions, and make all of the other designations herein authorized and directed to be made, all within the parameters set forth herein, and shall execute the Certificate of Award and shall cause the Bonds to be prepared, signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, Vice Mayor, City Manager, Director of Finance, Director of Law, Clerk of Council (including, as used in this Ordinance, any Acting Clerk of

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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 Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The expenditure of the amounts necessary to pay the financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 8. Application of Proceeds. The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds received by the City representing premium (after payment of financing costs) or accrued interest shall be paid into the Bond Retirement Fund.

SECTION 9. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. 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 Bonds when and as the same fall due. In each year, to the extent other money is lawfully available for the payment of debt charges on the Bonds and is appropriated for that purpose, the amount of 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 Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Section 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 thereon 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 them for the interest on the Bonds to be and to remain excluded from gross income for

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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 them, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes 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 Director of Finance, or any other officer of the City having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Bonds as “qualified tax-exempt obligations” if such designation or treatment is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is permitted 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 the favorable tax treatment or status of the Bonds 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds.

SECTION 11. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

SECTION 12. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds 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 Bonds 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 Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

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

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of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. 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. The Director of Finance is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

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 passage of this Ordinance were taken in an open meeting of this Council or its 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. Notice. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

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 enable the City to sell the Bonds, which is necessary to enable the City to enter into contracts for the improvement which is needed to provide for the efficient and safe administration of the government of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

ORDINANCE NO. 35-2017 (F)

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Proposed: 4/3/2017

ORDINANCE NO. 36-2017 (F), *Second Reading*

By Council Member Ungar

An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$75,000 for the purpose of paying costs of replacing fire hoses and nozzles at the City's fire station facilities; and declaring an emergency.

WHEREAS, the Director of Finance (including, as used in this Ordinance, any Acting Director of Finance), 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 and the estimated maximum maturity of the Bonds described in Section 1 is 10 years.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose; Principal and Interest Payment; Denominations; Dating. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$75,000 for the purpose of paying costs of replacing fire hoses and nozzles at the City's fire station facilities, together with the necessary appurtenances thereto, including the payment of expenses related to the issuance of the Bonds (the Bonds). The principal amount of the Bonds to be issued shall be the amount certified by the Director of Finance in the certificate awarding the Bonds and setting certain terms thereof pursuant to Section 7 (the Certificate of Award). Unless otherwise determined by the Director of Finance in the Certificate of Award, the Bonds shall be combined with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code designated "Various Purpose Bonds, Series 2017", shall be issued in one lot, and shall be issued only as fully registered serial bonds.

The Bonds shall bear interest (computed on the basis of a 360-day year consisting of 12 30-day months, unless otherwise determined by the Director of Finance in the Certificate of Award), payable on June 1 and December 1 (or such other semiannual dates or annual dates as determined by the Director of Finance in the Certificate of Award) of each year (the Interest Payment Dates), commencing on the initial Interest Payment Date determined by the Director of Finance in the Certificate of Award (which initial Interest Payment Date shall not be later than one year from the issuance date of the Bonds), until the principal amount has been paid or provided for. As referred to herein, Principal Payment Dates means December 1 (or such other semiannual dates or annual date as determined by the Director of Finance in the Certificate of Award) in each of the years in which principal on Bonds is payable, in each of the years 2018 through 2027 (or such other annual years as are determined by the Director of Finance in the Certificate of Award, the latest of which shall not be later than the maximum maturity of the Bonds referred to in the preambles hereto).

The Bonds shall be dated as of their issuance date or, as of such other date not more than 60 days prior to the issuance date as is determined by the Director of Finance in the Certificate of Award. Any provision herein notwithstanding, the entire principal amount of the Bonds may be

represented by a single certificate with multiple payments of principal listed on a principal payment schedule attached thereto.

The Bonds shall be issued in a denomination or denominations specified in the Certificate of Award, as may be reflected in the aforementioned principal payment schedule, but in no case as to a particular maturity date exceeding the principal amount of Bonds maturing on that date. The Bonds shall mature on such Principal Payment Dates and in such amounts as shall be determined by the Director of Finance, subject to the provisions hereinbelow set forth, in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. The Bonds shall bear the rate or rates of interest per year as shall be determined by the Director of Finance in the Certificate of Award. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such that (i) the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal and (ii) the true interest cost of the Bonds does not exceed 5%.

The Director of Finance may adjust the Interest Payment Dates and Principal Payment Dates within the parameters set forth in this Section and based on the Director of Finance's judgment as to the best interest of the City. Any adjustments made by the Director of Finance pursuant to the authorizations set forth in this Section and this Ordinance shall be set forth in the Certificate of Award.

SECTION 2. Optional Redemption Provisions. The Bonds may be subject to redemption prior to stated maturity as follows:

(a) Optional Redemption. If determined by the Director of Finance in the Certificate of Award to be advantageous to and in the best interest of the City, the Bonds specified in the Certificate of Award shall be subject to optional redemption, by and at the sole option of the City, in whole or in part (as selected by the City) on any such date or dates, and at the redemption price or prices (expressed as a percentage of the principal amount redeemed) plus, in each case, accrued interest to the redemption date, all as specified in the Certificate of Award, provided the redemption price for any optional redemption shall not be greater than 102%.

Bonds to be redeemed pursuant to this paragraph (a) shall be redeemed only upon written notice from the City to the Bond Registrar (as defined in Section 4), given upon the direction of this Council by adoption of a resolution or passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as hereinafter provided, there shall be deposited with the Bond Registrar, on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof,

plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(b) Partial Redemption. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Bond Registrar in any manner which the Bond Registrar may determine.

(c) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. The failure of any registered owner of any Bond to be redeemed to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

(d) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in paragraph (c) hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

SECTION 3. Execution and Authentication of Bonds. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be delivered in the denominations and numbers requested by the Original Purchaser (as defined in Section 7) and approved by the Director of Finance, shall be numbered as determined by the Director of Finance, and shall express upon their faces the purpose, which may be in summary terms, for which they are issued and that they are and shall be issued pursuant to Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award. No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings (for purposes of this Ordinance, meaning this Ordinance, the Certificate of Award, the

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Registrar Agreement (if any), and such other proceedings of the City, including the executed Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds) unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, this Ordinance. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City, or by the Director of Finance if the Director of Finance is to be the Bond Registrar pursuant to Section 4. The same person need not sign the certificate of authentication on all of the Bonds.

SECTION 4. Appointment of Bond Registrar. As used herein, “Bond Registrar” means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar. In the Certificate of Award, the Director of Finance shall appoint the initial Bond Registrar, who may be the Director of Finance; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Director of Finance shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Director of Finance shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approved of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

SECTION 5. Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of a Bond shall be paid on each Principal Payment Date and interest shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register (as defined in Section 6) at the close of business on the 15th day preceding that Interest Payment Date; provided, however, that so long as the entire principal amount of the Bonds is represented by a single certificate, payment of principal and interest may be made by wire or check or draft mailed to the person in whose name the Bond was registered on the applicable date of payment, with presentation and surrender of said certificate to be made to the Bond Registrar after payment of principal and interest at final maturity.

SECTION 6. Registration; Transfer and Exchange. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep, at an office satisfactory to the Director of Finance and the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the Bond Register). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person;

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neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar, together with an assignment signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. Upon exchange or transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the registered owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the registered owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Award and Sale of the Bonds; Financing Costs. In accordance with this Ordinance, the Bonds shall be awarded and sold at private sale at a price of not less than 97% of par plus any accrued interest to the original purchaser as determined by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with the Certificate of Award. The Director of Finance is authorized to and shall sign and deliver the Certificate of Award. The Director of Finance shall, in the Certificate of Award, determine the principal amount of the Bonds, designate the interest rate or rates the Bonds shall bear, establish the Original Purchaser and the purchase price of the Bonds, set the Interest Payment Dates and Principal Payment Dates and amounts, set any optional redemption provisions, and make all of the other designations herein authorized and directed to be made, all within the parameters set forth herein, and shall execute the Certificate of Award and shall cause the Bonds to be prepared, signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, Vice Mayor, City Manager, Director of Finance, Director of Law, Clerk of Council (including, as used in this Ordinance, any Acting Clerk of

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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 Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The expenditure of the amounts necessary to pay the financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 8. Application of Proceeds. The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds received by the City representing premium (after payment of financing costs) or accrued interest shall be paid into the Bond Retirement Fund.

