

Sponsor: Ondera/Kitchen

ORDINANCE NO. 33-18

*"Amended"*

A ORDINANCE OF THE LEGISLATIVE AUTHORITY OF THE CITY OF JACKSON, OHIO AUTHORIZING THE MAYOR OF THE CITY OF JACKSON TO CONSENT TO SETTLEMENT OF THE CASE CAPTIONED JACKSON GRANDVIEW BUILDERS v. CITY OF JACKSON, FILED IN THE JACKSON COUNTY COURT OF COMMON PLEAS, CASE NO. 17 CIV 0071 AND DECLARING AN EMERGENCY.

WHEREAS, the City of Jackson, Ohio has been named as a Defendant in a suit filed by Jackson Grandview Builders in the Jackson County Court of Common Pleas upon three causes of action, being a mandamus action, an action to recover real estate; and for a nuisance, relating to a total of 8.033 acres in the Salt Creek Industrial Park, seeking compensation for easements and other monetary and non-monetary damages;

WHEREAS, the City of Jackson has a policy of insurance that has provided a defense and contribution toward settlement on Plaintiff's Third Cause of Action but Plaintiff's claims set forth in its First and Second Causes of Action are not insurable for the City:

WHEREAS, due to the uncertain nature of litigation, it is in the best interest of the City to participate in a negotiated settlement whereby the City agrees to payment of up to \$90,000, less insurance contributions, with 83% of the total settlement to be paid from the appropriate electric fund and 17% to be paid from the appropriate sewer fund, and removal of certain electric lines and, in return, Jackson Grandview Builders shall grant to the City of Jackson easements for sewer lines, lift station, and other electric lines all in full settlement of all claims with each party paying their own expenses and legal fees;

WHEREAS, payments shall be made from the following funds: 731-7555-53050 and 711-7525-53050.

WHEREAS, this matter constitutes an emergency as the case is set for final pre-trial conference with the Court on July 25, 2018, with trial beginning on August 20, 2018, together with deadlines for the parties to respond to pending motions, and of which the occurrence of any of these events will cause the pending case not to be settled upon these terms and the agreed and immediate resolution of this litigation is necessary to protect the health, safety and welfare of the City of Jackson.

NOW, THEREFORE, BE IT ORDAINED THAT THE LEGISLATIVE AUTHORITY OF THE CITY OF JACKSON HEREBY GIVES ITS APPROVAL AND CONSENT TO THE MAYOR OF THE CITY OF JACKSON TO EXECUTE A SETTLEMENT AGREEMENT RESOLVING ALL PENDING CLAIMS RAISED IN THE CASE OF JACKSON GRANDVIEW BUILDERS v. THE CITY OF JACKSON ACCORDING TO TERMS SET FORTH HEREIN AND TO DO THOSE THINGS NECESSARY TO ACCEPT EASEMENTS AND CAUSE THE SAME TO BE RECORDED.

This Ordinance is hereby declared to be an emergency Ordinance necessary to maintain the public health, safety and welfare for the reasons set forth above. Therefore, this Ordinance shall go into effect upon passage and as provided in Ohio Revised Code Section 731.30.

In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause, and shall take effect at the earliest time permitted by law.

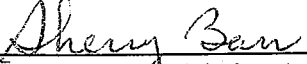
It is hereby found and determined that all formal acts of this council concerning and relating to adoption of this Ordinance were adopted in an open meeting of this council and that the deliberations of the council and any of its committees resulted in such formal action, where in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 9<sup>th</sup> day of July, 2018.

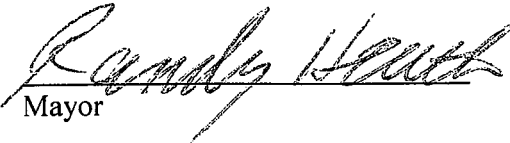
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President of Council

ATTEST:

  
Clerk of the Legislative Authority

Approved this 9<sup>th</sup> day of July, 2018.

  
Mayor