SECTION 9. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. 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 Bonds when and as the same fall due. In each year, to the extent other money is lawfully available for the payment of debt charges on the Bonds and is appropriated for that purpose, the amount of 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 Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Section 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 thereon 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 them for the interest on the Bonds to be and to remain excluded from gross income for

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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 them, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes 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 Director of Finance, or any other officer of the City having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Bonds as “qualified tax-exempt obligations” if such designation or treatment is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is permitted 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 the favorable tax treatment or status of the Bonds 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds.

SECTION 11. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

SECTION 12. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds 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 Bonds 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 Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

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

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of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. 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. The Director of Finance is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

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 passage of this Ordinance were taken in an open meeting of this Council or its 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. Notice. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

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 enable the City to sell the Bonds, which is necessary to enable the City to enter into contracts for the improvement which is needed to timely and efficiently provide municipal fire services to City residents and thereby better protect their property and provide for their safety; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

ORDINANCE NO. 36-2017 (F)

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Proposed: 4/3/2017

ORDINANCE NO. 37-2017 (F), *Second Reading*

By Council Member Ungar

An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$355,000 for the purpose of paying costs of acquiring motor vehicles and related equipment for use by the City's Fire Department in providing emergency medical services, and declaring an emergency.

WHEREAS, the Director of Finance (including, as used in this Ordinance, any Acting Director of Finance), 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 and the estimated maximum maturity of the Bonds described in Section 1 is 10 years.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose; Principal and Interest Payment; Denominations; Dating. It is necessary to issue bonds of the City in an aggregate principal amount not to exceed \$355,000 for the purpose of paying costs of acquiring motor vehicles and related equipment for use by the City's Fire Department in providing emergency medical services, together with the necessary appurtenances thereto, including the payment of expenses related to the issuance of the Bonds (the Bonds). The principal amount of the Bonds to be issued shall be the amount certified by the Director of Finance in the certificate awarding the Bonds and setting certain terms thereof pursuant to Section 7 (the Certificate of Award). Unless otherwise determined by the Director of Finance in the Certificate of Award, the Bonds shall be combined with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code designated "Various Purpose Bonds, Series 2017", shall be issued in one lot, and shall be issued only as fully registered serial bonds.

The Bonds shall bear interest (computed on the basis of a 360-day year consisting of 12 30-day months, unless otherwise determined by the Director of Finance in the Certificate of Award), payable on June 1 and December 1 (or such other semiannual dates or annual dates as determined by the Director of Finance in the Certificate of Award) of each year (the Interest Payment Dates), commencing on the initial Interest Payment Date determined by the Director of Finance in the Certificate of Award (which initial Interest Payment Date shall not be later than one year from the issuance date of the Bonds), until the principal amount has been paid or provided for. As referred to herein, Principal Payment Dates means December 1 (or such other semiannual dates or annual date as determined by the Director of Finance in the Certificate of Award) in each of the years in which principal on Bonds is payable, in each of the years 2018 through 2027 (or such other annual years as are determined by the Director of Finance in the Certificate of Award, the latest of which shall not be later than the maximum maturity of the Bonds referred to in the preambles hereto).

The Bonds shall be dated as of their issuance date or, as of such other date not more than 60 days prior to the issuance date as is determined by the Director of Finance in the Certificate of Award. Any provision herein notwithstanding, the entire principal amount of the Bonds may be

ORDINANCE NO. 37-2017 (F)

represented by a single certificate with multiple payments of principal listed on a principal payment schedule attached thereto.

The Bonds shall be issued in a denomination or denominations specified in the Certificate of Award, as may be reflected in the aforementioned principal payment schedule, but in no case as to a particular maturity date exceeding the principal amount of Bonds maturing on that date. The Bonds shall mature on such Principal Payment Dates and in such amounts as shall be determined by the Director of Finance, subject to the provisions hereinbelow set forth, in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. The Bonds shall bear the rate or rates of interest per year as shall be determined by the Director of Finance in the Certificate of Award. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The rate or rates of interest per year to be borne by any Bonds, and the principal amount of Bonds maturing on each Principal Payment Date, shall be such that (i) the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal and (ii) the true interest cost of the Bonds does not exceed 5%.

The Director of Finance may adjust the Interest Payment Dates and Principal Payment Dates within the parameters set forth in this Section and based on the Director of Finance's judgment as to the best interest of the City. Any adjustments made by the Director of Finance pursuant to the authorizations set forth in this Section and this Ordinance shall be set forth in the Certificate of Award.

SECTION 2. Optional Redemption Provisions. The Bonds may be subject to redemption prior to stated maturity as follows:

(a) Optional Redemption. If determined by the Director of Finance in the Certificate of Award to be advantageous to and in the best interest of the City, the Bonds specified in the Certificate of Award shall be subject to optional redemption, by and at the sole option of the City, in whole or in part (as selected by the City) on any such date or dates, and at the redemption price or prices (expressed as a percentage of the principal amount redeemed) plus, in each case, accrued interest to the redemption date, all as specified in the Certificate of Award, provided the redemption price for any optional redemption shall not be greater than 102%.

Bonds to be redeemed pursuant to this paragraph (a) shall be redeemed only upon written notice from the City to the Bond Registrar (as defined in Section 4), given upon the direction of this Council by adoption of a resolution or passage of an ordinance. That notice shall specify the redemption date and the principal amount of each maturity of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as hereinafter provided, there shall be deposited with the Bond Registrar, on or prior to the redemption date, funds which, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof,

plus interest accrued to the redemption date, all of the redeemable Bonds for which notice of redemption has been given.

(b) Partial Redemption. If fewer than all of the Bonds of a single maturity are to be redeemed, the selection of Bonds to be redeemed, or portions thereof, shall be made by lot by the Bond Registrar in any manner which the Bond Registrar may determine.

(c) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address then shown on the Bond Register maintained by the Bond Registrar. The failure of any registered owner of any Bond to be redeemed to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

(d) Payment of Redeemed Bonds. Notice having been mailed in the manner provided in paragraph (c) hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus interest accrued to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds, provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

SECTION 3. Execution and Authentication of Bonds. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Bonds shall be delivered in the denominations and numbers requested by the Original Purchaser (as defined in Section 7) and approved by the Director of Finance, shall be numbered as determined by the Director of Finance, and shall express upon their faces the purpose, which may be in summary terms, for which they are issued and that they are and shall be issued pursuant to Chapter 133 of the Revised Code, the City's Charter, this Ordinance and the Certificate of Award. No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond proceedings (for purposes of this Ordinance, meaning this Ordinance, the Certificate of Award, the

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Registrar Agreement (if any), and such other proceedings of the City, including the executed Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds) unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, this Ordinance. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City, or by the Director of Finance if the Director of Finance is to be the Bond Registrar pursuant to Section 4. The same person need not sign the certificate of authentication on all of the Bonds.

SECTION 4. Appointment of Bond Registrar. As used herein, “Bond Registrar” means the person or entity appointed pursuant to this Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds and until a successor Bond Registrar shall have become such and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar. In the Certificate of Award, the Director of Finance shall appoint the initial Bond Registrar, who may be the Director of Finance; provided that, if the Bond Registrar is to be a bank or trust company: (a) the Director of Finance shall first determine that said bank or trust company will not endanger the funds or securities of the City; and (b) the Director of Finance shall sign and deliver, in the name and on behalf of the City, a Bond Registrar Agreement between the City and the Bond Registrar (the Registrar Agreement) after having obtained the approved of this Council of said Registrar Agreement; and (c) unless paid from other sources, the Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

SECTION 5. Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of a Bond shall be paid on each Principal Payment Date and interest shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person’s address appearing, on the Bond Register (as defined in Section 6) at the close of business on the 15th day preceding that Interest Payment Date; provided, however, that so long as the entire principal amount of the Bonds is represented by a single certificate, payment of principal and interest may be made by wire or check or draft mailed to the person in whose name the Bond was registered on the applicable date of payment, with presentation and surrender of said certificate to be made to the Bond Registrar after payment of principal and interest at final maturity.

SECTION 6. Registration; Transfer and Exchange. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep, at an office satisfactory to the Director of Finance and the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the Bond Register). Subject to the provisions of Section 5, the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of this Ordinance. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person;

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neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of any authorized denomination upon presentation and surrender at the office of the Bond Registrar designated in the Certificate of Award or, if not so designated, then at the designated corporate trust office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar, together with an assignment signed by the registered owner or by a person legally empowered to do so, in a form satisfactory to the Bond Registrar. Upon exchange or transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations requested by the registered owner equal in the aggregate to the unmaturing principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the registered owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under this Ordinance, as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Award and Sale of the Bonds; Financing Costs. In accordance with this Ordinance, the Bonds shall be awarded and sold at private sale at a price of not less than 97% of par plus any accrued interest to the original purchaser as determined by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with the Certificate of Award. The Director of Finance is authorized to and shall sign and deliver the Certificate of Award. The Director of Finance shall, in the Certificate of Award, determine the principal amount of the Bonds, designate the interest rate or rates the Bonds shall bear, establish the Original Purchaser and the purchase price of the Bonds, set the Interest Payment Dates and Principal Payment Dates and amounts, set any optional redemption provisions, and make all of the other designations herein authorized and directed to be made, all within the parameters set forth herein, and shall execute the Certificate of Award and shall cause the Bonds to be prepared, signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price. The Mayor, Vice Mayor, City Manager, Director of Finance, Director of Law, Clerk of Council (including, as used in this Ordinance, any Acting Clerk of

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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 Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The expenditure of the amounts necessary to pay the financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Bonds is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 8. Application of Proceeds. The proceeds from the sale of the Bonds received by the City shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued. Any portion of those proceeds received by the City representing premium (after payment of financing costs) or accrued interest shall be paid into the Bond Retirement Fund.

SECTION 9. Provisions for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. 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 Bonds when and as the same fall due. In each year, to the extent other money is lawfully available for the payment of debt charges on the Bonds and is appropriated for that purpose, the amount of 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 Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Section 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 thereon 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 them for the interest on the Bonds to be and to remain excluded from gross income for

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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 them, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purposes 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 Director of Finance, or any other officer of the City having responsibility for the issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Bonds as “qualified tax-exempt obligations” if such designation or treatment is applicable and desirable, and to make any related necessary representations and covenants), choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is permitted 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 the favorable tax treatment or status of the Bonds 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds.

SECTION 11. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance and a signed copy of the Certificate of Award to the Cuyahoga County Fiscal Officer.

SECTION 12. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Bonds 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 Bonds 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 Bonds; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

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

ORDINANCE NO. 37-2017 (F)

of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. 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. The Director of Finance is authorized and directed, to the extent they are not paid by the Original Purchaser, to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

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 passage of this Ordinance were taken in an open meeting of this Council or its 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. Notice. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

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 enable the City to sell the Bonds, which is necessary to enable the City to enter into contracts for the improvement which is needed to timely and efficiently provide municipal emergency medical services to City residents and thereby better provide for their health and safety; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

ORDINANCE NO. 37-2017 (F)

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

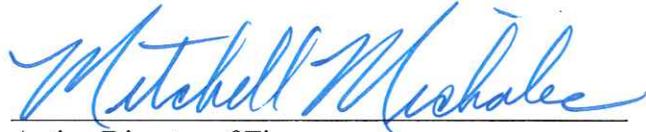
FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO:

As fiscal officer of the City of Cleveland Heights, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$115,000 (the Bonds) for the purpose of paying costs of acquiring motor vehicles for use by the City's Police Department, together with the necessary appurtenances thereto (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 five years.

Dated: March 31, 2017



Acting Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO:

As fiscal officer of the City of Cleveland Heights, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$255,000 (the Bonds) for the purpose of paying costs of improving streets and roads in the City by reconstructing, grading, draining, paving and making other improvements as designated in the plans approved or to be approved by Council (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 20 years.

Dated: March 31, 2017



Acting Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO:

As fiscal officer of the City of Cleveland Heights, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$360,000 (the Bonds) for the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Department of Public Works, together with the necessary appurtenances thereto (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 10 years, being my estimate of the life or period of usefulness of the improvement.

Dated: March 31, 2017

A handwritten signature in blue ink, reading "Mitchell Michael", is written over a horizontal line.

Acting Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO:

As fiscal officer of the City of Cleveland Heights, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$150,000 (the Bonds) for the purpose of paying costs of acquiring equipment for use by the City's Police Department, together with the necessary appurtenances thereto (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 10 years.

Dated: March 31, 2017

A handwritten signature in blue ink, reading "Mitchell Michael", written over a horizontal line.

Acting Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO:

As fiscal officer of the City of Cleveland Heights, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$65,000 (the Bonds) for the purpose of paying costs of installing and improvement sidewalks at the City Hall Complex, together with the necessary appurtenances thereto (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 10 years, being my estimate of the life or period of usefulness of the improvement.

Dated: March 31, 2017

A handwritten signature in blue ink, reading "Mitchell Michael", written over a horizontal line.

Acting Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO:

As fiscal officer of the City of Cleveland Heights, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$75,000 (the Bonds) for the purpose of paying costs of replacing fire hoses and nozzles at the City's fire station facilities, together with the necessary appurtenances thereto (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 10 years, being my estimate of the life or period of usefulness of the improvement.

Dated: March 31, 2017



Acting Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO:

As fiscal officer of the City of Cleveland Heights, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$355,000 (the Bonds) for the purpose of paying costs of acquiring motor vehicles and related equipment for use by the City's Fire Department in providing emergency medical services, together with the necessary appurtenances thereto (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 10 years, being my estimate of the life or period of usefulness of the improvement.

Dated: March 31, 2017

A handwritten signature in blue ink, reading "Mitchell Michael", written over a horizontal line.

Acting Director of Finance
City of Cleveland Heights, Ohio

Proposed: 4/3/2017

RESOLUTION NO. 25-2017(MS), *Second Reading*

By Council Member Yasinow

A Resolution authorizing the City Manager to execute a Professional Energy Service Design-Build Agreement with Evans Energy; and declaring an emergency.

WHEREAS, pursuant to Resolution No. 6-2017, the City Manager entered negotiations with Evans Energy for an energy conservation project identified in its proposed Scope of Work, dated September 16, 2016, and submitted in response to the City's request for proposals; and

WHEREAS, said project would result in increased energy efficiency, equipment reliability, and reduced energy costs; and

WHEREAS, this Council has determined it is in the best interest of the City and its residents to move forward with the proposed agreement with Evans Energy under the terms negotiated by the City Manager.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The City Manager be, and she is hereby, authorized to execute a Professional Energy Service Design-Build Agreement with Evans Energy. The terms of said agreement shall be similar to the proposed agreement on file with the Clerk of Council and shall be approved as to form by the Director of Law. The stated contract amount shall not exceed Five Million, Four Hundred Forty-Five Thousand, Five Hundred and Sixty-Two Dollars (\$5,445,562).

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to secure the offered terms before the energy market changes. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

RESOLUTION NO. 25-2017 (MS)

CHERYL L. STEPHENS, Mayor
President of the Council

MITCHELL MICHALEC
Acting Clerk of Council

Passed:

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:26 p.m. to discuss the contents of the City Manager's memo and Board of Zoning Appeals applications.

Council Members present: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow

Staff present: Anderson, Briley, Butler, Freeman, Juliano, Lambdin, Mannarino, McRae, Mecklenburg, Michalec, Niermann O'Neil, Smith, Wong

Councilwoman Dunbar motioned to move to Executive Session at 7:44 p.m. to deliberate. The motion was seconded by Councilwoman Yasinow.

Roll Call: Ayes: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow

Nays: None

Councilwoman Yasinow moved to end executive session. That was seconded by Councilwoman Dunbar.

Roll Call: Ayes: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow

Nays: None

Executive Session adjourned at 7:50 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:55 p.m., Mayor Stephens presiding.

Council Members present: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow

Staff present: Anderson, Briley, Butler, Freeman, Juliano, Lambdin, Mannarino, McRae, Mecklenburg, Michalec, Niermann O'Neil, Smith, Wong

Mayor Stephens stated, "Good evening and welcome to the Cleveland Heights City Council meeting for Monday, April 3, 2017. This is our regular meeting. We apologize to those of you who had to wait a moment or two in the Council Chambers. We just needed a brief executive session. Mr. Michalec, would you please call the roll?"

Mitch Michalec stated, "Yes, Your Honor."

Roll Call: Ayes: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow

Mitch Michalec stated, "Seven present, Your Honor."

Mayor Stephens stated, "Thank you. This evening we will have our regular Council minutes passed to staff. Thank you. At this time, we have a long tradition of hearing personal communications from residents of our community or anyone who has something they'd like to share with the City Council. We need for you to come to the podium on my left or your right, state your name, your address and speak to us for approximately three minutes please. So, is there anyone who would like to address Council? Yes, ma'am."

Katherine Solander stated, "Good evening. My name is Katherine Solander and I live at 2477 Gilford Road. As a representative of the Cleveland Heights Chapter of the League of Women Voters of Greater Cleveland, I'm here to invite the community to attend a discussion with Dr. Talisa Dixon, the superintendent of the Cleveland Heights-University Heights City School District. This meeting will be held on Sunday, April 23 from 2:00 to 4:00 p.m. in Meeting Room A of the Cleveland Heights-University Heights Main Library at 2345 Lee Road in Cleveland Heights. Again, everyone is invited, so please bring your friends and neighbors. Dr. Dixon will speak for a while and then we'll take written questions from the audience. Among the topics the league has suggested she address are trends and changes in school curriculum at all levels, core curriculum, requirements from the State of Ohio and how these have changed and the difficulties of assessing achievement versus assessing student growth. She will also be able to tell us about the progress of plans for the reopening of Heights High School later this year as well as the next phase of reconstruction. This discussion follows the Annual State of the schools address that Dr. Dixon will give at the Community Center on April 5, so questions arising from that presentation will certainly be welcome. The League of Women Voters looks forward to seeing everyone at the Main Library on April 23. Thank you."

Mayor Stephens stated, "Thank you. Next, we'll go down the same row."

Laura Lewis stated, "Good evening. My name is Laura Lewis. I'm at 2840 Washington Boulevard. I'm here as a volunteer with Moms Demand Action for Gun Sense in America. I didn't realize I was going... I thought this would be more of a discussion, but there are a couple of things that we wanted to bring to your attention. First of all is a bill that was recently enacted in Ohio; it's called SB199 or the Guns Everywhere Bill that just came into effect March 21 which will allow people to carry hidden, loaded guns into places such as daycares in the area and Moms has taken it upon ourselves as volunteers to call daycares throughout the State of Ohio, we have quite a large team on this, to make them aware of this law and that they have the right to prohibit the guns in their facility by posting a sign and we have found that there is quite a large percentage of daycares that aren't aware that this law is in effect, so we're here today to ask Council if there is a way of getting word out to daycares in our local communities so our kids are kept safe. So that was the one point I want to mention. Another point is June 2 is National Gun Violence Awareness Day. Moms is asking everyone to wear orange on that day. Orange is the color that people wear to signal,

'don't shoot,' and it has become kind of become a color of the movement, so we are asking all of our elected officials if they will wear the color orange that day, take pictures of themselves, post to social media with the '#WearOrange,' and if there are also any buildings in the area, any local businesses, City Hall that would consider using orange lights to light things up that night and also post those pictures to social media. And then finally, Moms has another program that we like to promote more throughout our community. It's called Be Smart. It's a child access prevention program; puts the onus of the responsibility for states safe storage of guns on the adults and encourages people to have a conversation about whether or not there are guns in the home to make this more of a not such a taboo topic and encourage dialogue. We do have a presentation that we like to bring out to community groups and organizations. We have materials that actually the Cleveland Heights Police Department now has at their front desk to give out, but we'd like to get those out in the community more, so thank you very much."

Mayor Stephens stated, "Thank you, Ms. Lewis."

Councilwoman Yasinow stated, "Would it be possible to get a reminder from Moms Demand Action about June 2 and the #WearOrange. Would that be possible to so it stays on our radar or do you have a Facebook page?"

Mayor Stephens stated, "So, the Chief and I met with her a little over a month ago, so she can email to the Chief so the Chief can help remind us."

Laura Lewis stated, "I'll do that and we also have the proclamation which I will be getting to you."

Mayor Stephens stated, "Thank you."

Laura Lewis stated, "Thank you very much."

Mayor Stephens stated, "Where did I see the next hand? Mr. Reddy."

"Good evening, everyone. Vince Reddy. I live at 908 Vineshire Road and I'm here tonight. Well, I appreciate the opportunity to speak to Council and my fellow citizens. I'm here to express my disappointment in what seems to be the decision to repave Noble Road. I'm not disappointed about that, but I'm disappointed about the decision not to consider restriping Noble Road to calm traffic, put it on a road diet, however you term it. Now, I understand it's maybe not a final decision, but it seems to me like it's almost a final decision and I just feel that this would be a missed opportunity to complete a section of the East Side Greenway which the City invested in. The plan for the East Side Greenway to make the street usable by bikes which it really is not now, safer for pedestrians, whether people and animals both, you know, and especially kids, you know. There's many people in the three to four-foot range that cross Noble Road on their own to go to school, so it is a it is a route to

school and I think will become more so if we lose one of our elementary schools, Oxford or Noble, which I think is likely in the not too distant future. And I think it's also giving up an opportunity to show that Cleveland Heights is a progressive community, you know, one that is sort of on the cutting edge of these kinds of ideas. I appreciate you know investment by the City and County in the north end of Cleveland Heights, but I do worry a little bit that, you know, a smooth Noble Road will make it into more of a traffic throughway than it already is and so I'm concerned about that and as I say - I appreciate the investment, but as I said, it's crossed many times a day by little kids and it's , you know, there's really no place where it's safe for kids to cross and it's present configuration.

And I think reducing the street to two lanes, which it already is a two lane street in various pinch points in the commercial districts, it will have a limited effect on motorists because I don't think the four lane configuration is necessary for capacity demands. It seems like that the main purpose of that extra lane in each direction is so that people can pass on either the right or left and often at really perilous speeds. So, I know, I understand the reason is the \$30,000 that it would cost to do the different striping and I understand know that that's one, possibly one reason, but I worry that it's not the only reason. You know, I came to Cleveland Heights 20 years ago and one thing that attracted me to Cleveland Heights was that it seemed like a community that set the standard for Greater Cleveland in many ways and I feel like sometimes now, we're not only not setting the standard, but not even keeping. So, I do hope that there can be more discussion about this before a final decision is made. So, I appreciate the opportunity to speak. Thanks.”

Mayor Stephens stated, “Thank you. Yes, sir.”

Edgar Mitchell stated, “My name is Edgar Mitchell. I live a 2025 Goodnor Road, Cleveland Heights, Ohio since 1979 and I'm glad and proud to be a member of Cleveland Heights neighborhoods and I'd like to thank Council and all of the people that serve, you know, the Cleveland Heights City as safety forces and all that. I just had a question. The reason I came, because I was kind of upset about the water bills now since we got away from Cleveland Heights handling the Water Department, handling the water bill. Well, the Water Department in Cleveland, I received my water bills and so I'm kind of upset with them because I don't understand how Cleveland is billing this because it seems like the sewer bill that I used to pay was approximately \$100 about every three months. Now the way that Cleveland is billing this, I will be paying an approximately \$50 a month which is going to take me \$50 or \$60 dollars over what I paid when Cleveland Heights handled this. Also, this bill comes out as about \$15 a month which is some type of water bill or sewer bill or something with storm sewer bill. I don't understand that bill because we pay a sewer bill and storm sewer bill, is an addition of another \$15 dollars. I don't quite understand that, so I just came here to make Council aware of that and other citizens of Cleveland Heights aware of that because it seems like when Cleveland, when we sent it over to Cleveland, now we're got to

be paying more than we did when we were, you know, head it ourselves. So, I'd like somebody to explain it to me if Council can."

Mayor Stephens stated, "Actually we can't take the time because it gets a little complicated to explain the whole thing to you. What we can do is have, out in the back of the room, you see the gentleman in the door who has Cleveland Heights logo on – he's Mr. Mannarino. He's the Public Works Director. If he can take your name and telephone number, we can follow up with you individually. You can come back into City Hall or we can come to your house or we can talk to you on the phone so that we get every question you have answered."

Edgar Mitchell stated, "Okay."

Mayor Stephens stated, "And you can show us your bill, what concerns you and we can answer those specific questions for you."

Edgar Mitchell stated, "Okay, thank you."

Mayor Stephens stated, "You're most welcome, Mr. Mitchell. We will... I will personally follow up with you, okay? I saw another hand in that direction. Mr. Lefkowitz."

Mark Lefkowitz stated, "Good evening. Is this thing on? Good evening, members of Council. Mark Lefkowitz, 2928 Somerton Road Thank you for the opportunity to speak and make comments tonight. I also wanted to make a few comments in support of the plan for a Noble Road road diet that Mr. Reddy spoke so knowingly and convincingly on, and just to add a few data points to the argument that he made. The City recently adopted a Master Plan and the goals within that plan include crucial target areas including the strengthening of the commercial and residential districts at Noble Road and Monticello. This road diet idea really holds a lot of value in terms of the focus on Monticello in infrastructure improvements and supporting new businesses. In addition, the points that Mr. Reddy made are supported by a well vetted and documented plan that came from the City's Planning Commission which I have right here. The points about crash safety are real. According to the data from the Police Department, Noble Road had 39 crashes in 2014, five causing injury; in 2015, 35 crashes, two causing injury including a pedestrian. So, to underscore the points that Mr. Reddy is making and just to sort of also agree an echo the points that this idea of a road diet, which is a commonly adopted practice now, there's a guidance through the way on this and there are multiple examples across the country of the good that it has produced, would be, in essence, the City living up to some of these ideals that we express in our big planning efforts in our Master Plan and when we talk about creating sustainable transportation network. This is walking the talk and I really do believe that speaking to some members of County government who, this is a county owned road, and they've been very generous in terms of coming up with a funding for the resurfacing. I really don't think this

thing is on. There are opportunities, this being a great opportunity with the Eastside Greenway that Mr. Reddy mentioned, of strengthening relationships that we have with County government and a large framework that the City put a lot of effort into, a lot of resources into with this Eastside Greenway project to figure out of a way of finding \$30,000 and not kicking the can down the road and saying that eventually we'll get to this. This is something we need to prioritize as a City who believes in sustainable transportation and build it once and set the standard for the new normal for this road, come forward in the planning in the maintenance of the project, find \$30,000 in a future round of potentially CDBG funding which it could be used in infrastructure dollars in a low-moderate income neighborhood like this. I think there are opportunities like that. I think we need to really be thinking out of the box a little bit and this is a great opportunity for us to do so. So, I thank you for your attention."

Mayor Stephens stated, "Thank you. Did I see another hand on this side of the room? If not, I'm going to move to this side of the room. Who would like to speak over here? Don't forget to give us your name."

Bruce Needham stated, "My name is Bruce Needham and I live at 1048 Oxford Road, Cleveland Heights. I've been a resident there for a little over 45 years. I was born on Nelaview. My father, who was a dentist, had his practice there and was given a school education by Mr. Stonebreaker. So, I go back a couple of days. In all those days of me being on the planet and living in that area, I have never seen anything to improve even the road over there that's going to prevent accidents and things of that nature. You have an element of people that are coming from both directions down Noble Road. It's an escape route in the Cleveland/East Cleveland and a route coming back up. East Cleveland has tried to do something by putting in speed traps for the school section on the Noble Hill. They have been unsuccessful in collecting any money. People are owed a large sum of money for those traps; they don't even bother. I cannot see how making the road narrower is going to help with the traffic situation. That's going to cause people to run around each other in one lane rather than the two that they have now. You have to live down in my neighborhood to really understand what's going on, not the outside like a lot of people that I just heard tonight. We need help down there, but it's not just a road. Why produce a road when you have deteriorated homes all up and down Noble Road. What are we doing about that? What are we doing about making thing available to people who want to educate their children and have family life in that area? We're talking nothing about that. We're talking about \$30,000 for the what? Lines in the road that's going to cause a bigger safety hazard and what we have now. Thank you for listening to me and let me go down to my grumpy old seat."

Mayor Stephens stated, "Okay, did I see one more hand back there? Okay. Next we move to the, that's the end of our personal communications from the residents, next we move to the Report of the City Manager. Deputy City Manager Ms. Niermann O'Neil?"

Report of the City Manager

Susanna Niermann O'Neil stated, "I have one thing to report this evening, Your Honor. Sealed bids were received for the 2017 City Hall Sidewalk Replacement and that was Bid #17-04. Bids have been tabulated and reviewed and Catts Construction, Inc., their bid of \$65,831.20, is the lowest responsive bid. I put this as a Matter of Record, Your Honor."

Matter of Record

Mayor Stephens stated, "Thank you. Is there anything else?"

Susanna Niermann O'Neil stated, "No."

Mayor Stephens stated, "Next we move to the report of the Interim Director of Finance/Clerk of Council."

Report of the Interim Director of Finance/Clerk of Council

Mitch Michalec stated, "Yes, thanks, Your Honor, I have several items tonight. First I would like to notify Council that two notices have been received from the Ohio Department of Liquor Control advising that applications have been made by the following:

- Jerri Garrett, Cain Park W/S 10 Acres Amphitheaters, 14591 Superior Avenue, Cleveland Heights & Shaker Heights, Ohio 44121, transfer D1, D2 and D6 permits from Richard Tonelli, Cain Park W/S 10 Acres Amphitheaters, 14591 Superior Avenue, PO Box 22420, Cleveland Heights & Shaker Heights, Ohio 44121
- Grand Judaica LTD dba Grand Judaica, 1873 South Taylor Road, Cleveland Heights, Ohio 44118 transfer C2 permit from Jacobs, Judaic & Gift Center Inc. dba Jacobs Judaic Book & Gift Center, 1873 South Taylor Road, Cleveland Heights, Ohio 44118

I'd like that to be made a Matter of Record."

Matter of Record

Mayor Stephens stated, "Thank you. That will be made a Matter of Record and referred to the Public Health Safety and Health Committee of the City Manager and the Director of Law. Do you have a few more issues for us?"

Mitch Michalec stated, "Yes, I do, Your Honor. I would like to notify Council that five Resolutions of the Board of Zoning Appeals have been received pertaining to variances in the Zoning Code and are requested by the following:

- BZA Cal. No. 3414: Charles Zuchowski d.b.a. May Lee Building, 2490 Lee Blvd. to permit a storage facility.
- BZA Cal. No. 3415a: John and Anya Rudd, 2178 Harcourt Drive, to permit a 6 foot tall fence in a portion of the front yard along the south side of the property and to permit a 5 foot tall fence in the front yard.
- BZA Cal. No. 3415b: John and Anya Rudd, 2178 Harcourt Drive, to permit a parking pad in the front yard.
- BZA Cal. No. 3416: Barry Stern and Peggy Mendes-Stern, 2258 Coventry Road, to permit two garages on one parcel.
- BZA Cal. No. 3417: Nan and Hugh Sullivan, 2939 Scarborough Road, to permit a portion of the front of the house to be set back 50.84 feet.

I'd like this to be made a Matter of Record."

Matter of Record

Mayor Stephens stated, "Thank you. This will be referred to the Planning and Development Committee of Council and... I'm sorry."

Councilman Seren stated, "I believe one of those might be referred to the Committee of the Whole."

Mayor Stephens stated, "We'll do that when we get to that section. This will be very few referred to later in this evening's agenda for review when we have the Planning and Development Committee as an item in Council. And you have another section to read with this?"

Mitch Michalec stated, "I would like to notify Council that seven Fiscal Officer's Certificates pertaining to proposed legislation to be introduced later in the meeting to provide for the issuance of bonds;

- For the purpose of paying costs of acquiring motor vehicles for use by the City's Police Department, together with the necessary appurtenances thereto (the improvement);
- For the purpose of paying costs of improving streets and roads in the City by reconstructing, grading, draining, paving and making other improvements as designated in the plans approved or to be approved by Council (the improvement);
- For the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Department of Public Works, together with the

necessary appurtenances thereto (the improvement);

- For the purpose of paying costs of acquiring equipment for use by the City's Police Department, together with the necessary appurtenances thereto (the improvement);
- For the purpose of paying costs of installing and improvement sidewalks at the City Hall Complex, together with the necessary appurtenances thereto (the improvement);
- For the purpose of paying costs of replacing fire hoses and nozzles at the City's fire station facilities, together with the necessary appurtenances thereto (the improvement); and
- For the purpose of paying costs of acquiring motor vehicles and related equipment for use by the City's Fire Department in providing emergency medical services, together with the necessary appurtenances thereto (the improvement);

And I'd like to make these a Matter of Record."

Matter of Record

Mayor Stephens stated, "These are all referred to the Finance Committee of Council and will be introduced later in this meeting. Is there anything else that you'd like to make a Matter of Record or introduce to this evening?"

Mitch Michalec stated, "Not tonight, Your Honor."

Mayor Stephens stated, "Thank you. Next we go to the committee reports. The first committee report will be for Municipal Services."

Report of the Municipal Services Committee

Councilwoman Yasinow stated, "Thank you very much. I have one piece of legislation for consideration this evening. This is Resolution Number 25-2017 on first reading only. This is a resolution authorizing the City Manager to execute a professional Energy Service Design-Build agreement with Evans Energy whereas pursuant to Resolution Number 6-2017, the City Manager entered into negotiations with Evans Energy for an energy conservation project identified in its proposed scope of work dated September 16, 2016 as a submitted a response to the City's request for proposals; whereas said project would result in increased energy efficiency equipment reliability and reduced energy costs; whereas this Council is determined it is in the best interest of the City and its residents to move forward with the proposed agreement with Evans Energy under the terms negotiated but City Manager, now be it resolved by the Council, the City Manager be and is hereby authorized to execute a professional Energy Service Design-Build agreement with Evans Energy the terms of said agreement shall be similar to the proposed agreement on file with the Clerk of Council and

shall be approved as to the form by the Director of Law. The stated contract amount shall exceed \$5,445,562 with notice of the passage of this resolution to be given by publishing the title an abstract of its contents prepared by the Director of Law once in one newspaper of general circulation in the City of Cleveland Heights. I hereby offer Resolution Number 25-2017 on first reading only.”

Mayor Stephens stated, “Thank you. Is there anything else you'd like to share with us this evening, Councilwoman Yasinow?”

Councilwoman Yasinow stated, “A few matters actually. First and foremost, I just want to make note of some of the comments that we had this evening regarding Noble Road and to just bring to the community’s attention that the restriping that was discussed of Noble Road - it would not be a single outlay of \$30,000 to restripe the Noble Road. I did confer previously with Public Works Director Alex Mannarino. To do the restriping of Noble Road continually would be an outlay of the City of about \$30,000 each year and add an item to maintain the striping for Noble Road. Our entire budget for restriping in the entire city of Cleveland Heights is \$79,000. So, you would be committing approximately 40% to our entire City's restriping just for one road if the restriping, the diet was put forth and I do think that is a very salient and important fact for residents to be aware of. We are committed to growing Cleveland Heights, being innovative and trying to stay ahead of the curve as I believe one resident put it, but we do need to be mindful of our tax dollars as well including 40% of our entire City's line striping budget. So, I just want to get that information out. So, that's a bit of business.

Second, slightly more exciting, the City of Cleveland Heights will be having a team for the 26th Annual Reaching Heights Spelling Bee. The spelling bee will take place Wednesday, April 19 at 7:00 p.m. at Cleveland Heights High School on the Wiley campus. It promises to ‘bee’ very exciting! Right now we know that myself and Councilman Carol Roe will be on the team and our third member is to ‘bee’ determined.

And then finally I just want to let residents know of something rather exciting happening with the City. Our City Manager will this week be attending the City Managers’ Design Academy in Dallas, Texas. There are six projects that will get to be considered with the best designers in the country and it has been decided that for this program, the Taylor-Tudor Development on Taylor Road will be considered and analyzed for possible, what could happen in designing, planning wise to help reinvigorate that part of our City. So, I'm very excited to hear about this to hear this case study involving Taylor-Tudor goes and congratulations to our City Manager on that. And with those three pieces of news. Oh, finally, before I forget. I just wish everybody a Happy and Healthy Passover. I would make a joke about Passover and levity, but I do not think it would be appropriate. If anyone gets that joke, okay. Thank you. Have a good night.”

Mayor Stephens stated, "Next we move to the Planning and Development Committee of Council. Councilwoman Dunbar."

Report of the Planning and Development Committee

Councilwoman Dunbar stated, "I would like to refer the BZA issues to Kahlil Seren, if you would do those."

Councilman Seren stated, "All right. Okay, so first I'd like to refer, I guess re-refer BZA Calendar Number 3414 to the Committee of the Whole for..."

Mayor Stephens stated, "It will be continued for discussion by Council."

Councilman Seren stated, "Yes."

Mayor Stephens stated, "Law Director, do we need a motion for that or just have to make a statement to continue?"

Jim Juliano stated, "Just the Chair indicating a continuation of the matter is sufficient, Your Honor."

Councilwoman Dunbar stated, "It will be continued then."

Mayor Stephens stated, "Thank you, Councilwoman Dunbar. Would you continue, Councilman Seren?"

Councilman Seren stated, "Yes, Mayor. All right. I move the Council approve BZA Calendar Number 3415a: John and Anya Rudd, 2178 Harcourt Drive, to allow a variance permitting a 6 foot tall fence in a portion of the front yard along the south side of the property and to permit a 5 foot tall fence in the front yard where a maximum fence height of 3 feet is permitted."

Councilman Ungar stated, "Second."

Roll Call: Ayes: Roe, Seren, Stein, Stephens, Ungar, Yasinow, Dunbar
Nays: None

BZA Resolution Approved

Mitch Michalec stated, "Seven ayes, Your Honor."

Mayor Stephens stated, "Thank you, Council Clerk. This Board of Zoning Appeals resolution passes. Next."

Councilman Seren stated, "I move that we approve BZA Calendar Number 3415b: John and Anya Rudd, 2178 Harcourt Drive, to permit a parking pad in the front yard which is

not allowing under our Zoning Code.”

Mayor Stephens stated, “Is there a second?”

Councilwoman Dunbar stated, “Second.”

Mayor Stephens stated, “If the Clerk would call the roll.”

Roll Call: Ayes: Seren, Stein, Stephens, Ungar, Yasinow, Dunbar, Roe
 Nays: None

BZA Resolution Approved

Mayor Stephens stated, “We have seven votes in favor of that. It passes and we have two more. Mr. Seren.”

Councilman Seren stated, “Thank you, Your Honor. I move that we approve BZA Calendar Number 3416: Barry Stern and Peggy Mendes-Stern, 2258 Coventry Road, to permit two garages on one parcel where one garage is permitted.”

Mayor Stephens stated, “Is there a second?”

Vice Mayor Stein stated, “Second.”

Mayor Stephens stated, “Thank you. Mr. Clerk, would you call the roll please?”

Roll Call: Ayes: Stein, Stephens, Ungar, Yasinow, Dunbar, Roe, Seren
 Nays: None

BZA Resolution Approved

Mayor Stephens stated, “Thank you. BZA Calendar Number 3416 passes and we have one last from you, Mr. Seren.”

Councilman Seren stated, “The last one – I move that we approve BZA Calendar Number 3417: Nan and Hugh Sullivan, 2939 Scarborough Road, to permit a portion of the front of the house to be set back 50.84 feet where a setback of 52.43 feet is required.”

Mayor Stephens stated, “Thank you. Is there a second?”

Councilwoman Dunbar stated, “Second.”

Mayor Stephens stated, “Thank you. Would you call the roll please?”

Roll Call: Ayes: Stephens, Ungar, Yasinow, Dunbar, Roe, Seren, Stein
 Nays: None

BZA Resolution Approved

Mayor Stephens stated, "The last BZA Calendar item for this evening passes. Is there anything else from the Planning and Development Committee?"

Councilwoman Dunbar stated, "There is. I would just like to mention a few things quickly. In the northern part of the town, we have gotten some Safe Routes to School money to make improvements that enhanced the safety around the schools crossing the streets. Just don't hold your breath because the time; you get the money and it's, they award it to you, but it's kind of a long time to actually happen, but there will be improvements in that part of the town to help kids get across the streets and walk and bike to school. I'd like to mention that the Police bike auction yesterday was a huge success and all the free helmets from the pediatricians except for one were given away and a lot of people went away happy with bikes for their kids or for themselves. So, that was a success and much fun. I would like to mention that tomorrow night, Tuesday, April 4 at 7:00 p.m., Heights Bicycle Coalition is having a meeting at the Fairmont and it will include a number of things - a talk on, a brief talk, on safe cycling by a lawyer who specializes in bicycle cases and also a presentation about bike sharing which hopefully will be coming to the Heights at some point provided by UH Bikes that's providing all the bike sharing around the town. And a few other business items - we're providing appetizers but you have to order your own drink and it should be interesting for those of us that are interested in bicycling. Also, we have made a new application to be recognized again as a Bicycle Friendly Community, to have the City recognized as a Bicycle Friendly Community and we should be hearing about that within the next month and a little overview of how far things have come, at least for bicyclists, since we started down that road. So, that's it."

Mayor Stephens stated, "Thank you. Next we have Public Safety and Health Committee. Councilman Seren."

Report of the Public Safety and Health Committee

Councilman Seren stated, "Thank you, Your Honor I have one piece of legislation for first reading only and it's Ordinance Number 38-2017; amending Chapter 1347, Certificate of Occupancy of the Codified Ordinances of Cleveland Heights by enacting a new subsection 1347.02e. This piece of legislation has been heard in the Public Safety Committee, or at least some version of it, but now we have a new version that has a couple amendments that I'll just go through very, very briefly. This allows for, or mandates, that the Building Commissioner not issue a certificate of occupancy for residential rental structures that either have a certified delinquent property tax balance where the owner is not on a delinquent tax payment plan with the Treasurer or has an unpaid balance for nuisance abatement costs issued by the City after we've abated some nuisance on the property. So,

the additions, I believe, to this version from the last time we discussed this, include a notification section that instructs our Building Commissioner to notify a tenant of the building who may otherwise not be aware that this structure abuse its rental occupancy permit in order to give that tenant some time to either pressure their landlord or make other arrangements if necessary, if that becomes necessary. So, this is just first reading only. We'll be discussing it again I'm sure and I welcome anyone to take a look at the legislation. It's on our website and come to committee meeting next week I guess or the Council meeting in a couple weeks to tell us what you think or just reach out to us and let us know what you think about the legislation in the meantime through other means, and that is it for me."

Mayor Stephens stated, "Thank you. We move next to the Administrative Services Committee of Council. Councilwoman Roe."

Report of the Administrative Services Committee

Councilwoman Roe stated, "I don't have any appointments this evening, but I did want to mention that we have in our packets this evening a draft legislation for creation of the Charter Review Commission and would welcome people's input into that process."

Mayor Stephens stated, "Thank you. Next we have Community Relations and Recreation Committee and I believe there are quite a few things to recognize. Vice Mayor Stein."

Report of the Community Relations and Recreation Committee

Vice Mayor Stein stated, "Thank you, Your Honor. There are a few. First resolution, Number 26-2017; joining with the United States Department of Housing and Urban Development and other communities throughout the nation in the observance of April as Fair Housing Month; reaffirming the City of Cleveland Heights' commitment to open housing. In celebration of the 49th anniversary of the Federal Fair Housing Law, HUD has promoted the observance of April as "Fair Housing Month" throughout the communities of this nation and this City, since the year 1965, has continually and consistently approved and encouraged the concept of fair housing throughout the City of Cleveland Heights and the entire Cleveland metropolitan area. This Council hereby proclaims April Fair Housing Month in the City of Cleveland Heights. The City of Cleveland Heights joins with United States Department of Housing and Urban Development and other communities nationwide in the observance of Fair Housing Month and hereby reaffirms its commitment established over 50 years ago to fair housing in Cleveland Heights. I offer Resolution Number 26-2017 for passage."

Mayor Stephens stated, "Thank you. Is there a second?"

Councilwoman Dunbar stated, "Second."

Mayor Stephens stated, "Thank you. Would you call the roll please?"

Roll Call: Ayes: Ungar, Yasinow, Dunbar, Roe, Seren, Stein, Stephens
 Nays: None

Resolution Passed

Mitch Michalec stated "Seven ayes, Your Honor."

Mayor Stephens stated, "Resolution passes. Councilman Stein."

Vice Mayor Stein stated, "Resolution Number 27-2017; proclaiming April 17-22, National Community Development Week, in Cleveland Heights. The City of Cleveland Heights is a participant in the Community Development Block Grant ("CDBG") program whose main purpose is to provide decent, safe and sanitary housing, a suitable living environment, and economic opportunities to low- and moderate-income people; and 2017 marks the 43rd anniversary of the CDBG program, which was enacted into law as part of the Housing and Community Development Act of 1974; and the City of Cleveland Heights is also a participant in the HOME Investment Partnerships ("HOME") program which provides funding to local communities to create decent, safe, and affordable housing opportunities for low-income persons; and this Council recognizes that the CDBG and HOME programs are a partnership of federal, state, and local governments, businesses, non-profits, and community organizations, and that the services funded by the federal CDBG and HOME programs, which are administered by the local governments and often delivered by non-profit organizations, rely heavily on the dedication and good will of our combined efforts; and in light of the current federal administration's threat to eliminate the CDBG program in its entirety, public recognition of the vital importance of the CDBG program to national communities like Cleveland Heights is essential. This Council hereby proclaims that April 17-22, 2017 National Community Development Week in the City of Cleveland Heights and resolves that during this week this community will give special thanks and recognition to all participants whose hard work and devotion to their neighborhoods and their low- and moderate-income residents help insure the quality and effectiveness of the Community Development Block Grant and HOME programs. I offer Resolution Number 27-2017 for passage."

Mayor Stephens stated, "Is there a second?"

Councilman Ungar stated, "Second."

Mayor Stephens stated, "Mr. Michalec, would you call the roll please?"

Roll Call: Ayes: Yasinow, Dunbar, Roe, Seren, Stein, Stephens, Ungar

Nays: None

Resolution Passed

Mitch Michalec stated "Seven ayes, Your Honor."

Mayor Stephens stated, "Excellent. Moving right along. Vice Mayor Stein."

Vice Mayor Stein stated, "Resolution 28-2017; a resolution proclaiming April, Autism Awareness Month, in Cleveland Heights. Autism, the fastest growing developmental disability in the United States, affecting more than three million (3,000,000) people, is an urgent public health crisis that demands a national response; and in recognition of the growing needs of the worldwide autistic community and to raise awareness about autism spectrum disorders and the need to provide services to individuals and families who are affected, the United Nations has sanctioned April 2 as World Autism Awareness Day; and Autism Speaks, an organization dedicated to enhancing lives today and accelerating a spectrum of solutions for tomorrow, promotes the awareness of autism worldwide; and in light of the growing impact of autism spectrum disorders and the need for greater awareness, Autism Speaks holds their "Light It Up Blue!" campaign on World Autism Awareness Day, designed to increase awareness about autism by asking participating organizations to turn their lights blue; and the City of Cleveland Heights is honored to take part in the annual observance of Autism Awareness Month and World Autism Awareness Day in the hopes that it will lead to a better understanding of the disorder. This Council hereby proclaims April, Autism Awareness Month, in the City of Cleveland Heights and further proclaims April 2, World Autism Day, to raise public awareness of autism and the myriad of issues surrounding autism, as well as to increase knowledge of the programs that have been and are being developed to support individuals with autism and their families. I offer Resolution 28-2017 for passage."

Councilwoman Dunbar stated, "Second."

Mayor Stephens stated, "Thank you. I'd like a point of privilege at this point. My next door neighbors in the back row, Deborah Gladson, she didn't get up to speak, but this is near and dear to her heart and mine because they take such good care of me. Eighteen years ago, her son was diagnosed with autism and it changes how your family cares for a child and what you do on a day-to-day basis and the things that we look for as growth in our children that are part of what we've all evolved with, all become different, and so when we were asked by a third party to introduce this legislation, it became fairly personal for me that we immediately recognize this because you never know. Sometimes it's a year after your child is born that the diagnosis for Autism takes place. It's not something you recognize immediately. And so we need to invest more under our health care issues and help families who need this type of activity to understand what they have to do and how they have to do

it. If you would please call the roll, Mr. Clerk, for us.”

Roll Call: Ayes: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow
Nays: None

Resolution Passed

Mitch Michalec stated “Seven ayes, Your Honor.”

Mayor Stephens stated, “Thank you. Thank you for support of something. It's very significantly important to us. A couple more for you, Vice Mayor Stein.”

Vice Mayor Stein stated, “Yes, Resolution Number 29-2017; proclaiming April 9-15, 2017, National Library Week in Cleveland Heights. The Cleveland Heights-University Heights Public Library has been serving our community in myriad ways since 1916; and said library leads the nation as a five-star library because of its excellent staff, services, and facilities; and our library serves as a great equalizer of knowledge by providing free access to all; and our library works to meet the changing needs of our citizens, including building collections, expanding outreach services and increasing programming. This Council hereby proclaims April 9-15, 2017, National Library Week in the City of Cleveland Heights and urges all residents to visit the library during this week to take advantage of the wonderful resources available at the library. I offer Resolution Number 29-2017 for passage.”

Mayor Stephens stated, “Thank you. Is there a second?”

Councilwoman Yasinow and Councilwoman Dunbar stated, “Second.”

Mayor Stephens stated, “Multiple.”

Councilwoman Yasinow stated, “Thirds.”

Mayor Stephens stated, “If you would please call the roll.”

Roll Call: Ayes: Roe, Seren, Stein, Stephens, Ungar, Yasinow, Dunbar
Nays: None

Resolution Passed

Mitch Michalec stated “Seven ayes, Your Honor.”

Mayor Stephens stated, “Thank you. This resolution passes. Ms. Vice Mayor, would you like to hear anything else with us this evening?”

Vice Mayor Stein stated, “I’ve got one more; one more resolution I’ve got to share. Okay, Resolution Number 30-2017; proclaiming April, National Poetry Month in Cleveland Heights. The Academy of American Poets established the month of April as National Poetry

Month in 1996; and National Poetry Month seeks to highlight the extraordinary legacy and ongoing achievement of American poets; introduce Americans to the pleasures and benefits of reading poetry, bring poets and poetry to the public in immediate and innovative ways, and make poetry an important part of our children's education; and poetry enhances and enriches the lives of all Americans; and as an essential part of the arts and humanities, affects every aspect of life in America today, including education, the economy, and community pride and development; and Cleveland Heights is home to the Arts; and this Council recognizes the benefits of poetry and has recognized the Poet Laureate selected by HeightsArts since the program began in 2006. Therefore, this Council proclaims April, National Poetry Month, in the City of Cleveland Heights and urges all residents to observe this month, to celebrate the cultural riches our community has to offer, and to recognize the important role poetry in creating and sustaining this great city with appropriate ceremonies, activities, and programs. I offer Resolution Number 30-2017 for passage.”

Mayor Stephens stated, “Is there a second?”

Councilwoman Dunbar stated, “Second.”

Mayor Stephens stated, “Thank you. Would you call the roll please?”

Roll Call: Ayes: Seren, Stein, Stephens, Ungar, Yasinow, Dunbar, Roe
 Nays: None

Resolution Passed

Mitch Michalec stated “Seven ayes, Your Honor.”

Mayor Stephens stated, “Thank you. This resolution passes. Now is there anything else you'd like to share?”

Vice Mayor Stein stated, “That is all this committee report has.”

Mayor Stephens stated, “Thank you. No we move to the Finance Committee, some heavy lifting here, but we’re up for it.”

Report of the Finance Committee

Councilman Ungar stated, “I will try to abbreviate it. Thank you. I have seven ordinances all up for first reading, all similarly situated. And I'll give you the abbreviated version for each. The first one is an ordinance providing, Ordinance 31-2017(F); providing for the issuance and sale of bonds in the maximum principal amount of \$115,000 for the purpose of paying costs of acquiring motor vehicles for use by our City’s Police Department.”

Councilwoman Dunbar stated, "Second."

Mayor Stephens stated, "Oh, no, we just..."

Councilwoman Yasinow stated, "First reading."

Councilman Ungar stated, "It's just a first reading."

Mayor Stephens stated, "It's a first reading, so he continues to go on a roll."

Councilman Ungar stated, "Next one is 32-2017(F); an ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$255,000 for the purpose of paying costs of improving streets and roads in the City by reconstructing, grading, draining, paving and making other improvements as designated in the plans approved or which will be approved by Council. Next is Ordinance Number 33-2017(F); an ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$360,000 for the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Department of Public Works. Next is Ordinance Number 34-2017(F) which provides for the issuance and sale of bonds in the maximum principal amount of \$150,000 for the purpose of paying costs of acquiring equipment for use by the City's Police Department. Fifth of seven is Ordinance Number 35-2017(F); an Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$65,000 to pay for costs of installing and improvement sidewalks here at the City Hall. Next is Ordinance Number 36-2017(F); an ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$75,000 for the purpose of paying costs of replacing fire hoses and nozzles at the City's fire station facilities. And last but not least, is 37-2017(F); an ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$355,000 to pay costs of acquiring motor vehicles and related equipment for use by the City's Fire Department in providing emergency medical services. And that is all I have. Thank you."

Councilwoman Yasinow stated, "Well done."

Mayor's Report

Mayor Stephens stated, "Thank you. That concludes our business for the evening. The Mayor's report is very brief. I want to thank all the residents who have volunteered during the last month to help get a series of things done and who were here this evening talking about their various opinions. It's good to know that this community continues to have activists who are paying attention to what we do and how we do it. At this time, I'd like for this meeting to adjourn. Our next meeting of City Council will be April 17, 2017. God bless America and God bless Cleveland Heights.

The meeting adjourned at 8:49 p.m.

Respectfully submitted,

Cheryl Stephens, Mayor

Mitch Michalec, Acting Clerk of Council

/jkw

DRAFT